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**MARLBORO TOWNSHIP PLANNING BOARD
RESOLUTION PB 1053-10**

<p>In the Matter of Camelot at Marlboro for Final Major Site Plan Approval and Minor Subdivision.</p>	<p>FINDINGS OF FACT AND CONCLUSIONS OF LAW</p> <p>Block 132, Lot 18 Marlboro Township, Monmouth County Zone: CS, Commercial Service and LI, Light Industrial</p> <p>Application No. PB 1053-10 Preliminary Approval Date: March 16, 2011 Final Approval Date: May 16, 2012</p>
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BE IT RESOLVED, by the Planning Board of the Township of Marlboro ("Board") that the action of this Board on May 16, 2012, in this matter is hereby memorialized by the adoption of this written decision setting forth the Board's findings and conclusions.

RELIEF SOUGHT AND JURISDICTION

1. This application is the product of litigation between the Township and the Applicant that began in March of 2002, when a predecessor company acquired a parcel commonly known as the "Entron Property." Thereafter, in November of 2002 the Applicant then brought a builders' remedy suit against Marlboro alleging that the Entron Property was suitable for inclusionary development. Since negotiations between the Applicant and Marlboro appeared to be productive, the Applicant did not continue with the lawsuit. Subsequently, on or about July 6, 2004, the Applicant and the then Township administration reached an agreement for the development of the Entron Property and also at or around this same time—in July of 2004—Marlboro petitioned the Council On Affordable Housing (COAH) for substantive certification and included in that plan was the Entron Property which Marlboro relied upon, in part, to satisfy its constitutional obligation to provide a realistic opportunity for the creation of affordable housing. The 2004 plan called for the construction of 365 units, of which 245 would be market rate/age restricted, and, 120 on-site affordable units of which 44 would be age-restricted and 76 would be family affordable units. Objections were then filed to Marlboro's plan. As a result of the filing of the foregoing objections, Marlboro was forced to undergo COAH mediation. An amendment was then made to the initial agreement and thereafter the Township enacted Ordinance No. 2005-319 which called for an inclusionary development on the Entron Property consisting of 245 market-rate units and 49 affordable age-restricted units. In addition, the developer was required to fund the cost of seventy-one (71) units via a Regional Contribution Agreement (RCA).

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2. In December of 2005, Marlboro Township rescinded Ordinance 2005-319 by adopting Ordinance 2005-482, resulting in the Township seeking other locations to find an affordable housing development, which included the possible development of the Stattel Farms site. In 2006, the Applicant again revived its prerogative writ action against the Township, challenging the rescission ordinance, and the matter went to the Appellate Division. In February of 2008, the new administration was confronted by a reversal by the Appellate Division and the case was reinstated. Prior to the new administration in late 2007, the matter could have been resolved by the Kleinberg administration's signature on the settlement agreement. Pursuant to the reinstatement of the litigation, Entron was placed back into the 2008 Fair Share Housing Plan to provide 250 market-rate units with 50 affordable family unit rentals. These rentals under the current COAH guidelines could provide a "double bonus" credits for the Township's affordable housing obligation, as they are low to moderate income rental units that provide double credits.

3. An application for preliminary major site plan approval to redevelop the 18.23 acre Entron site was granted on March 16, 2012. The property is within the area regulated by the Entron Industries Redevelopment Plan in the north central portion of the Township. The property fronts on N.J.S.H. 79 northbound and Beacon Hill Road. Vehicular access will only be from N.J.S.H.79. The Applicant was granted preliminary site plan approval for the residential development of 250 dwelling units on 15.35 acres of the Entron site. The remainder of the Entron site is planned for commercial redevelopment. The preliminary site plan approval was to demolish the existing buildings on the site and construct the residential component. The commercial area will be cleared and regraded.

The Applicant revised its submission to include a minor subdivision application to create a separate 0.91 acre lot for the multifamily buildings which will be developed as affordable housing.

The Entron site was used for industrial purposes for many years. As a result of industrial use, it is classified as an active brown field site, which DEP defines as "any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been, or there is suspected to have been, a discharge of contamination.

There are 10 buildings on the property of which four buildings are currently used.

4. The adjoining uses include the currently vacant Learning Center and an age-restricted multifamily development to the north and a nursery to the south across Beacon Hill Road. The balance of the surrounding land uses are single family residences and small commercial uses.

5. The zoning for the areas abutting this tract include commercial zone districts [C-S Community Service and C-2 Neighborhood Commercial] along the highway frontage, Senior Citizen Multifamily District I to the north and the Land Conservation District zone district to the west and south of the tract

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6. The proposed construction under this site plan is for twelve (12) multifamily buildings, a community clubhouse and pool, the associated road, parking, utility, storm water management facilities and landscaping. Access to the development will be from Route 79 at the north side of the tract opposite Harnley Road; no access is proposed from Beacon Hill Road. A landscaped buffer is proposed along the perimeter of the tract and the storm water management basins are proposed along the southern portion of the tract adjoining Beacon Hill Road.
7. Fifty of the 250 dwelling units will be affordable low and moderate income family rental units developed according to COAH standards. The remaining two hundred units will be market rate housing. A tabulation of the proposed affordable units and market rate units by the number of bedrooms is provided below.

Bedroom Count	Market Units	Affordable Units	Total # of Units	% of Total
One Bedroom	40	10	50	20%
Two Bedroom	124	25	149	59.6%
Three Bedroom	0	15	15	6%
Two Bedroom with den	36	0	36	14.4%
Total	200	50	250	100%

The square footage of the affordable units is as follows:

- One Bedroom: 680 square feet;
- Two Bedroom: 920 to 935 square feet;
- Three Bedroom: 1,180 to 1,190 square feet.

The square footage of the market rate units is proposed as follows:

- One Bedroom: 795 square feet;
- Two Bedroom: 1,020 to 1,270 square feet;
- Two Bedroom w/den: 1,450 square feet.

8. The subject of this application is within the jurisdiction of this Board. The Board has acted within the time required by law.

THE APPLICANT

9. Applicant Camelot at Marlboro, LLC, 433 River Road, Highland Park, New Jersey 08904 is the contract purchaser of the property owned by Entron Industries, L.P. The LLC is under the umbrella corporation Kaplan Companies, at the same address, a principal of which is Jason Kaplan.
10. The Applicant has certified that all property taxes for the subject property and all escrow fees required under the applicable ordinance(s) for such an application have been paid. This certification includes an agreement to pay all future monies due under the escrow ordinance for consultants and other professional work on the property.

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11. The Applicant has submitted an Affidavit of Proof of Service of Notice published in the Asbury Park Press. The Proof of Service comports with the notice before the Board that this matter is of the character that the Applicant has presented to the Board.

THE HEARINGS

12. One public hearing took place with regard to this application.
 - a. On May 16, 2012 hearings took place before the Marlboro Township Planning Board at the Marlboro Municipal Building, 1979 Township Drive, Marlboro, NJ 07746-2299.

PLANS PRESENTED

13. The Board reviewed the following documents:
 - a. Preliminary and Final Major Site Plan (35 sheets) prepared by William Wentzien, P.E., of Cranmer Engineering, PA dated December 1, 2010, last revised January 24, 2011.
 - b. Architectural Plans (14 sheets) prepared by JLM Design Group, Plymouth Meeting, Pennsylvania, dated November 29, 2010 for the Kaplan Company.
 - c. Emergency Vehicle Maneuvering Plan (1 sheet) prepared by Cranmer Engineering, PA dated January 24, 2011, unrevised.
 - d. Minor Subdivision Plan (1 sheet) prepared by Cranmer Engineering, PA dated January 24, 2011, last revised October 25, 2011.
 - e. Truck Overall Site Plan with red indicating no-parking areas, dated December 1, 2010, prepared by William Wentzien, P.E., of Cranmer Engineering, PA.
 - f. Minor Subdivision Plan prepared by Vincent Creevy, PLS, of Cranmer Engineering, PA, dated January 24, 2011.
 - g. Amended Road A Cross-Section dated February 11, 2011, by William Wentzien, P.E., of Cranmer Engineering, PA.
 - h. Existing Land Use and Aerial Plan for Camelot at Marlboro, prepared by Thomas Planning Associates, February 11, 2011, showing neighboring sites and uses, including various commercial properties, industrial properties, vacant lands and single-family residences.
 - i. Major Site Plan (6 sheets) prepared by Cranmer Engineering, PA dated December 1, 2010, last revised October 25, 2011.
 - j. Demolition Plan (1 sheet) prepared by Cranmer Engineering, PA dated October 25, 2011, unrevised.
 - k. Lighting Point by Point Plan (1 sheet) prepared by Cranmer Engineering, PA dated January 31, 2012, unrevised.
 - l. Supplemental Stormwater Management Calculations prepared by Cranmer Engineering, PA dated November 30, 2011, unrevised.
 - m. A Soils Report prepared by Cranmer Engineering, PA, dated January 24, 2011, last revised April 15, 2011.
 - n. A development application.

OTHER DOCUMENTS REVIEWED BY THE PLANNING BOARD

14. The Board reviewed the following documents submitted by the Applicant:
- a. Stormwater Management Report (2 volumes) prepared by Cranmer Engineering, PA dated December 1, 2010, last revised January 24, 2011.
 - b. Traffic Impact Report prepared by Langan Engineering and Environmental Services, Inc. dated December 4, 2010; and Langan letter in response to Board professionals' questions dated January 25, 2011.
 - c. March 10, 2011 letter from React Environmental Professional Services Group, Inc., addressing environmental conditions at the site, specifically that the project objective is to make the site safe for its planned use and comply with all relevant NJDEP regulations. That includes completing all investigations and remediation work necessary before, during and after residential/commercial redevelopment to allow for issuance of an appropriate response action outcome for the site, issued by the assigned licensed site remediation professional.
 - d. Application PB #1053-10 submitted on January 24, 2011, by Cranmer Engineering, PA, which included site plans, minor subdivision plans, site circulation plans, drainage report and soil boring and groundwater report prepared by Cranmer Engineering, PA, dated January 24, 2011, unrevised.
 - e. React Environmental Professional Services Group, Inc. Reports dated November 8, 2011 and May 10, 2012.
 - f. Department of Environmental Protection letter dated May 25, 2011 determining site information.
 - g. March 1, 2005 letter to Melissa J. Orsen, Esq., Director of Mediation and Legal Affairs for the Counsel on Affordable Housing from Entron Industries.

EXHIBITS PRESENTED

15. The following exhibits were presented to the Board:
- a. Final site plan for Camelot;
 - b. Colorized site plan, aerial, dated November 29, 2010;
 - c. Aerial of site location and uses in the surrounding area dated February 11, 2011;
 - d. Package of 25 architectural drawings dated November 29, 2010;
 - e. 15-sheet floor plan exhibit dated November 30, 2011;
 - f. Minor subdivision plan dated January 24, 2011;
 - g. November 29, 2010 phasing plan for the site;
 - h. No-Parking Zone area plans;

TOWNSHIP EXPERT REPORTS

16. At the hearing, the Board considered the following reports presented by Township officials:
- a. B-1, December 30, 2010 report of Township of Marlboro Environmental Commission, which made certain recommendations including obtaining a Letter

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- of Interpretation from the NJDEP, obtaining approvals from NJDOT, NJDEP, Monmouth County/Freehold Soil Conservation District and the Water Department.
- b. The Applicant shall submit a site investigation/soil boring report and it shall be acknowledged by the report that there is considerable groundwater monitoring going on at the site.
 - c. B-2, Letter dated February 14, 2011 from Marlboro Township Historic Preservation Advisory Committee, which reviewed the site and made certain recommendations with regard to the preservation of a building on site named "Liberty Hall" which has some historic significance. However, Board members have also reviewed the building with the Board Engineer and found that the building cannot be preserved.
 - d. B-3, Traffic Safety Bureau memorandum dated February 9, 2011, which reviewed the Langan Engineering traffic report, and made certain recommendations with regard to NJDOT review of the site, emergency access to the site and no-parking area on the site, as are listed in the No-Parking Map supplied by the Project Engineer.
 - e. B-4, February 7, 2011 report of Marlboro Township Fire Sub-Code Official/Fire Inspector John W. Borden, who made certain recommendations, including requiring that the proposed street names be submitted to the Township, that the island in the main entrance be removed, compliance with the state law requirement for fire lanes, that a fire hydrant be located at the clubhouse, that he still had concerns with regard to emergency vehicle access to the site requiring that all access be 20 feet wide, that certain areas of the site be marked "No Parking - Fire Lane.
 - f. B-5, February 14, 2011 letter from Bob Miller, Buildings & Grounds, recommending that the Township not assume responsibility for any on-site improvements, including streets, detention basins, underground basins, walls and sidewalks.
 - g. B-6, February 10, 2011 letter from Bob Miller, Buildings & Grounds, stating that the development shall be maintained by an association, that he believed there are still issues with regard to the planned stormwater management system and the use of underground basin that cause concern regarding longevity and proper operation. He stated that with regard to the system, it needs a better design so it can be remediated and that he has concerns with the lack of flow in the storage area, that sediment and debris would collect over time and reduce capacity. He also had a problem with the proposed vertical wall basin, that there is no access to the basin. He suggested a ramp access way was needed that would support the weight of at least a back-hoe to allow entry of maintenance equipment. He also had concerns with the out-flow onto Beacon Hill Road and into stormwater facilities there. With regard to planting of trees, he stated all trees must be planted and burlap removed, including all material around the root ball at planting.

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- h. B-8, February 10, 2011 report of Planning Board Engineer CME Associates, by Ernest J. Peters, Jr., P.E., P.P., CME, with attached Technical Engineering Review No. 1, dated February 10, 2011.
- i. B-5, February 3, 2011 report of T & M Associates by Richard S. Cramer, PP, AICP, Board Planner.
- j. April 11, 2012 report of Planning Board Engineer CME Associates by Laura J. Neumann, PE, PP.
- k. John W. Borden, Fire Sub-Code Official/Fire Official report dated April 9, 2012
- l. Sgt. Joseph Lenge, Traffic and Safety Bureau, report dated April 3, 2012.

TESTIMONY AND PUBLIC INPUT

- 17. The Applicant and its attorneys presented the following witnesses:
 - a. On May 16, 2012, the Applicant was represented by Gerald N. Sonnenblick, Esq., of Sonnenblick, Parker & Selvers, P.C., 4400 Route 9 South, Freehold, New Jersey 07728, who presented three witnesses: Karl A. Pehnke, PE, PTOE, who testified as the Applicant's traffic expert; President of Applicant Jason Kaplan; Charlene Drake, Environmental Expert; and William T. Wentzien, PE, Project Engineer.
 - b. First to testify was Mr. Wentzien, who reviewed with the Board the CME April 11, 2012 report. He stated that the Applicant had complied or would comply with all the requirements contained in that report including easements for utilities and maintaining the 35 foot height for the 4-story building.
 - c. Next to testify was Karl Pehnke, the Traffic Consultant, who stated that the Applicant would comply with the CME report as well. He stated that the application has been reviewed by NJDOT and there are no major issues. He said that the shoulder would be upgraded and that proper approvals would be filed with the Township regarding Route 79. With regard to emergency access to the site, this would be through the emergency access road using break away bollards at both ends.
 - d. Next to testify was Charlene Drake, who reviewed the Applicant's compliance with all soil remediation requirements. She stated that there would be ongoing groundwater monitoring network, which would be set up to go forward for eight years and would comply with NJDEP regulations. She stated that 350 cubic yards of soil would be removed from the site and that copies of all environmental reports would be filed with the Township to show that everything is done properly and is copasetic.
 - e. The Applicant stated that it would comply with both fire and traffic concerns contained in the reports submitted by the Fire and Police officials, including the placement of a knox box on the site. The entrance street island will have mountable curbs on it so that emergency access is proper.
- 18. The following Township staff gave advice to the Board:
 - a. Laura J. Neumann, PE, PP, Planning Board Engineer and Planner.
 - b. Michael W. Herbert, Esq., Planning Board Attorney.

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19. Members of the public who testified with regard to the application:
- a. One member of the public, Louise Carlson of 31 Morganville Road, who wanted to know the history of the site. She submitted a document which was labeled Exhibit P-1, which shows the history of the site and also wanted to know why the buildings were able to stay at 35 feet as well as being 4 stories tall.

FINDINGS AND CONCLUSIONS REGARDING FINAL SITE PLAN APPROVAL

20. Nature of the application:
- a. The subject 18.2 acre property contains bifurcated frontages of 393 feet and 131 feet along the east side of NJ State Highway Route 79 to the west and 1,067 feet of frontage along Beacon Hill Road to the south within both a CS (Commercial Service) and a LI (Light Industrial) Zoning Districts. The site frontages along Route 79 are separated by two lots, one of which is developed with a single-family residential use (Lot 16), and the other is a Coastal Learning Center (Lot 17), currently vacant. The subject site is utilized by Entron Industries and contains a 68,635 s.f. building, a 6,342 s.f. building, a 4,677 s.f. building, and a 10,365 s.f. building. In addition, the site contains various gravel surface parking, storage, and loading areas with one gravel access driveway along Route 79 near the Beacon Hill Road intersection, and two access gravel driveways along Beacon Hill Road. The eastern property line is encumbered by a 25 foot wide ingress/egress easement dedicated to the Marlboro Township Municipal Utilities Department to access a water supply tank on adjoining Lot 19. The northern and eastern portion of the site is heavily wooded, and public water and sanitary sewer services are available.
 - b. Pursuant to Ordinance 2010-9, the subject property was designated as an area in need of redevelopment. Said Ordinance adopted an "Entron Industries Redevelopment Plan" prepared by Heyer, Gruel & Associates dated February 2010 as the controlling document guiding future development of the property. The site was designated for development to include not more than 250 multi-family dwelling units of which at least 50 units would be designated as affordable housing units. In addition, the site was designated to be developed for office, retail, and restaurant uses on a portion of the property at the Route 79 and Beacon Hill Road intersection.
 - c. The Applicant was granted preliminary approval for a phased development consistent with the Redevelopment Plan, specifically, consisting of the subject multi-family residential development and future office, retail, and restaurant development. At this time, the Applicant is seeking final approval for the multi-family residential development only.
 - d. The multi-family development encompasses approximately 15.3 acres of the overall tract, and specifically consists of the following:
 - i. 200 market rate dwelling units and 50 affordable housing units within 9 three-story buildings and 3 four-story buildings.
 - ii. A 44-foot-wide boulevard style access drive from Route 79.

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- iii. An emergency gravel driveway from Route 79.
 - iv. An internal roadway network.
 - v. Off-street parking for a total of 236 vehicles.
 - vi. A community/clubhouse building with an outdoor pool and patio area.
 - vii. Public water service via connection to an existing main along Beacon Hill Road, as well as along Route 79.
 - viii. Sanitary sewer service via connection to an existing main along Beacon Hill Road.
 - ix. Two detention basins and six underground basins to handle the increase in stormwater runoff. It should be noted that said basins ultimately discharge into existing drainage systems along both Beacon Hill Road and Route 79.
 - x. Additional improvements include landscaping, lighting, mailbox shelter, a maintenance building, and refuse enclosures throughout the multi-family development.
- e. The above noted improvements will be constructed in phases, as outlined below:
- Phase 1
- i. Construction of the 44-foot-wide boulevard-style access and the emergency gravel drives along Route 79.
 - ii. Construction of 5 multi-family residential buildings containing 110 units.
 - iii. Construction of a clubhouse building and amenities, mailbox shelter, and maintenance building.
 - iv. Interior roadways including 106 parking spaces.
 - v. Surface stormwater basins.
- Phase 2
- i. 4 multi-family buildings containing 80 units.
 - ii. Interior roadways including 72 parking spaces.
- Phase 3
- i. 3 multi-family buildings containing 60 units.
 - ii. Interior roadways including 58 parking spaces.

It should be noted that any proposed phasing of utility, landscape, and other additional site improvements is not clearly evident at this time.

- f. In addition to the above, the Applicant was granted Preliminary Minor Subdivision approval to create two (2) lots within the multi-family component of the development. Proposed Lot 18.02 will be 0.9 acres in size, and contain the affordable housing units, specifically Buildings 8 and 9. Proposed Lot 18.01 will be 17.3 acres in size, and contain the market rate units/buildings, clubhouse building, and the future commercial development.
- g. In general, the Applicant has made the following plan revisions:
- i. An emergency access drive has been provided from Route 79.
 - ii. Guide rail has been provided along Road A at the detention basin.
 - iii. A fence has been provided around the detention basin located along Beacon Hill Road. It shall be 6 feet in height.
 - iv. The site identification sign has been revised to comply with the

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- redevelopment plan.
 - v. The COAH units (Buildings 8 and 9) will be located on a separate lot.
 - vi. A site circulation plan has been provided.
 - vii. The distance from the back of Buildings 7, 8, and 9 to the detention basin along Beacon Hill Road has been increased.
 - viii. Various grading, drainage, and landscaping revisions.
 - h. Relationship to Township Master Plan and Zone Plan
 - i. Master Plan. The Entron site was proposed for redevelopment as an inclusionary development for affordable housing in the Township Master Plan Housing Element and Fair Share Plan adopted by the Planning Board in December 2008.
 - ii. In 2009, the Marlboro Township Council authorized the Planning Board to undertake a preliminary investigation to determine whether the Entron Site (Block 132 Lot 18) was an area in need of redevelopment under the Local Housing and Redevelopment Law. By resolution adopted on August 5, 2009 the Marlboro Planning Board determined that the subject property met the criteria to be classified as an area in need of redevelopment and recommended same to the Township Council. The Township Council subsequently adopted a resolution on September 10, 2009 designating Block 132 Lot 18 as a Redevelopment Area.
 - iii. In May 2010, the Township adopted by Ordinance 2010-9 the Entron Industries Redevelopment Plan to regulate the future use and development of Block 132 Lot 18. The Redevelopment Plan divides the 18 acre Entron Redevelopment Area into two districts: the Office-Commercial district and the Multi-Family Residential District.
 - iv. The Redevelopment Plan districts for the Entron site supersede the underlying zoning.
 - v. The approximately 2 acre Office-Commercial district on the Entron site permits the development of office, retail sales, restaurants and banks.
 - vi. The approximately 15 acre Multi-Family Residential district permits the development of multi-family residential housing, including a maximum of 200 family market rate units and a minimum of 50 affordable units.
 - vii. The redevelopment of the Entron site for affordable housing continues to be part of the Revised Housing Plan Element and Fair Share Plan adopted by the Planning Board in 2010.
 - viii. The preliminary site plan application of Camelot LLC to develop 250 multi-family dwelling units at the site, of which 50 will be affordable family rental units, is consistent with the recommendations of the Township Revised Housing Plan Element and Fair Share Plan.
21. Board findings:
- a. The Board grants final major site plan approval with variances.
 - b. The Board finds that there is no negative impact upon the public's health, safety and welfare, nor upon the local zoning codes for this area of the Township.

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- c. The Applicant shall comply with all testimony placed in the record before the Board as well as with regard to all requests of Board members and Board professionals.

CONDITIONS REQUIRED

22. The Board finds that in order to address the concerns expressed in the course of the hearing, and to limit the relief to that which is reasonably necessary to satisfy the Applicant's legitimate requirements, the relief granted is subject to the following conditions, and non-compliance shall result in the rescission of this approval:
 - a. Applicant shall complete all investigations and remediation work necessary before, during and after residential/commercial redevelopment to allow for issuance of an appropriate response action outcome for the site, issued by the assigned licensed site remediation professional, pursuant to the March 10, 2011 letter from React Environmental Professional Services Group, Inc
 - b. Regarding drainage basins, there shall be adequate access to the basin around the vertical portion of it.
 - c. The Applicant shall identify the entity which will own and operate the community building/clubhouse and pool, and the facility should be available to the affordable units as well as the market rate units. A schedule should be established for the completion of the clubhouse and recreation facility. The schedule should require completion before the issuance of a specified number of building permits. The Kaplan organization will own and maintain the community building/clubhouse and pool and that its use will be available to the tenants of the affordable units. The revised site plan includes the community building/clubhouse and pool as part of the Phase 1 construction.
 - d. A tot lot/playground shall be included as part of the recreation facilities and located in proximity to the pool and clubhouse for the convenience of all the residents.
 - e. The Applicant shall provide all environmental information for the site to the Board Engineer.
 - f. The Applicant shall comply with N.J.S.A. 5:97-3.14, Accessible and Adaptable Affordable Units Statute, for all affordable units on site.
 - g. This application is subject to the requirements of the Residential Site Improvement Standards (RSIS) adopted as N.J.A.C. 5:21-1 et. seq. The Applicant has not requested any waivers or *de minimus* exceptions from the RSIS requirements. An agreement to exceed said requirements shall be filed with DCA for all proposed improvements which exceed the RSIS.
 - h. The need to submit an updated Site Investigation and Soil Sampling Report. The Stormwater Management Report indicates that there is considerable soil and groundwater contamination resulting from past use of the property. The report includes excerpts from a Remedial Investigation Report, and correspondence from the NJDEP Site Remediation Program wherein groundwater and soil contamination is discussed. The date of the reports and correspondence are approximately 8-9 years old. The Applicant shall indicate the status of the

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NJDEP review of the case. It appears that while the aforementioned report excerpts recommended further investigation and possible remedial action, it is not clear from the submitted documents whether same has been undertaken. The Applicant shall submit information as to the status of the remedial efforts to the Board Engineer on a timely basis.

- i. The commercial development will occur after the residential development is up and running.
- j. Proposed phasing of utility, landscaping, lighting and additional site improvements shall be clarified. Applicant stated that a more specific phasing plan shall be submitted on a timely basis.
- k. The timing associated with the existing building demolition, specifically those buildings which are located on the lot for future commercial development. A more specific plan shall be submitted on a timely basis.
- l. The need for any improvements (curb, sidewalk, widening, right-of-way dedication, etc.) along either the Route 79 and/or Beacon Hill Road site frontages. The Applicant shall submit a curb, sidewalk widening and right-of-way dedication to the Board Engineer for review.
- m. The disposition of the fence encroachment from adjoining Lot 17 along the existing paved driveway, as well as the driveway encroachment onto the subject property from adjoining Lot 15. The fence will be left alone.
- n. The ownership and maintenance responsibilities for the above ground and underground detention systems shall be done by Applicant/owner. An easement shall be provided to the Township for any necessary maintenance in the event of an emergency and/or failure.
- o. The Applicant will file a subdivision plat.
- p. Demolition Plan. The site plan package did not contain a demolition plan. A demolition plan shall be submitted by the Applicant.
- q. Tree Removal. The Applicant's tree removal and replacement plan is subject to the review and recommendations of the Board Engineer.
- r. Title 39. Title 39 Traffic Enforcement shall be requested by the Applicant so that the Marlboro Township Police Department can enforce Township Traffic Laws within the new residential development.
- s. Commercial Phasing. The Applicant shall identify the schedule for the development of the commercial area. *An appropriate plan for the stabilization and landscaping of the commercial site shall be submitted for review and approval by the Board Engineer.*
- t. Applicant shall use silt fence around all construction activities, in accordance with Township regulations.
- u. Applicant shall comply with the Marlboro Township back fill ordinance regulations for the site.
- v. The Applicant shall comply with all requirements of the Police officials.
- w. Applicant shall comply with the comments contained in the report of Township Planning Board Engineer CME Associates, by Laura J. Neumann, P.E., P.P., CME, with attached Technical Engineering Review No. 1.

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- x. Applicant shall comply with the comments in the report of Marlboro Township Fire Sub-Code Official/Fire Inspector John W. Borden.
- y. Applicant shall monitor and immediately take necessary action to remediate any flooding or damage on site and to neighboring properties caused by Applicant during and after construction.
- z. Applicant shall submit maintenance plans and confirming reports for the site after it is built; this applies specifically to underground basins.
- aa. Applicant shall augment the buffer located along Beacon Hill Road with evergreens as much as possible.
- bb. Due to the fact that this is a subdivision application, easements will need to be established and reviewed by the Board Attorney for Lots 18.01 and 18.02 for cross access parking, drainage, and related items. Also, the use of Lot 19.02 will be restricted to affordable housing in accordance with the Redevelopment Plan.
- cc. The Applicant shall address the status/compliance with the following conditions of the March 16, 2011 Resolution granting Preliminary Major Site Plan approval:
 - i. Condition #22a – Applicant shall complete all investigations and remediation work necessary pursuant to the March 10, 2011 letter from React Environmental Professional Services Group, Inc.
 - ii. Condition #22c – The Applicant shall provide all environmental information for the site to the Board Engineer.
 - iii. Condition #22f – The need to submit an updated Site Investigation and Soil Sampling Report. The Applicant shall indicate the status of the NJDEP (Remedial Investigation Report) review of the case.
 - iv. Condition #22h – Proposed phasing of landscape and lighting shall be clarified.
 - v. Condition #22i – An easement shall be provided to the Township for any necessary maintenance in the event of an emergency or failure of the above ground and underground basin system.
 - vi. Condition #22y – Applicant shall submit maintenance plans and confirming reports for the underground basins after the site is developed.
 - vii. Condition #22bb – Applicant must obtain all other required approvals, including:
 - Monmouth County Planning Board – Received March 14, 2011;
 - Freehold Soil Conservation District;
 - NJDEP Letter of Interest (LOI);
 - NJDOT Access Permit;
 - Marlboro Township Environmental Commission;
 - Marlboro Township Fire Bureau
 - Marlboro Township Police Department
 - Marlboro Township Water Department

The Applicant shall address the Board regarding the status of outside agency approvals for the project. In addition, copies of all outside agency approvals shall be forwarded to CME.

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- dd. The emergency access road to the site will have break away bollards on both ends.

VARIANCES AND WAIVERS REQUESTED AND GRANTED

- 23. The Applicant requested the following variances:
 - a. **Ordinance 2010-9** - A 10 foot wide landscaped buffer shall be provided along the Office-Commercial District boundary; 4.4 feet is proposed from the future subdivision line for the proposed Commercial component (Lot 18.01).
 - b. **Ordinance 2010-9** - A minimum four foot offset shall be provided every 30 feet length of the wall plane of a building; the proposed building length is to be 92 feet without an offset for Lot 18.01 and 82 feet appears proposed for Lot 18.02.
 - c. **Ordinance 2010-9** - The minimum required lot area is 15 acres; 0.9 acres is proposed for Lot 18.02.
 - d. **Ordinance 2010-9** - The maximum building and structure coverage is 20%; 53.9% is proposed for Lot 18.02.
 - e. **Ordinance 2010-9** - The maximum impervious coverage is 55%; 76.2% is proposed for Lot 18.02.
- 24. In addition to the above, the following variance is necessary:
 - a. **Section 220-97C(6)** - No parking shall be permitted within 30 feet of the outer walls of any structure.
- 25. Waivers requested:
 - a. The site plan generally conforms to the Entron Industries Redevelopment Plan for the Multi-Family Residential District as adopted by the Township, except for deviations related to building length and buffering. As a result of the proposed subdivision, there will also be deviations for minimum lot area, maximum impervious coverage, and maximum building and structure coverage for proposed lot 18.02. Proposed lot 18.02 will be developed with the two multi-family buildings for affordable housing. Proposed lot 18.01 will be located partly within the commercial district and partly within the residential district.

The subdivision will result in the following deviations:

Minimum Residential District Lot Area:

15 acres required, 0.91 acres proposed for Lot 18.02: Does not comply; therefore, a waiver is granted due to proofs presented by Applicant

Maximum Residential District Building Coverage:

20% permitted, 53.93% proposed on Lot 18.02: Does not comply; therefore, a waiver is granted due to proofs presented by Applicant

Maximum Residential District Impervious Lot Coverage:

55% permitted, 76.25% proposed on Lot 18.02: Does not comply;

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therefore, a waiver is granted due to proofs presented by Applicant

- b. **Building and Design Standards.**
 - Maximum Building Length: 240 feet **Complies**
 - Maximum Number of units per Building: 30 **Complies**
 - Minimum side to side setbacks: not less than 20 feet **Complies**
 - Minimum front to front distance: not less than 65 feet **Complies**
 - Minimum back to back distance: not less than 50 feet **Complies**
 - Building façade offsets
(4' offset for 30' length of building wall plane) **Does not Comply;**
therefore, a waiver is granted due to proofs presented by Applicant
 - Pitched roofs **Complies**
- c. **Additional standards.**
 - No vehicular access to Beacon Hill Road **Complies**
 - Pedestrian and vehicular connection to Office-Commercial **Complies**
 - Landscaped buffer of 10 feet along the Office-Commercial district boundary **Does not Comply;**
therefore, a waiver is granted due to proofs presented by Applicant
 - Minimum 25% of parking within/under buildings **Complies**
 - Parking Spaces - Required 10 x 20 **Does not Comply;**
therefore, a waiver for 9 X 18 spaces is granted
- d. **Deviations.** The Redevelopment Plan authorizes the Planning Board to grant deviations from the Redevelopment Plan regulations and standards where the purposes of the Redevelopment Plan would be advanced and the benefits of granting the deviation outweigh any detriments and can be granted without resulting in substantial detriment to the public good.

The Applicant is requesting that the Board approve the following deviations from the Redevelopment Plan:

 - i. **Width of the landscaped buffer between the residential and commercial**

areas: 4.4 feet proposed and a minimum of 10 feet required.

The Applicant indicates that the buffer will be satisfied on the commercial site plan. This shall be shown on the site plan.

- ii. **Building façade:** The maximum length of a façade without an offset is 30 feet, 92 feet is proposed for the market rate buildings; 82 feet is proposed for the affordable buildings.

The Applicant provided testimony to the Board on the rationale for each requested deviation and demonstrate to the satisfaction of the Board that the deviations promote the purposes of the Redevelopment Plan.

26. To be entitled to variance relief, the Applicant must provide proof to satisfy the positive and negative criteria pursuant to N.J.S.A. 40: 55D-70c for the bulk variances:
 1. **Positive Criteria.** The Applicant must prove either a hardship in developing the site in conformance to the zone standards due to exceptional narrowness, shallowness, or shape of the property; or due to exceptional topographic conditions or physical features uniquely affecting the property; or due to an extraordinary and exceptional situation affecting the property or its lawful existing structures. Alternatively, the Applicant may satisfy the positive criteria by demonstrating that the variance relief will promote a public purpose as set forth in the Municipal Land Use Law (N.J.S.A. 40:55D-2) and thereby provide improved community planning that benefits the public and the benefits of the variance substantially outweigh any detriment.
 2. **Negative Criteria.** The Applicant must also show that the bulk variances can be granted without substantial detriment to the public good or substantially impairing the intent and purpose of the zone plan. This requires consideration of the impact of the proposed variances on surrounding properties and a determination as to whether or not the variance would cause such damage to the character of the neighborhood as to constitute a substantial detriment to the public good.
27. **Affordable Housing Component of the application:**
 - a. The fifty affordable rental units are part of the Township plan for addressing the Township affordable housing obligation. The Applicant shall submit an affordable housing plan for the affordable units to establish compliance with the applicable rules and regulations of the Council on Affordable Housing (COAH) and document that the units will be creditworthy as affordable units.
 - b. The first five buildings will include 80 market-rate units and 30 affordable units, along with a clubhouse and maintenance building. Phase 2 will be four buildings, which will include 60 market-rate units and 20 affordable units. Phase 3 will be three buildings, which will contain 60 market-rate units.

CONCLUSION

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Based upon the foregoing, the Marlboro Township Planning Board, at its May 16, 2012 meeting, voted to approve the application.

This Resolution of Memorialization was adopted on June 6, 2012 by a vote of the majority of the members present, who voted to approve the relief sought by the Applicant.

The date of decision shall be March 16, 2011, 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 ten (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 for the commencement of the vesting protection.

ROLL CALL VOTE ON APPLICANT'S
REQUEST FOR FINAL SITE PLAN
AND MINOR SUBDIVISION APPROVAL
MAY 16, 2012

Moved By: *Barenburg*
Seconded By: *Bergh*
Those in Favor: *Barenburg, Bergh, Betoff, Pargament,*
Pollak, Gupta, Messinger
Those Opposed: *none*
Those Absent: *Gupta, La Rocca, Elmansoury*

ROLL CALL VOTE ON MOTION TO APPROVE
RESOLUTION OF MEMORIALIZATION
JUNE 6, 2012

Moved By: *Pargament*
Seconded By: *Messinger*
Those in Favor: *Barenburg, Bergh, Betoff, Pargament,*
Pollak, Gupta, Messinger
Those Opposed: *none*
Those Absent: *Pollak, Gupta, La Rocca, Hornick*

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CERTIFICATION

We do hereby certify that the foregoing resolution was adopted by the Marlboro Township Planning Board at its regular meeting held on June 6, 2012. This resolution memorializes formal action taken by the Board at its regular meeting held on May 16, 2012.



Gerald Bergh, Vice Chairman
Marlboro Township Planning Board

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