

**RESOLUTION OF THE LAND USE BOARD
THE BOROUGH OF EMERSON**

In the matter of the Application of:

Emerson Redevelopers Urban Renewal, LLC

For Preliminary and Final Major Site Plan

Approval as to Kinderkamack Road between

Lincoln Boulevard and Linwood Avenue

Block 419, Lots 1, 2, 3, 4, 6.01, 6.02, 7, 8, 9 & 10

WHEREAS, Emerson Redevelopers Urban Renewal, LLC (“Applicant”) has made application (the “Application”) to the Land Use Board of the Borough of Emerson (the “Board”) for preliminary and final site plan approval and a major soil moving permit to demolish the existing improvements on the property and redevelop the Property as a 4-story, 147-unit inclusionary residential development with parking garage, ground floor retail, amenities and other site improvements, including twenty two (22) affordable housing units on site and an additional seven (7) credits off site within the Borough, this will provide the Borough with a total of twenty-nine (29) affordable housing credits, located on Kinderkamack Road between Lincoln Boulevard and Linwood Avenue, and also known as Block 419, Lots 1, 2, 3, 4, 6.01, 6.02, 7, 8, 9 & 10 on the Tax Assessment Map of the Borough of Emerson (the “Property”), in the CBD-10 Zoning district, in accordance with the Borough’s Redevelopment Plan for the Central Business District Redevelopment Area; and

WHEREAS, Applicant also applied for a Major Soil moving Permit in accordance with Chapter 244 of the Borough of Emerson Municipal Code as part of the Application; and

WHEREAS, the Applicant has filed application materials in connection with the Application; and

WHEREAS, the Applicant has presented satisfactory proof to the Board that legal notice of the Application was published and served in accordance with the Municipal Land Use Law of the State of New Jersey, N.J.S.A. 40:55D-1 et seq. (“MLUL”); and

WHEREAS, the Board reviewed this matter at a public hearing (Special Meeting) on December 10, 2018; and

WHEREAS, after consideration and deliberation at the aforementioned hearing, the Board did vote in favor of the Application and did instruct the Board Attorney to prepare a resolution memorializing the vote taken; and

WHEREAS, pursuant to N.J.S.A. 40:55D-10g, a decision must be reduced to writing and shall include findings of fact, based upon the evidence presented at its public hearings; and

WHEREAS, the Land Use Board of the Borough of Emerson makes the following factual findings and conclusions:

- 1) The Applicant is the contract purchaser of the Property located at Kinderkamack Road between Lincoln Boulevard and Linwood Avenue, Block 419, Lots 1, 2, 3, 4, 6.01, 6.02, 7, 8, 9 & 10, in the CBD-10 zoning district and filed the Application in order to demolish the existing structures on the Property and construct thereon a 4-story, 147-unit inclusionary multifamily rental residential development with surface parking, parking garage, approximately 14,700 square-foot of ground floor retail, amenities, and other site improvements. Approximately twenty two (22) of the proposed on site residential units will be affordable housing units.

2) The proposed development is contemplated by, and subject to, both the Redevelopment Agreement between the Borough and the Applicant dated June 14, 2016, as amended, including but not limited to the Third Amendment to Redevelopment Agreement (“Redevelopment Agreement”), as well as the Settlement Agreement between the Borough and the Fair Share Housing Center, dated November 21, 2017 (“Settlement Agreement”). The Redevelopment Agreement and the Settlement Agreement, among other things, require the Applicant to provide for a total of twenty nine (29) affordable housing units. Applicant will provide twenty-two (22) affordable housing units on site as part of the proposed development, and will provide seven (7) off-site affordable housing credits, all in accordance with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. (“UHAC”). Four (4) of the affordable housing units shall be very low income housing units (as defined by UHAC).

3) The Application is subject to several “temporary” checklist waivers. The Application does not require any variances and is an “as-of-right” site plan application.

4) The Applicant was represented by Peter M. Flannery, Esq. Testimony of the following individuals was presented in support of the Application:

(a) Wayne A. Corsey, P.E., P.P., Bowman Consulting, Civil Engineering.

(b) Charles Olivo, P.E., P.P., P.T.O.E., Stonefield, Traffic Engineering.

(c) William Devereaux, R.A., and Angela Kostelecky, R.A., Devereaux & Associates, Architecture.

5) All witnesses were sworn and duly qualified as experts in their respective fields, and they testified as to how the proposed use will be developed consistent with the Borough’s

Central Business District Redevelopment Plan, codified as the CBD-10 Zoning District in Chapter 290 of the Borough Code (“Redevelopment Plan”).

6) The Applicant presented the following exhibits in support of the Application:

Exhibit A-1: Affidavit of Service.

Exhibit A-2: Rendering of Aerial Photograph, prepared by Bowman Consulting, dated December 10, 2018.

Exhibit A-3: Colorized Rendering of Landscape Plan, prepared by Bowman Consulting, dated December 10, 2018.

Exhibit A-4: Revised Sheet A-1.10, dated December 10, 2018, prepared by Devereaux & Associates.

Exhibit A-5: Revised Sheet A-1.20, dated December 10, 2018, prepared by Devereaux & Associates.

Exhibit A-6: Revised Sheet A-2.10, dated November 15, 2018, prepared by Devereaux & Associates.

Exhibit A-7: Colorized Rendering of Kinderkamack Road Elevation, dated December 10, 2018, prepared by Devereaux & Associates.

Exhibit A-8: Color Sample Board – Exterior Finishes, dated December 10, 2018, prepared by Devereaux & Associates.

TESTIMONY

7) Based upon the sworn and qualified testimony of Applicant's professional engineer, Wayne A. Corsey, P.E., P.P., of Bowman Engineering, the Board made the following findings of fact:

a. Mr. Corsey described the existing condition of the Property and the proposed development. The site consists of a mix of uses, from restaurants, office, retail and single-family residence. Lot 5 is a two-story masonry building that is not part of this application. The site is predominantly either covered by buildings or blacktop parking spaces.

b. The site has frontage on Kinderkamack Road, Lincoln Boulevard and Linwood Avenue. It also has 550 feet of frontage along the Conrail/New Jersey Transit right-of-way. The Kenneth Street right-of-way which is a Borough right-of-way, is adjacent to the railroad tracks.

c. The property slopes downward toward Lincoln Boulevard to the west and along Kinderkamack to the south at Linwood Avenue. There is currently some on-site drainage that will be removed. This on-site drainage collects stormwater and discharges into the Linwood storm system. Applicant will install 42 inch reinforced concrete pipe (RCP), from the existing inlets in Lincoln Boulevard to the existing inlets in Linwood Avenue, which will provide more capacity in the storm pipe to alleviate any potential flooding at the intersection of Lincoln Boulevard. There will also be stormwater inlets in the back surface parking lot as well as roof leader collectors and collectors for the parking garage that will connect into the proposed 42 inch RCP. There will be a net reduction in stormwater management for stormwater runoff on the site. The ground floors of the units will be stepped down to accommodate the grades and topography.

d. The proposed building will front on all three roads and there will be a parking lot and parking garage located in the northwest corner. There will be two-way driveway access that will go through the site from Lincoln Boulevard to Linwood Avenue.

e. The proposed parking for the site is a total of 308 spaces, with 73 surface spaces and an additional 235 spaces located in the parking garage. There will be 10 handicapped persons spots.

f. Applicant will comply with the streetscape standard required by the Borough for the redevelopment area, and work with the Borough to modify the design to accommodate areas for outdoor dining.

g. The Settlement Agreement requires twenty-nine (29) COAH or affordable units, seven (7) of which may be provided off-site. The project will have 147 residential units including twenty-two (22) COAH or Affordable units and Applicant will comply with the seven (7) off-site affordable housing requirements. The residential units will only be on the ground floor along Lincoln Boulevard. There will be residential units above that on the second, third and fourth floors. There are three access points: primary access points at the corner and one in the rear area. There will also be 14,700 square feet of retail space.

h. There will be building mounted signs which will comply with Ordinance requirements. Additionally, the complex will have main signage identifying the building name and directional signage.

i. The proposed development will provide adequate grading and utilities, stormwater controls, sanitary sewer, lighting, landscaping and site circulation. He also confirmed that the site lighting will conform to Borough requirements.

8) Based upon the sworn and qualified testimony of Applicant's professional traffic engineer, Charles Olivo, P.E., P.P., P.T.O.E., of Stonefield Engineering and Design, the Board made the following findings of fact:

a. Mr. Olivo testified that the proposed project is a Transit-Oriented Development ("TOD"), the goal of which is to take advantage of public transit and walkability that exists in the Borough. Based on his own analysis as well as traffic studies his firm has completed for similar developments, this project will have no significant traffic impact on the surrounding area.

b. Mr. Olivo testified that there are significant improvements that will result from this project, including the creation of a street wall, which encourages a walkable environment and shared parking which will be used by commuters, retail, restaurants and residential uses. In addition, the parking that is being supplied exceeds the Residential Site Improvement Standards ("RSIS") which requires 254 parking spaces, while 308 spaces are being provided: 55 parking spaces dedicated for commuters to the adjacent New Jersey Transit train station, 188 parking spaces in the parking garage dedicated for the residents, and 65 parking spaces for the retail, as well as for additional resident parking. In his opinion, the proposed parking is more than adequate for the proposed development.

c. From a traffic perspective, the unit density, the scaling and the mass all comply with the redevelopment plan. The proposed uses are permitted uses in the zone and the traffic associated with it is conceived to be part of the roadway network when a redevelopment plan is approved. Accordingly, traffic generation associated with the site is not expected to significantly alter the traffic patterns.

d. He also testified as to adequate site circulation and site access for the proposed development, with all existing Kinderkamack Road access points on the Property being eliminated, subject to any exception at the sole discretion of the Borough, in favor of Linwood and Lincoln access points as far away from Kinderkamack Road as possible. Mr. Olivo also confirmed that the internal, fob-operated gate used for access to the 188 dedicated residential spaces in the parking garage will not interfere with site access from Lincoln Boulevard, and the location or locations are to be determined with the Borough's approval.

e. With regard to trip generation, it is estimated that during peak hours, which are 7:00 a.m.-9:00 a.m. and 4:00 p.m. to 7:00 p.m. on weekdays and 11:00 a.m. to 2:00 p.m. on Saturdays, there are just under 100 trips per hour.

9) Based upon the sworn and qualified testimony of Applicant's registered architects, William Devereaux, R.A., and Angela Kostelecky, R.A., of Devereaux & Associates, Architecture, the Board made the following findings of fact:

a. Mr. Devereaux and Ms. Kostelecky testified regarding the architectural plans, including the latest revision made on December 10, 2018, which created a single building, with a single amenity center and a single lobby, which they opined encourages a "community within a community." The majority of the building is self-contained except for its access to the street. The intention is to encourage activity on the street with for example, a café or coffee shop, and outdoor seating.

b. Mr. Devereaux and Ms. Kostelecky testified regarding the architectural elevations and floor plans for the proposed development, including the proposed setbacks, building

components, colors and materials. They also confirmed that the proposed development conforms to the building height requirements and the design standards set forth in the Redevelopment Plan.

c. Ms. Kostelecky described the trash collection for the proposed development, which will be undertaken by private trash haulers and will utilize a system of trash rooms and interior corridors for the collection of trash and recycling from the retail spaces and the residential development.

d. Ms. Kostelecky also testified regarding the addition of bollards at the corner of Kinderkamack and Lincoln to provide protection for the stairs leading to the ground floor, and she described the fob-controlled gate access for the 188 dedicated resident parking spaces in the parking garage.

e. Applicant agrees to work with the Borough of Emerson to engage in discussions with New Jersey Transit to move the crossway station further north to unload at the Kinderkamack Road crossing and to potentially place a stairwell from the site toward the platform.

f. With regard to the affordable housing component, Ms. Kostelecky testified as to the revised bedroom distribution for the affordable housing units and confirmed that the proposed development would comply with all the applicable legal requirements for the affordable housing units. Specifically, there are a total of twenty nine (29) COAH units required, and twenty two (22) COAH units will be provided on-site. Of those 22 units, there are 4 one-bedroom, 13 two-bedrooms and 5 three-bedrooms.

g. All signage on the building will be in compliance with the Borough's sign ordinance and Applicant will submit a design package regarding all signs, including directional,

parking, etc., to the satisfaction of the Board Engineer, Planner, and the Governing Body and Land Use Board subcommittee.

PUBLIC COMMENT

10) The following members of the public spoke with regard to the application: Mayor-Elect Danielle DiPaola, Jeff Bischoff, Mike Meyers, Corey Melillo, Lorraine McQueeney, Joseph Polvere, Councilman-elect Kenneth Hoffman, Billy Price, Michael Esqueu, Don Pierro on behalf of Phyllis Rooney, Paul Hulbert, Michael Casey, Kathleen Viola, Laura Litchult, Jill McGuire, Lina Ballas, Bob Petrow, Annette Scala, Douglas Doyle, Esq. as Redevelopment Counsel for Emerson, and Jack Klugman, as part of the Applicant's team. Public spoke in opposition to the Application, and expressed concerns regarding: the height, scale and appearance of the proposed development; the number of parking spaces provided as part of the proposed development; the traffic impacts of the proposed development; stormwater controls; and the environmental condition of the Property. No expert testimony was offered in support of the public comments.

11) The Board Engineer and the Board Planner commented on the evidence presented by the Applicant following review of the same, sought clarification of certain items, and required supplemental information and stipulations from Applicant with regard to same as set forth herein.

STIPULATIONS MADE BY APPLICANT

A. Applicant shall comply with all landscaping comments regarding the Application, which are to be submitted by the Board Engineer's office or the Board Planner's office, one or the other which shall be completed to the satisfaction of the Board Engineer and/or Board Planner.

B. Applicant will meet with the Land Use Board's Planner and a subcommittee of the Governing Body for the Borough and the Land Use Board to discuss and address the Board's and Borough's concerns and comments regarding the final architectural design and details of the project and all other aspects of the project. Applicant agrees to use all good faith efforts to satisfactorily address the Board's and Governing Body's concerns and comments through the subcommittee. The sample materials that were submitted as hearing evidence shall be the ones utilized during construction unless otherwise approved by the Borough.

C. Applicant shall dedicate at least 55 of the 73 surface parking spaces on the Property for the exclusive use by New Jersey Transit (Emerson Borough) train station users during the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday. The signage and permitting for these 55 commuter spaces shall be agreed upon between the Borough and the Applicant.

D. Insofar as the proposed development is constructed with the parking reduction set forth in Section 290-71A(a) of the Borough Code: medical office space – which shall include walk-in and urgent-care clinics and other medical, dental, treatment and therapy-related facilities – shall be a prohibited use in the proposed development.

E. Applicant shall provide turning templates for garbage trucks and emergency vehicles accessing the Property, for the review and approval of the Board Engineer and/or Board Planner.

F. Applicant shall provide drainage calculations for the proposed development for the review and approval of the Board Engineer.

G. The Applicant shall provide any off-tract improvements required by the Application consistent with the MLUL and the Redevelopment Agreement,

H. There shall be a review after six (6) months to address any lighting concerns, and adjustments are to be made at the direction and approval of the Board Engineer;

I. Deliveries shall not be made from Kinderkamack Road and shall only be made in the rear of the building(s) of the proposed development.

J Applicant will reasonably assist Borough efforts to create pedestrian connections to and from the Property and the Borough's New Jersey Transit train station.

K. All standing snow of 2 inches or more, from one or multiple snow events, shall be removed from the Property by the Applicant at Applicant's sole cost and expense.

L. Subject to obtaining the permission of the owner of Block 419, Lot 5 ("Lot 5"), and provided same does not encroach onto Lot 5, the Applicant shall continue the streetscape for the proposed development across the frontage of Lot 5.

M. Applicant shall revise the architectural plans to be to scale and to provide dimensions to confirm compliance with all Borough Code requirements, including, but not limited to, the design standards set forth in the Redevelopment Plan, and the Applicant shall provide elevations of all four sides of the proposed development for review and approval by the Board Engineer and/or the Board Planner.

N. Applicant shall comply with all applicable requirements of the Redevelopment Agreement, the Settlement Agreement and UHAC with respect to the affordable housing proposed as part of the development.

O. Applicant shall design the HVAC units to be shielded from public view and shall provide some HVAC and vents for units suitable for future restaurant uses within the development to the approval of the Board Engineer.

P. Application shall provide a point-by-point lighting plan for the review and approval of the Board Engineer.

Q. Applicant shall submit a directional sign package for the review and approval of the Board Engineer and/or Board Planner.

12) Based upon the aforementioned facts and law, the Application conforms to the requirements of the Borough in terms of public safety, health and general welfare and will not deter the efforts of the Borough to effectuate the general purpose of municipal planning.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Emerson that the Application of Emerson Redevelopers Urban Renewal, LLC with respect to the Property requesting preliminary and final site approval and a major soil permit be and is hereby **APPROVED** subject to the terms and conditions hereinafter set forth:

1) The foregoing findings of fact and conclusions of law are incorporated herein as if set forth at length;

2) The Applicant seeks site plan approval pursuant to N.J.S.A. 40:55D-50 in conformance with the municipal ordinances;

3) In reviewing the Application, documents, evidence and testimony, the Board concludes that the proposed uses comply with the municipal ordinances and the MLUL;

CONDITIONS SPECIFIC TO THIS APPLICATION

- 1) Applicant shall abide by all of the Stipulations set forth at length above.
- 2) The Applicant shall submit revised site plan and architectural plan sets incorporating any and all applicable conditions set forth herein, and conditions of all engineering reports and reports of the Land Use Board's professionals, and the subcommittee of the Board and the Governing Body, for the review and approval of the Board Engineer and Borough Engineer and/or Board Planner and Borough Planner.
- 3) The Applicant shall obtain the appropriate approvals, permits and/or letters for the Application from all applicable local, county, state and federal bodies and agencies, including, but not limited to, the following:
 - A. Bergen County Planning Board;
 - B. Bergen County Soil Conservation District;
 - C. Borough of Emerson Police Department;
 - D. Borough of Emerson Fire Department; and
 - E. New Jersey Department of Environmental Protection.
- 4) If any material changes to the site plan as approved by this Resolution of the Board are required by any other governmental body or agency, said changes are to be brought by the Applicant on a forthwith basis before the Board, which retains jurisdiction over the Application;
- 5) The Applicant shall at all times comply with all applicable rules, regulations, ordinances and statutes of the Borough of Emerson, County of Bergen, State of New Jersey and

the federal government with regard to the development, including, but not limited to, the Americans with Disabilities Act;

6) The Applicant agrees that the work to be performed consistent with this Resolution will be consistent with Emerson's Redevelopment Plan;

7) Nothing herein grants the Applicant an approval of any material changes to this application as set forth in detail in this Resolution. Any such changes or amendments will require amended site plan and/or variance approval from this Board, as applicable;

8) The Applicant shall comply with the following comments set forth in the Boswell Engineering review letter dated December 6, 2018 ("Engineering Review Letter") and the Brigitte Bogart Planning & Design Professionals LLC review letter dated December 10, 2018 ("Planning Review Letter") (the Engineering Review Letter and the Planning Review Letter are attached hereto and made a part hereof):

A. Engineering Review Letter, Comments 7-16, 19-20, 22, 25-28, 34-38, 40-49.

B. Planning Review Letter, Comments C.1 – C.13.

9) The Applicant shall comply with the following final site plan checklist items:

A. *Final Site Plan Checklist Item 2.* Original tracings with signature lines.

B. *Final Site Plan Checklist Item 3.* Proof of execution of developer's agreement.

C. *Final Site Plan Checklist Item 4.* Proof of posting of performance and/or maintenance bonds.

D. *Final Site Plan Checklist Item 5.* Copies of recorded easements, rights-of-way or conveyances of open space or public easements, if required.

E. *Final Site Plan Checklist Item 6.* Deposit of escrow funds for engineering inspections, and any other items required by the Borough.

F. *Final Site Plan Checklist Item 7.* Bergen County Planning Board approval.

G. *Final Site Plan Checklist Item 9.* Bergen County Soil Erosion and Sediment Control Plan approval, where required.

10) The Settlement Agreement requires 29 affordable units, seven of which may be provided off-site. The project will have 147 residential units including 22 COAH or Affordable units on site and Applicant will comply with the requirement of seven (7) off-site affordable units. The residential units will be on the ground floor along Lincoln Boulevard and on the ground floor in the rear parking lot. There will be residential units above that on the second, third and fourth floors. There are three access points: primary access points at the corner and one in the rear area. There will also be 14,700 square feet of retail space.

11) The following construction drawings and site plan items are required to be submitted and approved by the subcommittee review team of the Emerson Land Use Board and Governing Body, the Board Planner and Borough Planner, and the Board Engineer and Borough Engineer:

A. Provide building elevation drawings for all four side of the redevelopment area with dimensions for each floor, balconies, reliefs, overhangs, parapets, cornices, and any other requested items.

B. Provide building elevation grades for highest points for each facade section.

- C. Provide building elevation views for the side of the complex to face the existing building on Lot 5.
- D. Provide datum elevations and locations from where all height measurements will be made for field verification.
- E. The low point along Lincoln Boulevard may be the same as the Final First Floor Elevation on the northeast corner of the building. Design area to drain properly to reduce possible flooding of recessed stair entrance on the northeast corner of the building.
- F. Provide top of curb profile of Lincoln Boulevard and roof profile.
- G. Provide top of curb profile of Kinderkamack Road and roof profile.
- H. Provide top of curb profile of Linwood Avenue and roof profile.
- I. Provide typical construction details for all curbs, parking lots, sidewalks, drainage, sanitary sewers, electrical connections, and any other items requested.
- J. Provide construction staging concepts, where work will commence, and construction staging schedules.
- K. Provide plan and details of fences along the railroad property.
- L. Provide the location of the PSE&G 230 KV underground electrical line located along the west side of the redevelopment property.
- M. Provide cross - sections, slopes and access controls for parking garage operation.
- N. Provide inverts and slopes for proposed drainage system throughout the site.
- O. Provide a grading plan for site, with spot grades plotted every 50 feet.
- P. Provide a soil erosion and sediment control plan with details.
- Q. Provide a site lighting plan with intensities plotted throughout site.

- R. Provide a streetscape lighting electrical plan to match county project lighting recently completed.
- S. Provide a construction plan and cross - sections for new curb line along Lincoln Boulevard.
- T. Provide demolition plans and stone mat requirements for trucking operations.
- U. Provide quantity receipts for all recycled asphalt, concrete, contaminated soil, and steel removed from the site and presented to the Borough Superintendent of Public Works for municipal recycling credits.
- V. Provide traffic control plans for construction phases that will interfere with traffic flow on Kinderkamack Road, Lincoln Boulevard, and Linwood Avenue, to the satisfaction of the Borough Chief of Police.
- W. Provide documentation that all NJDEP requirements regarding the underground monitoring wells on the site have been satisfied for the redevelopment.
- X. Supply, relocate and modify the traffic signal equipment on the southwest corner of the Kinderkamack Road and Lincoln Boulevard intersection to the satisfaction of the Bergen County.
- Y. Review and upsize the existing drainage line, as needed, along the south side of Lincoln Boulevard to provide additional flow capacity once reviewed.
- Z. Provide information and the location of loading zones onsite for deliveries to the back of the proposed stores.
- AA. Provide the locations, parking signs, and pavement markings for the commuter parking and retail parking spaces for the site on the construction plans.
- BB. Provide a minimum of a 9'6" streetscape sidewalk design around the perimeter of the redevelopment zone, including along Linwood Avenue and Lincoln Boulevard.

- CC. Provide all necessary road widening easements, with parcel descriptions and parcel maps, to the County of Bergen and Borough of Emerson.
- DD. Provide a cost estimate for all curbing, sidewalk, drainage, paving, streetscape lighting, traffic signs, pavement markings, traffic signal relocation, regulatory and warning signs, and utility relocation. This estimate will be submitted for review and be the basis for the performance bond requirements.
- EE. Provide the date when the commuter parking spaces are required to be vacated for the start of construction.
- FF. Provide truck turning radii on a plan showing how a truck will access the trash areas for service.
- GG. Provide a note on the plans indicating where snow would be stockpiled during heavy snow events, with snow to be removed from the site for snow events over 2 inches in depth.
- HH. Provide a written traffic report to support the traffic testimony presented at the December 10, 2018 Land Use Board meeting.
- II. Provide an ADA compliance letter from a licensed New Jersey Professional Engineer to verify all ADA requirements have been installed in accordance with current requirements.
- JJ. Developer to agree to a 6-month lookback regarding site lighting to resolve any and all complaints regarding non-compliant site lighting.
- KK. Developer to abide by the noise ordinances for the Borough of Emerson.
- LL. Developer to abide by all New Jersey Transit and Federal Railroad Administration requirements regarding construction techniques and operations near the New Jersey Transit rail lines and crossings.

MM. Developer to abide by all New Jersey Department of Transportation and County of Bergen construction materials and methods of construction for work within the public right of way.

NN. Developer to abide by all Bergen County Planning Board requirements.

OO. Developer to abide by all Bergen County Soil Conservation District requirements.

12. Applicant shall have a pre-construction meeting with the Board Engineer, Borough Engineer & Board Planner prior to construction.

13. The parking garage structure shall not exceed the height requirement in the CBD-10 zone and the levels and ramps of the garage are to be spaced at a height that is consistent with the requirements in the zone and to the satisfaction of the Board and the Borough Engineer.

14. Applicant shall enter into an appropriate Developer's Agreement with the Borough and Land Use Board and shall post all necessary fees, escrows, and performance guarantees and payment for off-site improvements in the future. The Developer's Agreement shall be drawn by the applicant and submitted to the Borough and Planning Board Attorneys for review and approval.

II. GENERAL CONDITIONS

1. Applicant shall adhere to the Borough of Emerson's storm water management requirements with regard to ground water recharge for a major development as required in by the Borough Ordinance.

2. Applicant or any successor in interest shall address all recommendations and requirements of the Borough Police Department, Fire Department and Department of Public Works.

3. No certificate of occupancy will be granted unless all conditions imposed by this Land Use Board, the Land Use Board's professionals, Board Attorney, Planner, Engineer and the Borough's Attorney, Engineer and Planner have been satisfied in full.

4. Applicant shall be responsible for obtaining any other approvals or permits from other governmental agencies as may be required by law, including, but not limited to, the Bergen County Soil Conservation District, and the New Jersey Department of Environmental Protection and Applicant shall comply with any requirements or conditions for such approvals or permits.

5. Applicant is responsible for any environmental clean-up and/or environmental conditions as to the site as required by federal, state, county and local governmental agencies and officials, which must be complied with to the satisfaction of each of the aforementioned agencies and officials.

6. Applicant agrees to comply with any and all conditions and requirements of the Borough Engineer and/or Board Engineer with regard to Soil Movement, including but not limited to truck routes and hours of operation, and will comply with the Borough Engineer's requirements as to any and all soil movement, in conjunction with the Emerson Police Department.

7. Applicant shall submit revised plans, as necessary, with correct revision dates on all sheets.

8. Applicant will comply with any and all requirements of the Property's Water Company.

9. All construction shall be completed in accordance with all ordinances and building requirements of the Borough of Emerson, the Uniform Construction Code of the State of New Jersey and in accordance with the instructions of the Construction Official of the Borough of Emerson, the Borough Engineer and in accordance with the requirements of all other departments of the Borough.

10. Applicant is required to obtain a building permit, post all necessary fees and costs with the Borough of Emerson prior to any construction. This approval is subject to Applicant obtaining a building permit and any other State, County or Borough approvals if required.

11. Applicant shall pay all fees, costs, bonds and escrows when due or becoming due and shall post all performance guarantees in connection with the review of this application prior and subsequent to the approval of this application. Any monies are to be paid within twenty (20) days of said request by the Borough's Chief Financial Officer.

12. If an application before the Bergen County Planning Board is required and any material or substantial changes are required by the Bergen County Planning Board to the site plan as approved by this Resolution, then the Emerson Land Use Board retains jurisdiction over this application and reserves its right to amend or withdraw its approval of this application.

13. Applicant shall file, as applicable, a deed restriction regarding any and all affordable units constructed pursuant to the approval granted herein, as same is required by N.J.A.C. 5:93-9.2(e).

14. Applicant shall comply with all affordable housing requirements of the Borough of Emerson Code as well as the Uniform Housing Affordability Control Rules, N.J.A.C. 5:80-26.1 et seq., including, but not limited to, administration of units, marketing, rent pricing and stratification, qualification and selection of households, and any other items. Documentation demonstrating such compliance is required as an ongoing condition of this approval.

15. All representations and stipulations made by Applicant or its agents shall be deemed conditions of this approval and any misrepresentations by Applicant contrary to the representations and stipulations made before the Land Use Board shall be deemed a violation of this approval.

16. The action of the Land Use Board in approving this application shall not relieve Applicant of responsibility for any damages caused by this project, nor does the Land Use Board of the Borough of Emerson, 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.

17. Any and all conditions imposed upon Applicant in connection with the approval granted herein shall apply to any successor in interest to Applicant.

18. All easements, deeds, subdivision maps and deed restrictions as may be required hereunder must be reviewed and approved by the Borough of Emerson and recorded by Applicant before any permit is issued by the Borough.

III. SOIL MOVING PERMIT

A Major Soil Moving Permit in accordance with the requirements of Chapter 244 of the Borough of Emerson Municipal Code for a soil movement is GRANTED without substantial detriment to the public safety, health and general welfare and will not deter the efforts of the Borough to effectuate the general purpose of municipal planning. The granting of the permit is subject to the following conditions:

1. Prior to the commencement of any soil operations (fill or cut), Applicant agrees to develop trucking routes for the hauling of soil to the site which shall be submitted to the Borough for review and approval. The review will include the Borough's Police Department and Engineering professionals.

2. Applicant agrees to comply with any and all conditions and requirements rendered by the Borough Engineer and/or Board Engineer with regard to the Soil Movement, including but not limited to truck routes and hours of operation.

3. Applicant will provide motor vehicle and general liability insurance for all necessary vehicles and parties involved in the soil movement in sums and form deemed appropriate by the Borough Attorney.

4. The Applicant agrees to comply with Borough Police Department Traffic Control Officers in order to provide a safe means for moving the soil as deemed required by the Borough Engineer or his designees.

5. The Applicant shall comply with any and all other applicable Borough regulations, Ordinances and directives pertaining to soil movement.

6. The Applicant shall obtain all other necessary governmental approvals and permits, and shall perform all acts of compliance which may be required under the applicable federal, state, county and local statutes, regulations and ordinances. The Applicant shall submit to the Board copies of all permits or approvals or, in the alternative, written verification that no permits or approvals are required.

7. The Board reserves the right to require further review of this permit request in the event that another governmental entity requires "Substantial modifications or revisions" to the plan as approved.

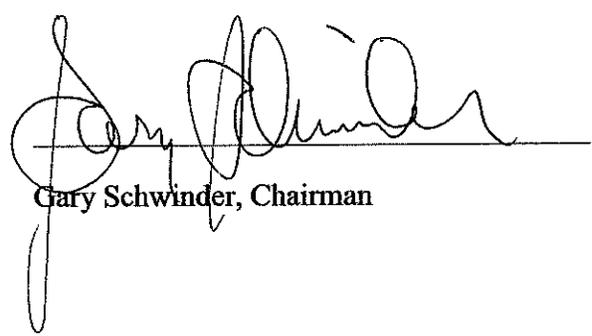
BE IT FURTHER RESOLVED that this Resolution does not constitute approval or recommendation for approval for site plan or any variance not herein referenced or any exception or permit not requested by the Applicant, nor any site plan, variance or exception or permit which may not be expressly or specifically created by this Resolution.

NOW THEREFORE, BE IT RESOLVED that the Chairman and Secretary of the Board are hereby authorized to affix their signatures to this Resolution granting the requested application, to advertise the action taken, by way of Resolution, in the local newspaper, and furthermore to

send certified copies to the Construction Code Enforcement Official and/or Building Sub-Code official, the Zoning Official, the Applicant and/or the Applicant's attorney, the subject property Owner if other than the Applicant, and to the Borough Attorney and Redevelopment Attorney.

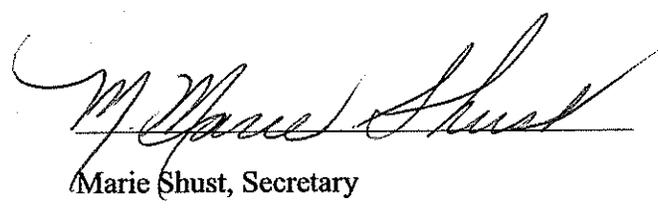
The undersigned certifies that the within Resolution was adopted by the Board and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on December 28th, 2018.

Dated: 12/28/18



Gary Schwinder, Chairman

Dated: 12/28/18



Marie Shust, Secretary

OFFERED BY: Mr McKendry

SECONDED BY: Mr BRESA

VOTE: Ayes: 5

Nays: 0

Abstain: 0