

RESOLUTION NO. 2020 - 315

**RESOLUTION OF THE TOWNSHIP OF
BARNEGAT, COUNTY OF OCEAN, STATE OF
NEW JERSEY, AUTHORIZING EXECUTION OF A
DEVELOPER'S AGREEMENT BETWEEN THE
TOWNSHIP OF BARNEGAT AND 1111 WEST BAY
& NAUTILUS ASSOCIATES, LLC**

WHEREAS, the Planning Board of the Township of Barnegat, County of Ocean, State of New Jersey (the "Board") has granted preliminary and final major site plan approval to the Developer, 1111 West Bay & Nautilus Associates, LLC ("Developer"); and

WHEREAS, a condition of the Planning Board approval requires the Developer to post certain performance guarantees as well as execute a Developer's Agreement with the Township of Barnegat; and

WHEREAS, the Township of Barnegat has prepared a Developer's Agreement for execution with the Developer which sets forth the approvals and the requirements for the Developer to post the necessary performance guarantees and escrow deposits; and

WHEREAS, the Township finds it necessary and appropriate to authorize the execution of the Developer's Agreement.

NOW, THEREFORE, BE IT RESOLVED on this 5th day of November 2020 by the Mayor and the Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey as follows:

1. The Township hereby authorizes the execution of the Developer's Agreement, a copy of which is on file at the Office of the Township Clerk and can be viewed during normal business hours with 1111 West Bay & Nautilus Associates, LLC.

DASTI & ASSOCIATES

ATTORNEYS AT LAW

310 Lacey Road
P.O. Box 779
Forked River, N.J. 08753

2. A certified copy of this Resolution shall be forwarded by the Township Clerk to the following:

- (a) Martin Lisella, Township Administrator
- (b) Kurt Otto, PE, CME, CFM, Township Engineer
- (c) Scott Taylor, AICP, PP, LLA, LLED, AP, Township Landscape Architect
- (d) Dino Spadaccini, Esq., Attorney for 1111 West Bay & Nautilus Assoc. LLC
- (e) Stacey Cole, Planning Board Secretary
- (f) Christopher J. Dasti, Esq., Township Attorney

CERTIFICATION

I certify that the forgoing Resolution was duly adopted by the Township of Barnegat at a meeting held on November 5, 2020, a quorum being present and voting in the majority.


Michèle Rivers, Township Clerk

Prepared by:
DASTI & ASSOCIATES

DASTI & ASSOCIATES
ATTORNEYS AT LAW
310 Lacey Road
P.O. Box 779
Forked River, N.J. 08753

DEVELOPER'S AGREEMENT

THIS AGREEMENT, made on November 5, 2020, between

THE TOWNSHIP OF BARNEGAT, a municipal corporation in the County of Ocean, State of New Jersey, having its principal offices at 900 West Bay Avenue, Barnegat, New Jersey 08005 (hereinafter "Township"),

and

1111 WEST BAY & NAUTILUS ASSOC. LLC, a New Jersey Limited Liability Company, having its offices at P.O. Box 5471, Trenton, New Jersey 08638 (hereinafter "Developer").

FACTUAL RECITAL

A. Developer is the present owner of property known as the Shoreline Sand and Gravel area and designated as follows:

Block 92, Lots 15, 16, 18, 18.01, 20, 21, 23, 23.03, and 23.04;

Block 92.103, Lots 1-4;

Block 92.104, Lots 1-16;

Block 92.105, Lots 1-23;

Block 92.106, Lots 1-24;

Block 92.107, Lots 7-8;

Block 92.108, Lots 15-24;

Block 92.109, Lots 14-15; and

Block 92.113, Lots 42-45

on the Barnegat Township Tax Map, located in the Shoreline Sand and Gravel and Compass Point Redevelopment Area as set forth in the Shoreline Sand and Gravel and Compass Point Redevelopment Area Plan dated May 24, 2018, pursuant to Ordinance 2018-18, which is attached

hereto as Exhibit A and has obtained preliminary and final major site plan approval from the Barnegat Township Planning Board (hereinafter "Planning Board") on February 25, 2020, as memorialized on April 28, 2020 by Resolution P-2020-08 (hereinafter "Resolution"), attached hereto as Exhibit B, on Application No. PB17-05 to construct a development known as The Compass Point Cottages, Phase I; and

B. The Development received approval for the General Development Plan from the Planning Board on April 23, 2019 as memorialized in Resolution P-2019-12 adopted on May 28, 2019 attached hereto as Exhibit C; and

C. The subject property contains approximately 140.88 acres and will be developed into the following: 777 age restricted manufactured homes and a 13,500 square foot clubhouse. The site is within the purview of the Pinelands Commission.; and

D. The property is an irregularly shaped track which is located in the southern side of West Bay Avenue. The majority of the site is located in the residential low/adult community (RL/AC) Zone with a portion of the site fronting on West Bay Avenue is located in the Neighborhood Commercial (CN) Zone.

E. The Preliminary and Final Major Site Plan Phase I approval was approved by the Planning Board in accordance with plans, entitled "Preliminary and Final Site Plan Drawings" dated February 14, 2019, prepared by John W. Kornick, PE, with K2 Consulting Engineers, Inc. consisting of fifty-six sheets (56), last revised September 10, 2019; and the plat, entitled "Plan of Survey and Topography" prepared by Jeffrey R. Gellethin, PLS, with K2 Consulting Engineers, Inc., dated February 6, 2019, unrevised (hereinafter jointly referred to as "Plans"); and

F. The approval was granted subject to, among other things, the posting of certain

guarantees as hereinafter set forth and other conditions as more fully set forth in the Resolution, which is fully incorporated herein by reference;

NOW, THEREFORE, on this 5th day of November, 2020 in consideration of the foregoing and the sum of One (\$1.00) Dollar lawful money of the United States of America, each to the other in hand paid, at or before the signing of this Agreement, the receipt whereof is hereby acknowledged by each party, and in consideration of the mutual covenants, agreements, conditions, understandings and undertakings hereinafter contained and set forth, the parties hereto hereby agree as follows:

1. **Performance Agreement.** That Developer shall at the time of final approval and prior to the signing of the final Plans provide such performance and maintenance bonds and escrows as are required pursuant to State law, i.e. N.J.S.A. 40:55D-53 for improvements that are dedicated to the Township, in accordance all bonding and inspection fees in accordance with the Preliminary and Final Site Plan Approval, General Development Plan, Township Ordinances and Municipal Land Use Law. The Developer shall provide a performance guarantee for those improvements required to be dedicated to a public entity as set forth in N.J.S.A. 40:55D-53 and for bufferings and plantings, as required in the form of a bond or letter of credit, in accordance with the Permits and Approvals. A reduction in the performance guarantee is permitted at the discretion of the Township Engineer as progress on the project is made.

In the event Developer defaults under its obligations as provided herein, and said obligations are satisfied by Developer's surety to the satisfaction of the Township Engineer, Developer hereby authorizes the Township, upon demand of Developer's surety, to turn over all or part of the sum posted to secure performance hereunder, or to use this cash bond, if any as

provided under the Municipal Land Use Law N.J.S.A. 40:55D-1 et seq.

2. That Developer shall erect all improvements in strict accordance with the Plans and the Resolution, along with any conditions contained therein.

3. That Developer covenants and agrees that all buildings, structures, and any other improvements erected by it on site shall be constructed and equipped strictly in accordance with the Code of the Township of Barnegat and the provisions of all other applicable ordinances, resolutions, rules and regulations of the Township, the Planning Board, the Board of Health, and any State, Township or County Department or agency.

4. That Developer agrees to keep any streets, whether Township streets or otherwise, used by trucks or equipment of Developer or its agents, broom clean in regard to its use of those streets and also agrees to use every effort to lay approved material to prevent dust from blowing on other houses in the Township during excavation and construction of the development. Should Developer fail or neglect to do either as stated in this Paragraph, upon twenty-four (24) hours written notice from the Township Engineer, informing it of failure to do so, and then further neglects, the Township may perform such work and Developer agrees to reimburse the Township for same. This Paragraph is not intended to relieve Developer of duties or obligations under any existing municipal ordinance but is rather intended to provide an additional remedy to the Township and to permit the Township to recover the costs of such corrective work. This Paragraph shall also apply to the removal of snow and ice from any street or roadway constructed by Developer which is open to the public but which has not been accepted by the Township. Any Developer permitting dirt, dust, debris, mud, rock or similar material to accumulate or remain upon any Township street shall remain subject to a citation returnable in municipal court for violation

of appropriate municipal ordinances.

5. That Developer shall provide for the use of all persons employed in the construction of all of the aforesaid development easily accessible water and toilet facilities. Developer shall provide water closets and portable toilets. Such toilet facilities shall be installed within twenty-four (24) hours of the time work has been commenced, and their use shall be terminated upon approval of the Board of Health within twenty-four (24) hours of the time work has been completed.

6. That the Township agrees to authorize and direct the Construction Official of the Township of Barnegat to issue building permits for the development on the site shown on the applicable portion of said Plans upon the compliance by Developer with all the terms and conditions herein contained and contained in Resolution, and any applicable ordinances, rules or regulations and any other applicable state regulations including but not limited to, rules or regulations, or approvals required by the Department of Community Affairs. Developer shall provide and file with the Township Engineer two (2) complete sets of as-built improvement plans and profiles, one (1) set of translucent prints and one (1) set of black-on-white paper prints, showing actual construction, as approved, prior to a full release of performance guarantee.

7. That prior to having the final Plans signed, Developer shall deposit with the Township Clerk all inspection fees in accordance with the Preliminary and Final Site Plan Approval, General Development Plan, Township Ordinances and Municipal Land Use Law. This deposit is to cover services rendered by the Township Engineer, or her authorized representatives, or any other approving Township authority in connection with inspections of Developer's improvement in order to enforce the Township's standards, and the standard employee's hourly rate for the Township Engineer, or as established by ordinance for other individuals, will be

charged against said deposit. Upon completion of all inspections, the Township shall return to Developer the unused portion of the deposited inspection escrows. In the event the inspection costs and fees exceed the amount deposited by Developer, Developer shall be required to submit payment to the Township for said additional inspection costs and fees prior to the release of any maintenance bonds or escrows.

9. That Developer is hereby given the right and privilege to transfer its rights in the approved development to the name of any individual or corporation, and said new owner shall have the rights and obligation afforded by this Agreement subject to the rights and obligations imposed on Developer by this Agreement and the terms of its preliminary and final major subdivision approval. It is understood and agreed that, as part of the transfer of rights, the grantee must agree to be bound by all of the terms and conditions of this Agreement. Upon request the Township shall be provided with an assumption of obligation as signed by such grantee. In the event that Developer hereunder transfers, sells, or assigns title to less than the entire project, the grantee(s) of any portion thereof shall each be liable in full to complete the obligations of Developer herein whether such obligations relate to the portion transferred, sold, or assigned or to any other portion of the project unless such grantee secures a release from the Township for the obligations relating to the portion not transferred, sold or assigned to grantee prior to the transfer, sale, or assignment.

10. The developer is required to execute the necessary documentation to have Title 39 of the New Jersey statutes to apply to the development. Attached hereto as Exhibit D is the Title 39 Form executed by the Developer

11. That it is understood and agreed between the parties that road excavation and

grading operations shall be under the direct supervision of a licensed professional engineer and in strict conformance with the approved Plans and Resolution. Further, no construction vehicle or equipment shall park on or utilize, except in coming to or going from the site, any existing Township street unless required to do so by the Plans or unless otherwise provided in the Resolution.

12. The Developer shall have 95 days from the date of the signing of the final plat to file the plat with the Ocean County, pursuant to N.J.S.A. 40:55D-54. Unless such time period is extended by the Planning Board in accordance with the statute final approval for the subdivision, including any variances, submission waivers and RSIS exceptions, as set forth in the Resolution shall automatically expire.

13. That Developer shall appoint a job superintendent, whose name, home address and phone number shall be furnished to the Township Engineer; and no work, other than sales, shall be performed on the site by Developer, its agents, employees, servants or subcontractors between the hours required by Township ordinance.

14. That this Agreement contains the entire agreement between the parties hereto and no statement, promise or endorsement made by any party hereto, or agent of any party hereto, which is not contained in this written contract or the instruments incorporated herein by reference, shall be valid or binding; and this Agreement may not be enlarged, modified or altered except in writing, signed by the parties. Nothing herein shall be deemed a waiver of other existing municipal construction requirements or any conditions contained in the Resolution.

15. That this Agreement shall inure to the benefit of and be binding upon the successors and assigns of the respective parties hereto.

16. It is understood and agreed that the obligations imposed upon Developer under this Agreement shall not constitute an estoppel against the Planning Board or the Township nor relieve Developer from complying with all other federal, state, county, and local requirements.

17. Prior to the commencement of site work, Developer, or job superintendent, and Developer's contractor shall meet with the Township Engineer and Township Landscape Architect, if applicable, the Ocean County Soil Conservation District for a **pre-construction** conference to discuss the anticipated construction schedule, procedures of construction, and any particular requirements of the Engineer.

18. The Township, its consultants, employees and agents shall be given free access to observe construction associated with the approved Plans. The purpose of such observations shall be limited to providing the Township with an opportunity to determine that such improvements will be constructed in accordance with Developer's approved Plans and the Resolution. The Township or its representatives, consultants, employees or agents shall not supervise, direct or have control over Developer's work during such observations or as a result thereof, nor shall they have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by Developer, for safety precautions and programs incident to the work of Developer or for any failure of Developer to comply with applicable laws, rules, regulations, ordinances, codes or orders.

19. That Developer shall hold harmless, indemnify and defend the Township, its representatives, consultants, employees and agents from any and all liabilities, claims, losses or damage arising or alleged to arise from the construction of the improvements included in the relevant approval but not including such liabilities, claims, losses or damage arising from the sole negligence of the Township, its representatives, consultants, employees and agents.

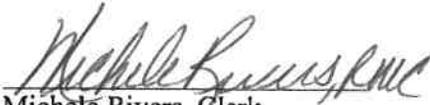
20. That Developer shall purchase and maintain during construction of said improvements a Comprehensive General Liability Insurance Policy with minimum limits of One Million (\$1,000,000.00) Dollars per occurrence and One Million (\$1,000,000.00) Dollars aggregate. The coverage shall include endorsements for Broad Form Property Damage; explosion, collapse, and underground hazards; completed operations; and contractual liability. The contractual liability coverage shall specifically apply to the above indemnification clause. All liability coverages shall be on an occurrence basis.

21. Certificates of Insurance evidencing the **above-referenced** coverage shall be provided to the Township before work on the improvements begins.

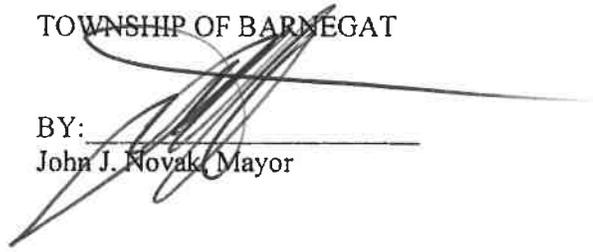
22. This Agreement is intended to govern approved development within the Township whether such approval was in the form of preliminary and/or final major site plan and/or preliminary and/or final subdivision, and such terms are to be freely substituted for each other where the context and the nature of the approvals require.

IN WITNESS WHEREOF, the Township and Developer have caused these presents to be signed and attested by their respective corporate officers and their respective corporate seals to be affixed hereto the day and year first above written.

ATTEST:


Michele Rivers, Clerk

TOWNSHIP OF BARNEGAT

BY: 
John J. Novak, Mayor

ATTEST:


STEVEN A. BERKERMAN

1111 WEST BAY & NAUTILUS
ASSOC. LLC, LLC

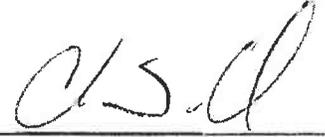
BY: 
Christopher S. Vernon, Manager

EXHIBIT A

ORDINANCE 2018 - 18

ORDINANCE OF THE TOWNSHIP OF BARNEGAT, COUNTY OF OCEAN, STATE OF NEW JERSEY AUTHORIZING AND APPROVING THE AMENDMENT TO THE SHORELINE SAND AND GRAVEL AND COMPASS POINT REDEVELOPMENT PLAN FOR PROPERTY KNOWN AS BLOCK 92, LOTS 15, 16, 18, 18.01, 20, 21, 23, 23.03 AND 23.04 WHICH COMPRISE THE SHORELINE SAND AND GRAVEL TRACT; AND BLOCK 92.103, LOTS 1 THROUGH 4; BLOCK 92.104, LOTS 1 THROUGH 16; BLOCK 92.105, LOTS 1 THROUGH 23; BLOCK 92.106, LOTS 1 THROUGH 24; BLOCK 92.107 LOTS 7 AND 8; BLOCK 92.108, LOTS 15 THROUGH 24; BLOCK 92.109, LOTS 14 AND 15; BLOCK 92.113, LOTS 42 THROUGH 45 WHICH COMPRISE THE COMPASS POINT TRACT, BARNEGAT TOWNSHIP, NEW JERSEY.

WHEREAS, the Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey (hereinafter referred to as the "Township") previously adopted Resolution 2010-285 which authorized the Township Planning Board to conduct an investigation to determine whether property known and designated as Block 92, Lots 15, 16, 18, 18.01, 20, 21, 23, 23.03 AND 23.04 which comprise the Shoreline Sand and Gravel Tract; and Block 92.103, Lots 1 through 4; Block 92.104, Lots 1 through 16; Block 92.105, Lots 1 through 23; Block 92.106, Lots 1 through 24; Block 92.107 Lots 7 and 8; Block 92.108, Lots 15 through 24; Block 92.109, Lots 14 and 15; Block 92.113, Lots 42 through 45, which comprise the Compass Point Tract, Barnegat Township, New Jersey (hereinafter referred to as the "property") as an area in need of redevelopment; and

WHEREAS, pursuant to the report dated March 3, 2010 it was concluded that the property met several statutory criteria for designation as an area in need of redevelopment; and

**DASTI, MURPHY
McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
P.O. BOX 1057
FORKED RIVER, N.J. 08731

WHEREAS, on April 10, 2012, the Township Planning Board voted to recommend to the Township that the properties identified herein above be determined to be in a redevelopment area; and

WHEREAS, on April 7, 2014 the Township adopted Resolution 2014-229 which authorized a redevelopment study; and

WHEREAS, as a result of litigation recently concluded with the Fair Share Housing Council (hereinafter referred to as "Fair Share") and numerous developers, a Consent Order was entered into thereby addressing and resolving the Township's Affordable Housing obligations as it pertains to the subject property; and

WHEREAS, as a result thereof the Planning Board prepared an Amendment to the aforementioned Plan, which Amended Plan is on file at the office of the Township Clerk and can be reviewed by the public during normal business hours; and

WHEREAS, the Township believes that it is appropriate and necessary to adopt this Ordinance thereby amending the Shoreline Sand and Gravel and Compass Point Redevelopment Plan.

NOW THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey, as follows:

SECTION 1. The Township adopts the Amended Shoreline Sand and Gravel and Compass Point Redevelopment Plan dated April, 2018, a true copy of which is on file at the office of the Township Clerk and can be reviewed during normal business hours.

**DASTI, MURPHY
McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
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FORKED RIVER, N.J. 08731

SECTION 2. All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.

SECTION 3. The Township Committee authorizes the Mayor, Township Clerk and Township Administrator to execute any and all necessary documents in order to implement the intent of this Ordinance.

SECTION 4. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

SECTION 5. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 6. This Ordinance shall take effect upon publication in an official newspaper of the Township, as required by and in conformance with law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed on the first reading by the Township Committee of Barnegat, County of Ocean, State of New Jersey on **May 1, 2018 at 10:00 a.m.**, or as soon thereafter as the matter may be reached and considered, at the Barnegat Township Municipal Building located at 900 West Bay Avenue, Barnegat, New Jersey. The Ordinance will be considered for second and final reading at a meeting of the Township Committee on **May 24, 2018, at 9:00 a.m.**, or as soon thereafter as the matter may be reached and considered, at the Barnegat Township Municipal Building located at 900 West Bay Avenue, Barnegat, New Jersey. At that time the public is

DASTI, MURPHY
McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS

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invited to ask questions, raise objections or provide public comment with regard to the proposed adoption of this Ordinance.

**MICHELE RIVERS, RMC
TOWNSHIP CLERK**

Prepared by:

**DASTI, MURPHY, McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**
Forked River, New Jersey 08731

Z:\CLIENT MATTERS - GL\Barnegat\REDEVELOPMENT\GL-22045 Shoreline Sand & Gravel\COMPLIANCE\RESOLUTIONS AND ORDINANCES\Ordinance Approving
Amendment to Shoreline Sand & Gravel Plan.docx

CERTIFICATION

I, Michele Rivers, Municipal Clerk of the Township of Barnegat, County of Ocean State of New Jersey do hereby certify by my hand and seal that the foregoing Ordinance was finally adopted after Public Hearing at a regular meeting held on the 24th day of May, 2018 in the Municipal Complex, 900 West Bay Avenue, Barnegat, NJ.

**DASTI, MURPHY
McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
P.O. BOX 1057
FORKED RIVER, N.J. 08731


Michele Rivers, RMC
Municipal Clerk

EXHIBIT B

**RESOLUTION
BARNEGAT TOWNSHIP PLANNING BOARD**

**RESOLUTION P-2020-08
DOCKET NO. PB 17-05**

RESOLUTION MEMORIALIZING THE BARNEGAT TOWNSHIP PLANNING BOARD'S APPROVAL OF AN APPLICATION FOR PRELIMINARY AND FINAL MAJOR SITE PLAN APPROVAL BY 1111 WEST BAY AND NAUTILUS ASSOCIATES, LLC FOR PROPERTY KNOWN AS COMPASS POINT COTTAGES, PHASE 1, BLOCK 92, LOTS 15, 16, 18, 18.01, 20, 21, 23, 23.03 AND 23.04; BLOCK 92.103, LOTS 1-4; BLOCK 92.104, LOTS 1-16; BLOCK 92.105, LOTS 1-23; BLOCK 92.106, LOTS 1-24; BLOCK 92.107, LOTS 7-8; BLOCK 92.108, LOTS 15-24; BLOCK 92.109, LOTS 14-15; BLOCK 92.113, LOTS 42-45 WEST BAY AVENUE AS SHOWN ON THE BARNEGAT TOWNSHIP TAX MAP.

WHEREAS, the applicant, 1111 West Bay and Nautilus Associates, LLC, has submitted an application to the Barnegat Township Planning Board seeking Preliminary and Final Major Site Plan approval for property located at Compass Point Cottages, Phase I, and formally known as Block 92, Lot 15, 16, 18, 18.01, 20, 21, 23, 23.03 and 23.04; Block 92.103, Lots 1-4; Block 92.104, Lots 1-16; Block 92.105, Lots 1-23; Block 92.106, Lots 1-24; Block 92.107, Lots 7-8; Block 92.108, Lots 15-24; Block 92.109, Lots 14-15; Block 92.113, Lots 42-45 West Bay Avenue, as shown on the Barnegat Township Tax Map; and

WHEREAS, the applicant has satisfied all applicable notice requirements of the New Jersey Municipal Land Use Law and the Township of Barnegat and has provided proof thereof to the Barnegat Township Planning Board; and

WHEREAS, the Planning Board has reviewed the application, together with all of the documents submitted therewith, and the Board has received input and advice from its professional staff; and

WHEREAS, the Planning Board conducted public hearings on January 28, 2020 and February 25, 2020, at which time the Board heard and considered the presentation made by the applicant and at which time the public had an opportunity to be heard.

NOW, THEREFORE, the Planning Board hereby makes the following findings of fact and conclusions of law with regard to the application:

A. The property in question is an irregularly shaped tract which is located on the southerly side of West Bay Avenue approximately 180 feet west of the intersection with Nautilus Drive. It has an area of approximately 140.88 acres. The Shoreline Sand and Gravel tract previously contained a sand and gravel mining operation which has been abandoned, while the Compass Point tract is vacant and wooded. The majority of the site is located in the Residential Low/Adult Community (RL/AC) Zone while a portion of the site fronting on West Bay Avenue is located in the Neighborhood Commercial (CN) Zone.

B. On June 10, 2010, the Township Committee adopted Resolution 2010-285, which authorized the Planning Board to conduct an investigation to determine if the property in question and the adjoining Compass Point development constituted an area in need of redevelopment, as defined by state statute. Collectively, these properties were designated as the "Shoreline Sand and Gravel Area." On March 3, 2012, Birdsall Services Group prepared a report entitled, "Shoreline Sand and Gravel Area in Need of Redevelopment Investigation," which concluded that the property in question met several of the statutory criteria for designation as an area in need of redevelopment. On April 10, 2012, the Planning Board voted to recommend to the Township Committee that the Shoreline Sand and Gravel Area be determined to be a Redevelopment Area. On April 7, 2014, the Township Committee adopted Resolution 2014-229, which authorized the preparation of a Redevelopment Plan for the Shoreline Sand and Gravel Area.

C. On March 29, 2016, CME Associates prepared a report entitled, "Shoreline Sand and Gravel and Compass Point Redevelopment Plan," which was subsequently amended on January 31, 2017 and May 24, 2018. This Redevelopment Plan is intended to serve as the principal

planning tool to guide the redevelopment of the Shoreline Sand and Gravel Area. The Township Committee adopted the January 31, 2017 Redevelopment Plan on March 7, 2017, by the adoption of Ordinance 2017-05. In addition, on May 12, 2017, the Pinelands Commission adopted Resolution No. PC4-17-09, which certified Ordinance 2017-07. On May 24, 2018, by the adoption of Ordinance 2018-18, the Township Committee adopted the amended Redevelopment Plan. Finally, on June 27, 2018, the Pinelands Commission issued a letter which stated that Ordinance 2018-18 could take effect.

D. On May 28, 2019, by the adoption of Resolution P-2019-12, the Planning Board granted General Development Plan approval to permit the construction of 777 detached senior manufactured homes and a 13,500 square foot clubhouse. The clubhouse will include a swimming pool and an active recreation area. Walking paths are also proposed along the westerly side of the site.

E. The applicant is now seeking Preliminary and Final Major Site Plan approval for Phase 1 of the project to permit the construction of 212 age-restricted manufactured homes, the clubhouse and recreation area, new internal roadways, and utility and stormwater management infrastructure. The clubhouse will include a swimming pool and an active recreation area. Walking paths are proposed throughout the development. The public water system will be extended into the project from West Bay Avenue looping internally to service the proposed clubhouse and manufactured homes and completing the loop connecting to the existing main at Nautilus Drive through Pelican Avenue, while a sanitary sewer main will be extended through Pelican Avenue to the main in Nautilus Drive.

F. Direct access to and from the site via a signalized driveway on West Bay Avenue opposite Mirage Boulevard and a right-in/right-out driveway opposite Eighth Street. In addition,

access is also proposed to Nautilus Drive by an extension of Pelican Avenue. On-site parking is proposed in the area of the clubhouse for 51 vehicles, including four handicap accessible parking spaces. Each manufactured home will have two off-street parking spaces, one garage space, and one surface space. In addition, a series of ponds, bioretention basins, and infiltration basins are proposed to be built in Phase I to mitigate the increase in runoff generated by the development.

G. The applicant has not requested any variances as part of this application for Preliminary and Final Major Site Plan approval for Phase I.

H. The applicant has not requested any waivers as part of this application for Preliminary and Final Major Site Plan approval for Phase I.

I. The applicant has not requested any *de minimis* exceptions from the requirements of the RSIS.

J. In support of the application, the applicant submitted the following documents:

1. A set of Preliminary and Final Site Plan drawings (56 sheets) prepared by John W. Kornick, PE, with K2 Consulting Engineers, Inc., of Haddonfield, N.J., dated February 14, 2019, last revised September 10, 2019.
2. A set of Plan of Survey & topography drawings (6 sheets) prepared by Jeffrey R. Gellenthin, PLS, with K2 Consulting Engineers, Inc., of Haddonfield, NJ, dated February 6, 2019, unrevised.
3. All of the other documents referred to in the December 18, 2019 review letter issued by the Planning Board Engineer Kurt J. Otto P.E., C.M.E.

K. At the public hearings held on January 28, 2020 and February 25, 2020, the applicant was represented by Dino Spadaccini, Esq., Lawrenceville, N.J. During the public hearings, Mr. Spadaccini presented the application and responded to questions and comments made by the members of the Planning Board and/or members of the public.

L. During the public hearing, the following exhibits were marked into evidence:

A-1 Colored Site Rendering Plan (dated 1/8/2020)

- A-2 Cottage Inspiration (Perspective Rendering of Units)
- A-3 Landscape Inspirations
- A-4 Compass Point Cottages Clubhouse Concept Front Elevation
- A-5 Compass Point Cottages Clubhouse Pool Concept Elevation
- A-6 Compass Point Cottages Community Concept (Perspective View)
- A-7 Compass Point Cottages Community Concept (Perspective View)
- A-8 Compass Point Cottages Community Concept (Perspective View)
- A-9 Elevations and Floor Plans Compass Point Cottages "Dune"
- A-10 Elevations and Floor Plans Compass Point Cottages "Sea Breeze"
- A-11 Elevations and Floor Plans Compass Point Cottages "Beachcomber"
- A-12 Elevations and Floor Plans Compass Point Cottages "Reeds"
- A-13 Aerial Image (Google Earth 12/19/2012)
- A-14 Enlarged Site Rendering Plan (Sheet 2 of 2)
- A-15 Trash Compactor Layout Area
- A-16 Enlargement of A-15
- A-17 Trash Compactor Detail
- A-18 General Development Plan

M. During the public hearings held on January 28, 2020 and February 25, 2020, the Planning Board heard the testimony of John W. Kornick, P.E., P.P., whose professional qualifications were accepted and who provided testimony regarding the following matters:

1. General testimony regarding the application.
2. Testimony describing the prior approval history.
3. Testimony describing the relationship between this application for Phase I and the overall General Development Plan.
4. Testimony describing the adjoining properties.
5. Testimony confirming that the internal roadways and infrastructure for the entire project will be privately owned; the applicant will own and maintain

the roads; the applicant will plow the roads; the applicant will provide street lighting; and the applicant will own and maintain the stormwater management system and other related improvements.

6. Detailed testimony describing Phase 1 of the project. Specifically, Phase 1 will include 212 age-restricted rental pad sites, the clubhouse, recreation amenities, a majority of the stormwater management system, and related improvements. Each manufactured home will have two off-street parking spaces, one garage space, and one surface space. A series of ponds, bioretention basins, and infiltration basins are proposed to be constructed in Phase 1 to mitigate the anticipated increase in runoff generated by the overall development.
7. Testimony describing the adjoining and surrounding road networks.
8. Testimony describing the proposed access points on West Bay Avenue and Nautilus Drive via an extension of Pelican Avenue.
9. Testimony confirming that the applicant is not requesting any variances as part of this application.
10. Testimony confirming that the applicant is not requesting any waivers as part of this application.
11. Testimony confirming that the applicant is not requesting any waivers or *de minimus* exceptions from the RSIS as part of this application.
12. Detailed testimony discussing and explaining Exhibits A-1 through A-18.
13. Detailed testimony describing the proposed stormwater management system.
14. Testimony confirming that all of the manufactured homes will have half-porches unless full-porches are selected as an option.
15. Detailed testimony describing the proposed clubhouse.
16. Testimony confirming that the wetlands area located on the site will be appropriately buffered, protected, and preserved.
17. General testimony describing the size and orientation of the manufactured homes proposed for Phase 1 of the project.
18. Testimony confirming that sidewalks are proposed for Phase 1 of the project (except on the alleys).

19. Testimony confirming that the 50-foot buffer areas along West Bay Avenue and Nautilus Drive will be protected and preserved. The applicant will meet and/or confer with the Planning Board's Landscape Architect to finalize the design of any buffer-related issues, including, but limited to, grading, vegetation, and supplemental plantings to the existing natural buffer.
20. Testimony confirming that Barnegat Township will not be responsible for providing trash pick-up for Phase 1 or for any future phase of the project.
21. Testimony confirming that the applicant will work with the Planning Board's professionals to finalize the location and design for the proposed centralized masonry trash enclosure. The architectural features of the trash enclosure shall complement the architectural features of the clubhouse.
22. Testimony confirming that the residents of the development will not be able to operate the compactor located within the trash enclosure.
23. Testimony confirming that the applicant will revise the plans to more accurately show the wooded area located between Cloverdale Road and the development, including the proposed limits of clearing.
24. The applicant will meet and/or confer with the Planning Board's professionals to finalize the location, size, and type of signage to be installed at the site.
25. Testimony confirming that the applicant will work with and obtain the approval of the Postmaster General for the type, design, and location of the mail-boxes to service the community.
26. Testimony confirming that the applicant will submit a Preliminary Assessment in order to satisfy the requirements of Township Ordinance 55-117D(4), and Comment I4 of the December 18, 2019 review letter issued by the Planning Board Engineer.
27. Testimony confirming that the applicant will leave open the possibility of gating-off access to and from Nautilus Drive via Pelican Avenue as part of any future phases in the overall site plan approval process.
28. Testimony confirming that for each future phase of the project, the applicant will provide an updated Traffic Impact Analysis for both West Bay Avenue and Nautilus Drive, which will include appropriate traffic counts, motor vehicle accident data, and bus and/or relevant public transportation-related information. The updated Traffic Impact Analysis shall also include all relevant data addressing the projected traffic impact on Nautilus Drive (a) if Pelican Avenue remains an access road and/or (b) if Pelican Avenue is gated-off in the future.

29. Testimony confirming that the applicant will submit revised architectural plans for both the clubhouse and the 212 manufactured homes proposed for Phase 1.
30. Testimony confirming that the applicant will revise the plans to provide appropriate details showing all of the proposed amenities located in the recreation area.
31. Testimony confirming that the applicant will meet and/or confer with the Planning Board's professionals to finalize the manner in which maximum pedestrian interconnectivity will be achieved at the site.
32. Testimony confirming that the applicant will revise the plans to show all limits of clearing in Phase 1 of the project.
33. Testimony confirming that the applicant will meet and/or confer with the Planning Board's Landscape Architect to calculate the number of street trees which are required for Phase 1, and to determine where supplemental trees maybe added (on-site or off-site) so as to maximize compliance with the Ordinance.
34. Testimony confirming that the applicant will meet and/or confer with the Township's and/or the Planning Board's professionals to determine the bonding requirements for the Phase 1 improvements, as permitted by law.
35. Testimony confirming that with regard to the timing of the construction of the clubhouse, the following deadlines will apply: (1) Construction on the clubhouse will begin at a point in time no later than the issuance of the Certificate of Occupancy for the 106th unit in Phase 1; (2) No building permits shall be issued for Phase 2 until the clubhouse has been completed and approved by the Township, i.e., issuance of a temporary certificate of occupancy.
36. Testimony confirming that the applicant will provide the Township of Barnegat with an access easement, or other appropriate instrument, to legally trigger the application of Title 39 to the overall development.
37. Testimony confirming that all **construction-related** access to and from this site for Phase 1 will be via West Bay Avenue. The applicant will notify all contractors, vendors, etc., of the fact that **construction-related** access to the site is limited to West Bay Avenue. The applicant shall provide appropriate signage in the area of Nautilus Drive and Pelican Avenue clearly indicating that **construction-related** access is prohibited at that location.
38. Testimony confirming that the applicant will comply with all of the terms

and provisions of the review letter issued by the Planning Board Engineer, dated December 18, 2019.

39. Testimony confirming that the applicant will comply with all of the terms and provisions of the review letter issued by the Planning Board's Landscape Architect, dated December 8, 2019.

N. During the public hearings held on January 28, 2020 and February 25, 2020, the Planning board heard the testimony of Elizabeth Dolan, P.E., the applicant's traffic consultant, whose professional qualifications were accepted and who provided testimony (or other information by reference to her report) regarding the following matters:

1. General testimony regarding the application.
2. General testimony summarizing the findings and conclusions contained in the report entitled, "Traffic Impact Assessment for Compass Point Cottages, prepared by Dolan & Dean Consulting Engineers, LLC, Summerville, N.J., dated November 4, 2019.
3. Testimony describing the existing roadway conditions.
4. Testimony describing and analyzing the existing traffic volumes.
5. Testimony describing the projected traffic generation from the site.
6. Testimony describing and analyzing the projected future traffic volumes at the site.

O. At the public hearing held on January 28, 2020, the Planning Board heard the testimony of Christopher S. Vernon, who provided testimony regarding the following matters:

1. General testimony regarding the application.
2. Detailed testimony regarding Exhibits A-1 through A-18.
3. General testimony regarding the "Active Lifestyle Community" concept for the proposed design of the property.
4. General testimony regarding the street layouts and the overall orientation of the homes located within the community.
5. Testimony describing the fact that the residents will own the units and that

the units will sit on pads owned by the applicant.

6. Testimony confirming that the internal roadways and infrastructure for the entire project will be privately owned: the applicant will own and maintain the roads; the applicant will plow the roads; the applicant will provide street lighting; and the applicant will own and maintain the stormwater management system and other related improvements.
7. Detailed testimony regarding and describing the Clubhouse and all related recreational features.
8. Detailed testimony regarding and describing the elevations for the various models making up the Compass Point Cottages Community.

P. During the public hearings held on January 28, 2020 and February 25, 2020, the following members of the public addressed the Board regarding the application:

Karl Dean, 60 Nautilus Drive, Barnegat, N.J., expressed concern about the adequacy of vehicular circulation at the site.

Linda Kropf, 38 Bridgewater Passage, Barnegat, N.J., asked general questions about the application.

Charles Cunliffe, 135 Rockrimmon Boulevard, N.J., asked questions regarding zoning, the history of the development, the proximity of the property to Cloverdale Park, density, and other issues.

Tony Sloan, 75 Nautilus Drive, Barnegat, N.J., asked questions about property classifications, taxation, and projected prices for the homes (the Board determined that these topics were not appropriate for purposes of site plan review).

Maria Capriotti, 46 Nautilus Drive, Barnegat, N.J., asked questions about the existing berm and the plans for the buffer area along West Bay Avenue.

Donald Weigl, 114 Heritage Point Boulevard, Barnegat, N.J., asked general questions about the wetlands area, drainage, the trash enclosure, and the status of bike paths on or near the site.

Patrick Burns, 44 Nautilus Drive, Barnegat, N.J., expressed concern about access to the site via Pelican Avenue.

William Nevenhouse, 9 Maple Avenue, Barnegat, N.J., expressed concern regarding the issue of parking for visitors, the buffer area along West Bay Avenue, and the general history of the project.

Sean Faulds, 9 Highland Drive, Barnegat, N.J., asked general questions about the proposed pedestrian walkways and garbage pick-up at the site.

Q. At the conclusion of the hearing held on February 25, 2020, the Planning Board, after considering and weighing all of the evidence presented, and after considering all of the comments made during the course of the hearings, and after applying the standards contained in the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., including the provisions relating to General Development Plans, N.J.S.A. 40:55D-45 et seq., and after applying the standards contained in the "Shoreline Sand and Gravel and Compass Point Redevelopment Plan," and after applying the standards contained in the General Development Plan, has determined that this application for Preliminary and Final Major Site Plan approval for Phase I should be granted.

NOW, THEREFORE, BE IT RESOLVED by the Barnegat Township Planning Board that the applicant's request for Preliminary and Final Major Site Plan approval for Phase I is hereby approved and granted.

BE IT FURTHER RESOLVED that the Planning Board Secretary shall forward a copy of this Resolution to the applicant, the applicant's engineer, Township Clerk, and the Building Department.

BE IT FURTHER RESOLVED that the applicant shall cause notice of the Planning Board's decision to be published in an official newspaper of the Barnegat Township Planning Board within ten (10) days of its passage.

BE IT FURTHER RESOLVED that the Planning Board's approval of this application is made specifically subject, however, to the following conditions:

1. The applicant shall comply with all representations made to the Planning Board by the applicant's witnesses and professionals.

2. The 50-foot buffer areas along West Bay Avenue and Nautilus Drive shall be protected and preserved. The applicant shall meet and/or confer with the Planning Board's Landscape Architect to finalize the design of any buffer-related issues, including, but limited to, grading, vegetation, and supplemental plantings.
3. The Township of Barnegat shall not be responsible for providing trash pick-up for Phase 1 or for any phases of the project.
4. The applicant shall work with the Planning Board's professionals to finalize the location and design for the proposed centralized masonry trash enclosure. The architectural features of the trash enclosure shall complement the architectural features of the clubhouse.
5. The compactor located within the trash enclosure shall be designed so that it cannot be operated by the residents of the community.
6. The applicant shall revise the plans to more accurately show the wooded area located between Cloverdale Road and the development, including the proposed limits of clearing.
7. The applicant shall meet and/or confer with the Planning Board's professionals to finalize the location, size, and type of signage to be installed at the site.
8. The applicant shall work with and obtain the approval of the Postmaster General for the type, design, and location of the mail-boxes at the site to service the community.
9. The applicant shall submit a Preliminary Assessment in order to satisfy the requirements of Township Ordinance 55-117D (4), and Comment I4 of the December 18, 2019 review letter issued by the Planning Board Engineer.
10. The Board and applicant shall leave open the possibility of limiting access to and from Nautilus Drive via Pelican Avenue to gated, emergency access only in future phases of the site plan approval process.

11. For each future phase of the project, the applicant shall provide an updated Traffic Impact Analysis for both West Bay Avenue and Nautilus Drive, which shall include appropriate traffic counts, motor vehicle accident data, and bus and/or relevant public transportation-related information. The updated Traffic Impact Analysis shall also include all relevant data addressing the projected traffic impact on Nautilus Drive (a) if Pelican Avenue remains an access road and/or (b) if Pelican Avenue is gated and limited to emergency access only in the future.
12. The applicant shall submit revised architectural plans for both the clubhouse and the 212 manufactured homes proposed for Phase 1.
13. The applicant shall revise the plans to provide appropriate details showing all of the proposed amenities located in the recreation area, including but not limited to: bocce, pickleball, tennis, indoor and outdoor pools, and garden area with composting.
14. A bike path shall be provided along the site frontage and shall connect to Cloverdale Road.
15. The applicant shall irrigate all common areas as well as the front yards of units. The sides and rear yards will not be irrigated.
16. The applicant shall meet and/or confer with the Planning Board professionals to finalize the manner in which maximum pedestrian interconnectivity will be achieved at the site.
17. The applicant shall revise the plans to show all limits of clearing in Phase 1 of the project.
18. The applicant shall meet and/or confer with the Planning Board's Landscape Architect to calculate the number of street trees which are required for Phase 1, and to determine where supplemental trees maybe added (on-site or off-site) so as to maximize compliance with the Ordinance.

19. The applicant shall meet and/or confer with the Township's and/or the Planning Board's professionals to determine the bonding requirements for the Phase 1 improvements, as permitted by law and other controlling agreements.

20. With regard to the timing of the construction of the clubhouse, the following deadlines shall apply: (1) Construction on the clubhouse shall begin at a point in time no later than the issuance of the Certificate of Occupancy for the 106th unit in Phase 1; (2) No building permits shall be issued for Phase 2 until the clubhouse (and, subject to reasonable weather-related delays, any related outdoor recreational amenities) have been completed and approved by the Township, i.e., issuance of a temporary certificate of occupancy.

21. The applicant shall provide the Township of Barnegat with an access easement, or other appropriate instrument, so as to legally trigger the application of Title 39 to the overall development.

22. All **construction-related** access to and from the site for Phase 1 will be via West Bay Avenue. The applicant shall notify all contractors, vendors, etc., of the fact that construction-related access to the site is limited to West Bay Avenue. The applicant shall provide appropriate signage in the area of Nautilus Drive and Pelican Avenue clearly indicating that construction-related access is prohibited at that location.

23. Except as explicitly stated otherwise in this Resolution, or as otherwise made plain in the record, the applicant shall comply with all of the terms and provisions of the review letter issued by the Planning Board Engineer, dated December 18, 2019.

24. Except as explicitly stated otherwise in this Resolution, or as otherwise made plain in the record, the applicant will comply with all of the terms and provisions of the review letter issued by the Planning Board's Landscape Architect, dated December 8, 2019.

25. The applicant shall submit revised plans reflecting the conditions contained in this Resolution of Approval.

26. The applicant shall reimburse the Barnegat Township Planning Board for all professional fees associated with regard to this application within thirty (30) days of the date of this resolution.

27. This approval is made subject to all other applicable rules, regulations, ordinances, and statutes of the Township of Barnegat, the County of Ocean, and the State of New Jersey. The applicant shall obtain all approvals required by any federal, state, county, or municipal agency having regulatory jurisdiction of this development. Upon receipt of all such approvals, the applicant shall supply the Planning Board with a copy of the permit or, if applicable, other written indication of approval. In the event that any other agency requires a change in the plans approved by the Planning Board, the applicant must, and shall, reapply to the Planning Board for approval of that change.

28. The applicant shall resubmit this entire proposal for re-approval should there be any deviation from the terms and conditions of the Resolution or from the documents submitted as part of this application, all of which are made a part hereof and shall be binding on the applicant.

29. The applicant shall provide a statement from the Barnegat Township Tax Collector that all taxes are paid in full as of the date of this Resolution and as of the date of the fulfillment of any conditions of this Resolution.

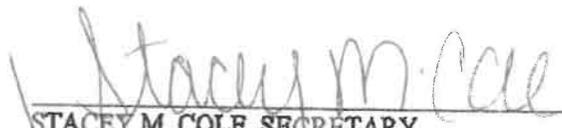
30. The proposed development has an affordable housing obligation of at least 100 units (92 units for the Shore Line Sand and Gravel tract and 8 units for Compass Point). The affordable housing units shall be constructed off-site within the Sweet Jenny Redevelopment Plan area, pursuant to the controlling agreements.


STACEY M. COLE, SECRETARY
Barnegat Township Planning Board


JACK LEONARDO, CHAIRMAN
Barnegat Township Planning Board

CERTIFICATION

I certify that the foregoing application was duly approved by the Barnegat Township Planning Board at its regular meeting held on February 25, 2020, and that the approval of the application was thereafter memorialized in this Resolution by a vote of the Barnegat Township Planning Board at its regular meeting held on April 28, 2020, a quorum being present and voting in the majority.


STACEY M. COLE, SECRETARY
Barnegat Township Planning Board



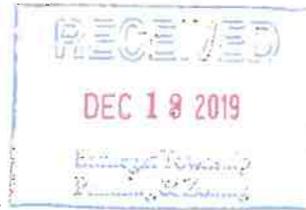
JOHN H. ALLGAIR, PE, PP, LS (1983-2001)
 DAVID J. SAMUEL, PE, PP, CME
 JOHN J. STEFANI, PE, LS, PP, CME
 JAY B. CORNELL, PE, PP, CME
 MICHAEL J. McCLELLAND, PE, PP, CME
 GREGORY R. VALES, PE, PP, CME

TIM W. GILLEN, PE, PP, CME (1991-2019)
 BRUCE M. KOCH, PE, PP, CME
 LOUIS J. PLOSKONKA, PE, CME
 TREVOR J. TAYLOR, PE, PP, CME
 BEHRAM TURAN, PE, LSRP
 LAURA J. NEUMANN, PE, PP
 DOUGLAS ROHMEYER, PE, CFM, CME
 ROBERT J. RUSSO, PE, PP, CME
 JOHN J. HESS, PE, PP, CME

December 18, 2019

Barnegat Township Planning Board
 900 West Bay Avenue
 Barnegat, NJ 08005

Re: Docket No. PB 17-05
Preliminary & Final Major Site Plan – Compass Point Cottages – Phase 1
Completeness and Engineering Review #3
Block 92, Lots 15, 16, 18, 18.01, 20, 21, 23, 23.03 & 23.04
Block 92.103, Lots 1 – 4; Block 92.104, Lots 1 – 16
Block 92.105, Lots 1 – 23; Block 92.106, Lots 1 – 24
Block 92.107, Lots 7 – 8; Block 92.108, Lots 15 – 24
Block 92.109, Lots 14 & 15; Block 92.113, Lots 42 – 45
West Bay Avenue
Barnegat Township, Ocean County, New Jersey
Applicant: 1111 West Bay and Nautilus Associates LLC
4569-4573 South Broad Street, Suite 2
Yardville, New Jersey, 08620
Our File: VBG0092.21 (60001)



Dear Planning Board Members:

Our office has recently received the following application support documents for the above referenced Preliminary and Final Major Site Plan, Phase 1, in response to our previous Completeness and Engineering Review #2, dated November 25, 2019:

- A copy of certification from Township Tax Assessor, dated September 17, 2019, noting taxes for above referenced properties are current;
- Copy of NJ Pinelands Certificate of Filing, Application #1981-1649.014; dated November 21, 2019;
- A completed Contribution Disclosure Statement from John Kornick, PE with K2 Consulting Engineers, dated November 15, 2019;
- A set of architectural plans, entitled "Proposed Community Center; Compass Point Cottages; Township of Barnegat, Ocean County", sheets A-4, A-5, prepared by James B. Foran, Architect, dated September 6, 2019;
- Report entitled "Threatened/endangered Species Survey Report, Application #1981-1649.001; block 92, Lots 15, 16, 18, 18.01, 20, 21, 23, 23.01, 23.03 & 23.04; Barnegat Township, Ocean County", prepared by Bryon DuBois of DuBois Environmental Consultants, dated 12/1/14;
- Report entitled "Stage 1 Cultural Resources Survey; Shoreline Sand and Gravel Site; Block 92, Lots 18 and 18.01", prepared by Cultural Resource Consultants, dated 9/17;

© Barnegat Planning Board Review#0092.21 - 1111 West Bay and Nautilus Associates, LLC Site Plan - Phase 1 (11/12/19) - Comp & Eng. Review #3 6/2019



Barnegat Township Planning Board
Re: 1111 West Bay and Nautilus Associates LLC (PB 17-05)
Preliminary & Final Major Site Plan – Comp. and Eng. Review #3
Compass Point Cottages – Phase 1

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- Report entitled "Stage 1 Cultural Resources Survey; Shoreline Redevelopment Tract/Compass Point; Block 92.105, Lots 1-23", prepared by Cultural Resource Consultants, dated 10/18;
- Copy of a November 21, 2019 letter from Steven Bagge, PE, with K2 Consulting Engineers, Inc., to the Barnegat Township Planning Board regarding items submitted in support of application and previous incompleteness letter dated 11/1/19;

Previously, our office received for review an application for Preliminary and Final Major Site Plan, Phase 1 approval for the above referenced property. The application was accompanied by the following information:

- A set of Preliminary & Final Major Site Plan drawings (56 sheets) prepared by John W. Kornick, PE, with K2 Consulting Engineers, Inc., of Haddonfield, NJ, dated February 14, 2019, last revised September 10, 2019.
- A set of Plan of Survey & Topography drawings (6 sheets) prepared by Jeffrey R. Gellenthin, PLS, with K2 Consulting Engineers, Inc., of Haddonfield, NJ, dated February 6, 2019, unrevised.
- Proposed Community Center Architectural Floor Plan drawings (3 sheets) prepared by James B. Foran, Architect, of Yardville, NJ, dated September 6, 2019, unrevised.
- Model 1 & Model 2 Architectural Floor Plans & Elevations drawings (5 sheets) prepared by Ritz-Craft Corporation, dated February 18, 2019, unrevised.
- Report entitled "Stormwater Management Report, Compass Point Cottages, Phase 1", prepared by John W. Kornick, PE, with K2 Consulting Engineers, Inc., of Haddonfield, NJ dated February 14, 2019, last revised September 10, 2019.
- Report entitled "Stormwater Management Facility Operations & Maintenance Manual", prepared by John W. Kornick, PE, with K2 Consulting Engineers, Inc., of Haddonfield, NJ dated February 14, 2019, last revised September 10, 2019.
- An Environmental Impact Statement, prepared by John W. Kornick, PE, with K2 Consulting Engineers, Inc., of Haddonfield, NJ dated September 16, 2018.
- A Traffic Impact Assessment prepared by Gary W. Dean, PE, PP, with Dolan & Dean Consulting Engineers, LCC, of Somerville, NJ dated July 22, 2019.
- Engineer's Report-Residential Site Improvement Standards; Compass Point Cottages, Phase 1, prepared by John W. Kornick, PE, with K2 Consulting Engineers, Inc., of Haddonfield, NJ dated September 16, 2018.



Barnegat Township Planning Board
Re: 1111 West Bay and Nautilus Associates LLC (PB 17-05)
Preliminary & Final Major Site Plan – Comp. and Eng. Review #3
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- A completed Land Use and Development Application with a filing date of September 19, 2019.
- A completed Completeness Checklist for Preliminary Major Site Plan Application.
- A completed Completeness Checklist for Final Major Site Plan Application.
- A completed Affidavit of Non-Collusion dated August 26, 2019.
- A completed Developer's Escrow Agreement, dated August 26, 2019.
- A completed List of Professionals & Consultants.
- A completed Contribution Disclosure Statement from Christopher S. Vernon with 1111 West Bay and Nautilus Associates, LLC dated August 26, 2019.
- A completed Contribution Disclosure Statement from Dino Spadaccini with The Spadaccini Law Firm, LLC dated August 19, 2019.
- A completed Contribution Disclosure Statement from James B. Foran, Architect dated August 16, 2019.
- A completed W-9 Form, dated August 26, 2019.
- A copy of a September 18, 2019 letter from Steven Bagge, PE, with K2 Consulting Engineers, Inc., to the Barnegat Township Planning Board which describes the plans submitted in support of this application and ***acknowledges the fact that the application cannot be scheduled for a hearing until the Certificate of Filing from the Pinelands Commission has been submitted.***

We have reviewed the information submitted in support of this application and offer the following comments:

A. GENERAL COMMENTS

The property in question is an irregularly shaped tract which is located on the southerly side of West Bay Avenue approximately 180 ft west of the intersection with Nautilus Drive. It has an area of approximately 1140.88 acres. The Shoreline Sand and gravel tract previously contained a sand and gravel contracting and mining operation which has been abandoned for some time while the Compass Point tract is currently vacant and wooded. The majority of the site is located in the Residential Low/Adult Community (RL/AC) Zone while a portion of the site fronting on West Bay Avenue is located in the Neighborhood Commercial (CN) Zone.



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On June 10, 2010, the Township Committee adopted Resolution 2010-285 which authorized the Planning Board to conduct an investigation to determine if the property in question and the adjoining Compass Point development were in need of redevelopment. Collectively, these properties were designated as the "Shoreline Sand and Gravel Area". On March 3, 2012, Birdsell Services Group prepared a report entitled "Shoreline Sand and Gravel Area in Need of Redevelopment Investigation" which concluded that the property in question met several of the statutory criteria for designation as an area in need of redevelopment. On April 10, 2012, the Planning Board voted to recommend to the Township Committee that the Shoreline Sand and Gravel Area be determined to be a Redevelopment Area. On April 7, 2014, the Township Committee adopted Resolution 2014-229 which authorized the preparation of a redevelopment plan for the Shoreline Sand and Gravel Area.

On March 29, 2016, CME Associates prepared a report entitled "Shoreline Sand and Gravel and Compass Point Redevelopment Plan" which was subsequently amended on January 31, 2017 and May 24, 2018. This redevelopment plan is intended to serve as a planning tool to guide the redevelopment of the Shoreline Sand and Gravel Area. The Township Committee adopted the January 31, 2017 redevelopment plan by Ordinance 2017-05 on March 7, 2017. In addition, on May 12, 2017, the Pinelands Commission adopted Resolution No. PC4-17-09 which certified Ordinance 2017-07. The Township Committee then adopted the May 24, 2018 amended redevelopment plan by Ordinance 2018-18 on May 24, 2018. Finally, on June 27, 2018, the Pinelands Commission issued a letter which stated that Ordinance 2018-18 may take effect.

The Applicant subsequently applied for and received General Development Plan approval to permit the construction of 777 detached senior manufactured homes and a 13,500 sf clubhouse, via Planning Board Resolution P-2019-12, dated May 28, 2019. The clubhouse will include a swimming pool and an active recreation area. Walking paths are also proposed along the westerly side of the site.

The Applicant is now seeking Preliminary & Final Major Site Plan approval for Phase 1 of the project to permit the construction of 212 age-restricted manufactured homes, a clubhouse and recreation area, new internal roadways, utility and stormwater management infrastructure. The clubhouse will include a swimming pool, active recreation area, as well as walking paths throughout the development. Public water main will be extended from West Bay Avenue to service the proposed clubhouse and manufactured homes while a sanitary sewer main will be extended from Nautilus Drive.



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Direct access will be provided to the site via a signalized driveway on West Bay Avenue opposite Mirage Boulevard and a right-in/right-out driveway opposite Eighth Street. In addition, access is also proposed to Nautilus Drive by extension of Pelican Avenue. On-site parking is proposed in the area of the clubhouse for 51 vehicles including 4 handicap accessible parking spaces while each manufactured home will provide two (2) off street parking spaces, one garage space and one surface space. In addition, a series of ponds, bioretention basins and infiltration basins are



Barnegat Township Planning Board
Re: 1111 West Bay and Nautilus Associates LLC (PB 17-05)
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proposed to be built in Phase 1 to mitigate the increase in runoff generated for the overall development.

B. VARIANCES AND/OR WAIVERS FROM LOCAL ORDINANCES

1. The Applicant has not requested any variances as a part of this Preliminary & Final Major Site Plan application.
2. The Applicant has not requested any waivers as a part of this Preliminary & Final Major Site Plan application.

C. WAIVERS AND/OR EXCEPTIONS FROM THE RESIDENTIAL SITE IMPROVEMENT STANDARDS (RSIS)

This application is subject to the requirements of the Residential Site Improvement Standards (RSIS) adopted as NJAC 5:21-1, et seq.

1. The Applicant has not requested any waivers from the RSIS.
2. The Applicant has not requested any *de minimus* exceptions from the RSIS.
3. There are discrepancies within the RSIS compliance report as to cart way widths, versus the plans. For example, the RSIS report states Road A to be cart way width of 28 feet, however, plans show 30'. Revise plans/report as necessary to classify each roadway in accordance with RSIS requirements.

D. SUBMISSION REQUIREMENTS

As stipulated in the Land Use & Development Application, the Completeness Check List for Preliminary Major Site Plan Approval and the Completeness Check List for Final Major Site Plan Approval, all submission requirements have been met.

E. CONSISTENCY WITH THE GENERAL DEVELOPMENT PLAN

1. As stipulated in the Shoreline Sand and Gravel and Compass Point Redevelopment Plan, access must be provided through the site to the County park (Cloverdale Farm County Park). Access is currently provided to Cloverdale Park through Cloverdale Road located off of West Bay Avenue. The applicant proposes to remove the portion of Cloverdale Road that provides access to West Bay Avenue and divert traffic via a gravel drive from Cloverdale Road to proposed Road A. The access to West Bay Avenue from Cloverdale Road is to be removed once the proposed access to the site, Road A, and the gravel drive road is operational. Applicant shall provide a paved road, not a gravel drive, between Road A and Cloverdale road.



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2. As stipulated in the Shoreline Sand and Gravel and Compass Point Redevelopment Plan, the proposed development has an affordable housing obligation of at least 100 units (92 units for the Shoreline Sand and Gravel Tract and 8 units for Compass Point). The affordable housing units are to be constructed off-site within the Sweet Jenny Redevelopment Plan area.
3. As stipulated in the Shoreline Sand and Gravel and Compass Point Redevelopment Plan, all residential uses at the site are to be age-restricted to fifty-five years and older.
4. As stipulated in the Shoreline Sand and Gravel and Compass Point Redevelopment Plan, the project shall be buffered from West Bay Avenue incorporating a berm and heavily wooded landscaping within the 50 ft front yard Setback. We defer review of this buffer area to the Township Landscape Architect.
5. The Applicant has submitted a draft Developer's Agreement to the Board. We note that the Planning Board is not a party to the Developer's Agreement. The Developer's Agreement must be reviewed and approved by the Township Committee.
6. The Applicant should provide testimony to the Board regarding how the proposed manufactured home community will operate (i.e. ownership of manufactured homes, pad lease, etc.).
7. Access will be provided to the site via a minor collector street which will intersect West Bay Avenue opposite Mirage Boulevard resulting in a 4 way signalized intersection at this location. Access is also proposed to West Bay Avenue via a residential neighborhood street limited to right in/right out turns opposite the intersection with Eighth Street. Finally, access is proposed to Nautilus Drive through Pelican Avenue which currently terminates along the easterly boundary of the site.
8. The Applicant should provide testimony to the Board to confirm that private streets are proposed at the site. In addition, we note that the Applicant proposes to connect to Pelican Avenue which is a public street.
9. The Applicant should address the Board regarding the availability of adequate water and sanitary sewer capacity to service the proposed development and the need for any upgrades to the existing municipal water and/or sanitary sewer system facilities.
10. It shows on the Utility Plan (sheet 4) that connections are proposed to the existing sewer in Nautilus Drive and Savannah Drive. The Applicant must demonstrate that the existing sewer mains have adequate capacity to accommodate the proposed flows.
11. Per previous GDP approval, the water mains and the sanitary sewer mains at the site will be operated and maintained by the developer. In addition, the water connections to the site are to be metered with master meters.



Barnegat Township Planning Board
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F. PLAN DETAILS

1. All references to the NJDOT standard Specifications shall be addressed to the 2019 edition.
2. Include the following missing details:
 - a. Double B Inlet Detail
 - b. Type B-1 Inlet Detail
 - c. Decorative Gatehouse Detail
 - d. Retaining Wall Detail
 - e. 4' Curb Taper Detail
 - f. Dual Pipe Headwall Detail
 - g. 10' Diameter Storm Manhole
3. "Painted Handicapped Access Aisle Detail" and "Handicapped Parking Detail" contradict each other, revise accordingly.
4. "Stop Bar" detail and "Crosswalk Striping Detail" contradict each other.
5. Handicapped Parking Detail – include "AS SHOWN ON PLANS" to the width of the access aisle.
6. Concrete Sidewalk –Concrete shall by NJDOT Class 'B'.
7. Pavement Section Detail – Proposed pavement thicknesses contradict RSIS Chapter 4. Revise accordingly, and include details for Minor Collectors, Road Access, and Alleys.
8. NJDOT Concrete Vertical Curb – Concrete shall be NJDOT Class 'B'.
9. Concrete Depressed Curb – Concrete shall be NJDOT Class 'B'.
10. Granite Block Curb Detail – Detail does not match RSIS detail. Revise accordingly, Include 1" batter.
11. Depressed Curb Detail – In section A-A, have callouts reference the pavement section details.
12. Mountable Curb Detail – detail does not match RSIS. Revise accordingly.



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13. Typical Road Cross-Section Detail – include proposed slopes, and include detail for alleys.
14. Additional details of internal signage within clubhouse area are required. Should Board act favorable upon this application, we recommend working with the design engineer regarding additional required internal signage and details.
15. Proposed street sign details shall be in conformance with Township standards.
16. We defer review of County ROW improvement requirements and detail to Ocean County Engineering. All required revisions per OC engineering shall become part of the Phase 1 Site Plan set.
17. Details for all clubhouse amenities and clubhouse area improvements shall be added to plans, including athletic courts, bocce court, fencing, gates, pool deck material and colors, retaining wall finish, etc...
18. Proposed chain link fence vinyl color shall be indicated in detail.
19. Site entry wall and signage detail shall be indicated on plans.
20. Refer to the separate Technical Review for other plan review comments.
21. We defer review of landscaping and lighting details to the Township Landscape Architect.
22. We defer review of water and sanitary sewer details to the Township water and sewer engineer.

G. DESIGN REVIEW COMMENTS

1. The plans show that the existing wooded area between Cloverdale Road and the proposed development stops approximately 430 feet back from West Bay Avenue, whereas the existing conditions of the site contain a wooded area that continues to approximately 20 feet back from West Bay Avenue. Applicant shall revise plans to more accurately show wooded area. The limit of clearing is shown to stop behind the proposed bocce courts. Applicant shall provide testimony concerning limit of clearing of trees not shown on plan, from the proposed limit of clearing to West Bay Avenue.
2. Signage to indicate that Cloverdale Road and Cloverdale Park is to be accessed through proposed Road A and the Gravel Drive should be added on West Bay Avenue and internally in the site. Final review and acceptance may also require OC engineering review.
3. Applicant shall indicate what is to be located in the middle of the roundabout sidewalk between the pool, bocce courts, and multi-spot courts. Details shall be provided.
4. Applicant shall show all stop bars on plan, wherever a stop sign is proposed.



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5. Applicant shall show directional arrows and signage throughout the clubhouse parking area of the site, specifically internally throughout the parking area and at the access to Road A near the putting green. We recommend our office coordinating this work with the applicant's engineer.
6. Applicant shall add a stop sign and stop bar on Proposed Road B at the intersection of proposed Road A and proposed Road C.
7. Applicant to provide a stop sign, stop bar and a "No Outlet" sign at each alley.
8. Applicant to provide a stop sign and stop bar at the intersection of Pelican Avenue and proposed Road C.
9. Applicant shall provide testimony as to need of a dumpster enclosure within the clubhouse area. Provide testimony as to planned refuse and recycling pickups, locations, etc... In addition, provide testimony as to planned refuse and recycling pickup for the proposed manufactured housing.
10. Applicant shall indicate parking demand calculations for clubhouse on plans.
11. At all phase 1 limits of roadway construction, plans shall be revised to note finish options, such as: temporary cul-de-sacs, terminal roadways with barriers, etc...
12. Within the plans, provided RSIS roadway classifications for each roadway and alley, and ensure compliance with the RSIS compliance report.
13. There are numerous discrepancies of proposed TC/gutter/invert grades for stormwater structures between grading plans, profiles, and stormwater report. Revise accordingly, refer to separate Technical Review #1.
14. There are numerous areas of proposed elevation contour inconsistencies, especially where Phase 1 limits end and proposed contours need to tie into existing. Revise accordingly.
15. We note applicant proposes filling and grading of the entire site in Phase 1. Applicant shall provide testimony as to cut/fill analysis done for proposed site grading, and how much fill must be imported. Prior to starting any offsite fill delivery, the applicant shall provide the Township with the source of fill, testing to confirm "clean" fill, and anticipated amount. The applicant will remain responsible for stabilization of all areas on site both during Phase 1 construction, and after, under Ocean County Soil Conservation District permitting.
16. All storm structures shall be labeled and be consistent with Stormwater management report.



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17. Ensure all Road name labels are on all sheets.
18. Proposed RCP pipe from Inlet 2-15 to 2-18 does not have enough cover for Class III pipe. Revise accordingly, and review all other areas for adequate cover and pipe classification.
19. Walking trails shall be established within Phase 1, in accordance with GDP.
20. Provide testimony as to mail delivery. Will mail be picked up at central box location, or delivered to each unit?
21. No parking signage will be required within any roadways classified as having parking on one side of the roadway, per the applicants RSIS report. Provide detail and indicate on plan.

H. STORMWATER REVIEW COMMENTS

1. The Applicant proposes the installation of a series of bioretention basins, infiltration basins and a wet pond to be built in Phase 1 to accommodate the stormwater runoff generated for the overall proposed development. The proposed development is considered a major development from a stormwater management standpoint, and accordingly, is subject to the applicable Township requirements for stormwater quality, peak rate of runoff reduction and groundwater recharge. In addition, the project is within the Pinelands area and must also comply with the requirements of the Pinelands Commission standards. Based on our review, we find that the stormwater management plan must be revised to address the following:
 2. Provide existing and proposed drainage area maps which identify all drainage areas, (Tc) paths with all associated land segments, soil boundaries, and points of analyses to substantiate the input data used in the stormwater management report.
 3. In accordance with the BMP Manual, for the Water Quality Design Storm, the maximum depth of runoff is 12 inches in a flat-bottom bioretention system, whereas, Basins 2, 5, 6 and 8 have depths of approximately (31", 14", 32" and 38") respectively. The above noted basins shall be revised to provide sufficient surface area to prevent runoff depths in excess of the maximum depth requirement.
 4. A groundwater mounding certification has been provided in Appendix M in accordance with the Pinelands Commission. However, in accordance with the BMP Manual, groundwater mounding impacts must be assessed, as required by N.J.A.C. 7:8-5.4(a)2.iv. This includes an analysis of the reduction in permeability rate when groundwater mounding is present. Where the mounding analysis identifies adverse impacts, the bioretention basin must be redesigned or relocated, as appropriate. The mounding analysis must provide details and supporting documentation on the methods used and assumptions made, including values used in calculations.



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5. Revise the cross-sections of the bioretention and infiltration basins to provide filter fabric along the sides of the soil bed to prevent the migration of fine particles from the surrounding soil.
6. Provide testimony as to ownership and maintenance of the stormwater management system, both in Phase 1 and throughout construction. It is our understanding that the entire system will be privately owned and maintained, therefore, the O&M manual, to be filed with County Clerk's office, shall note the entity responsible for overall maintenance.
7. In that the applicant is proposing Phase 1 construction only, but stormwater management basins are required throughout the site, adequate access to each stormwater management basin shall be provided in Phase 1 and maintained. The access shall be plowable and constructed of material that can support maintenance vehicles, even though they are temporary.

I. ENVIRONMENTAL REVIEW COMMENTS

1. The applicant shall provide testimony in support of the Cultural Resource Survey's and T&E studies submitted. Provide overall summary to Board, as well as recommended next steps, and relation to NJ Pinelands submittals, reviews, and comments.
2. In accordance with Township Ordinance 55-117, Environmental Review, an Environmental Constraints Map needs to be submitted that indicates features for preservation, features that cause development constraints and areas least suited for development.
3. While it is acknowledged that the Project proposes the redevelopment of a former sand and gravel pit, there are still environmental conditions that should be better documented to conform with the Township Ordinance found at Environmental Review, § 55-117D(2)(c)(3), to describe existing vegetation and wildlife characteristics.
4. The Township Ordinance found at § 55-117D(2)(c)(4) also requires the submission of a Preliminary Assessment, as per the requirements of the New Jersey Department of Environmental Protection, Site Remediation Program, Technical Requirements for Site Remediation (found at NJAC 7:26E-3.1).
5. While the applicant has not submitted a Preliminary Assessment per 14 above, a cursory review of the available NJDEP online GeoWeb GIS and Dataminer databases revealed several previous regulatory actions, wherein the NJDEP reviewed various environmental issues within the parcels.
 - a. Block 92 Lot 18 shows past NJDEP regulatory actions including air quality, water quality, solid waste, hazardous waste and site remediation.



Barnegat Township Planning Board
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- b. Block 92 Lot 23.03 shows past NJDEP regulatory actions including air quality and solid waste.
- c. All Lots on Blocks 92.103, 92.104, 92.105, 92.106, 92.107, 92.108, 92.109 and 92.113 are shown on GeoWeb to contain habitat for either northern pine snake, barred owl, or both species. These parcels were not included in the Threatened and Endangered Species Survey Report generated by DuBois Environmental Consultants. GeoWeb did not show any known contaminated sites or areas of concern on these parcels.
- d. The applicant must provide testimony regarding the above findings, and plans for completion and submission of a PA.

J. ASSESSMENTS

1. The Applicant is subject to a tax map assessment in the amount of \$800.00 as set forth in Section 55-135 of the Ordinance.
2. Various off-site water system improvements are planned or are have been constructed by Walters Development. In accordance with the developers' agreement that has been executed between the Township of Barnegat and Walters Development, all developers within the water system service area must reimburse Walters Development for their share of the costs of the water system improvements which are being constructed and paid for by Walters Development. Therefore, the Applicant must pay their share of the water system costs in the amounts and at the times set forth in the developers' agreement.
3. Various off-site sewer system improvements are planned or are have been constructed by Walters Development. In accordance with the developers' agreement that has been executed between the Township of Barnegat and Walters Development, all developers within the sewer system service area must reimburse Walters Development for their share of the costs of the sewer system improvements which are being constructed and paid for by Walters Development. Therefore, the Applicant must pay their share of the sewer system costs in the amounts and at the times set forth in the developers' agreement.

K. OUTSIDE AGENCY APPROVALS

This application is subject to the following outside agency approvals:

1. Ocean County Planning Board.
2. Ocean County Soil Conservation District.
3. Ocean County Utilities Authority.
4. Barnegat Township Water and Sewer Utility.
5. Barnegat Township Fire Official



Barnegat Township Planning Board
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6. Barnegat Township Traffic Safety
7. NJ Pinelands Commission
8. New Jersey Department of Environmental Protection:
 - a. Sanitary Sewer Extension (TWA) Permit.
 - b. Water System Extension Permit.
9. All other outside agency approvals as required.

The Applicant should address the Board regarding the status of the required outside agency approvals for this project. In addition, copies of all outside agency approvals should be forwarded to the Planning Board and our office upon receipt.

Based on our review of the submitted information, we find that the Applicant has addressed all of the submission requirements set forth in the Ordinance. Therefore, we recommend that this application be deemed **Complete** for consideration by the Planning Board subject to the Applicant complying with all applicable notification requirements as set forth in the Barnegat Township Land Use Ordinance and the Municipal Land Use Law.

If you have any questions regarding this application, please feel free to call.

Very truly yours,

CME Associates

Kurt J. Otto, PE, CME
Planning Board Engineer

KJO/MG/lr

cc: **Martin J. Lisella - Administrator**
Barnegat Township Zoning Official
Scott Taylor AICP, Board Landscape Architect
Michael J. McKenna, Esq. – Planning Board Attorney
1111 West Bay and Nautilus Associates LLC – Applicant
Dino Spadaccini, Esq. – Applicant's Attorney
John W. Kornick, PE, – Applicant's Engineer
James Foran, – Applicant's Architect



Michelle M. Taylor, AICP, PP, CNU A
Scott D. Taylor, AICP, PP, LLA, LEED AP

Amy B. Cieslewicz, LLA, PP
Steven Lennon, LLA, PP

Gaetano Romano, LLA

- Community Planning
- Landscape Architecture
- Municipal Consulting
- Streetscape Design
- Economic Development
- Parks and Recreation

December 8, 2019

Barnegat Township Planning Board
900 West Bay Avenue
Barnegat, NJ 08005



**Re: Compass Point Cottages- Phase 1
1111 West Bay Avenue
Barnegat, NJ 08005
Block 92, Lots 15, 16, 18.01, 20, 21, 23, 23.03 & 23.04
Preliminary and Final Site Plan Approval
Review Letter #1
Docket: #PB 17-05, TDG File: 2001-118.149P.02**

Dear Board Members:

Our office has received and reviewed the following submission items:

- *Preliminary and Final Major Site Plan*, prepared by K2 Engineers, Inc., consisting of 61 sheets, dated February 14, 2019, last revised September 10, 2019.
- *Architecture Plans*, prepared by James B. Foran, consisting of 2 sheets, dated September 6, 2019.

At this time, we offer the following comments:

A. General Comments/Site Design

1. The subject property is an approximately 140-acre parcel located on the South side of West Bay Avenue, between Westport Drive to the West and Nautilus Drive to the East. The tract is partially wooded and contains a former sand quarry operation. Single family residential development surrounds the tract on all sides. See image below courtesy Google.

In May 2019, the applicant received General Development Plan approval to allow the construction of 777 age-restricted, single-family manufactured home rental pad sites, along with a clubhouse, recreation amenities, and related improvements.

The site was primarily in the RL/AC –Residential Low/Adult Community Zone, while the front portion was zoned CN- Neighborhood Commercial. The site is now governed by the zoning parameters as set forth in the *Shoreline Sand and Gravel and Compass Point Redevelopment Plan*, Adopted May 24, 2018 (Ordinance 2018-18).

2. The applicant seeks Preliminary and Final Site Plan approval for the construction of Phase 1 of the subject project, consisting of 212 age-restricted rental pad sites, the clubhouse, recreation amenities, a majority of the stormwater management system, and related improvements.



Taylor Design Group, Inc.
131 Hartford Road
Mount Laurel, NJ 08054

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W. TDGplanning.com



3. Testimony and details should be provided regarding how mail will be handled at the site. If applicable, the proposed locations for the gang mailboxes should be discussed and a detail provided.
4. A detail for a 10' high chain link fence is provided on the plans. Testimony should be provided where this is proposed.
5. Complete signage details should be provided including lighting, materials, colors, and heights for the entrance signs.
6. The Plans indicate a "temporary dual sided advertising billboard" with a 10' setback from the roadway. Testimony and details should be provided for this, and appropriate waiver relief requested.
7. Complete construction details should be provided for the pool and all exterior recreation facilities and amenities at the clubhouse area.
8. The proposed access drive connecting to the existing Cloverdale Road meets at an awkward angle, reminiscent of a temporary road condition. We suggest that consideration be given to increasing the radius to provide a smoother vehicular movement.
9. If any fencing is proposed or anticipated, the locations should be shown, and details provided. We suggest that, if proposed, a single style be utilized for visual consistency, which should be reflected in the homeowner's association documents.

10. More detailed information is required for the cottage areas including a typical lot fencing plan. The applicant should also address what outdoor amenities are included or permitted on each of the rental pads such as decks, patios, fences, and other structures.
11. Sidewalks should be provided along all street frontages as required by ordinance.
12. Testimony should be provided regarding the storage and collection of garbage and recyclables. No facilities are currently shown on the plans either in the community or at the clubhouse.

At the clubhouse in particular, a durable masonry dumpster enclosure should be provided as required by ordinance, with exterior finishes to complement the façades. We recommend that the trash enclosure gates be constructed of a metal frame for durability, with a vinyl-fence panel or similar, in colors to complement the building.
13. The Applicant should clarify whether any decks or patios are provided or permitted to be constructed at the units. The locations and details should be provided on the site and architecture plans.
14. The asphalt bike path should be provided along the entire West Bay Avenue frontage as required, connecting into the path on the adjacent site.

B. Building Design

1. The Applicant should provide detailed testimony and exhibits presenting the proposed architectural forms, materials, heights and colors for the buildings; as well as how this proposal is consistent with the requirements of the Architecture design standards set forth in §55-92. This should include floor plans and elevations.

Given the prominent location of this site on the Bay Avenue corridor, we recommend that the Applicant make every effort to provide buildings with traditional architectural forms, siding, and roofing materials and colors that complement the architectural vernacular of Barnegat.

C. Recreation & Pedestrian Circulation

1. All of the recreation area facilities and amenities should be presented to the Board. The plan should be fully labeled and detailed to indicate all improvements. This should include a description of the clubhouse access which appears to be proposed in a one-way configuration.
2. The Applicant should provide testimony regarding the adequacy of the proposed recreation amenities and confirm how access and maintenance will be handled between the various segments of the development.
3. Signage alerting leash law and clean-up is required by law. Dog waste stations and accompanying trash cans should be considered.
4. We suggest that a bicycle rack be provided at the clubhouse.
5. There are a few areas where lawn and landscaped areas drain across court areas. This can create a maintenance and potentially safety issue from the migration of sand onto the courts. We suggest that wherever possible this condition be avoided.
6. Complete construction details should be provided for all recreation area facilities. This should include information on the playground and surfacing to demonstrate

compliance with the New Jersey Public Playground Safety Subcode and the New Jersey Barrier Free Subcode.

7. We suggest the addition of grills and tables to the recreation facilities offered in the apartment area, and the addition of a shade pavilion, or the relocation of one of the other pavilions to this location.
8. The colors of all metal fencing and site amenities should be coordinated with each other and with the building colors. This includes light poles and fixtures, bike racks, metal fencing, trash enclosure fencing, benches, tables, etc.
9. We suggest that the sidewalk along the parking area be extended south connecting back into the main access road.
10. Certain segments of the perimeter walking paths are located within Phase 1. Testimony should be provided regarding when the walking paths will be constructed.
11. The retaining wall should be detailed and the color should be specified. We recommend a warm, muted earth tone color to deemphasize its presence. The wall capstone should be noted to be epoxied in place for safety.
12. The colors of all metal fencing and site amenities should be coordinated with each other and with the building colors. This includes light poles and fixtures, bike racks, metal fencing, trash enclosure fencing, benches, tables, etc.
13. The post and rail fence detail should clarify the sizes of all members, along with how the wire will be attached. The method of attachment of the round rails to the post should be specified.

D. Lighting

1. No lighting is currently proposed. The Applicant should provide complete details and testimony regarding all site lighting, building lighting, and sign lighting. All lighting should be full cutoff fixtures to reduce off-site and skyward glare, and if LED is used, the color temperature should be between 3,000-3,500° Kelvin.

Buffers & Planting

1. The applicant proposes a minimal level of landscaping in conjunction with the application. As proposed, waivers are required for:
 - Street Trees- West Bay Ave., All streets and all alleys.
 - West Bay Ave. Berming
 - West Bay Ave. Buffer plantings
 - Reforestation
 - Parking lot trees
 - Parking lot hedge buffers
 - Basin Plantings

Detailed calculations should be provided to identify the relief requested based upon the specific ordinance parameters. Additional efforts should be made to comply with the intent of the respective ordinance requirements, or detailed testimony should be provided in support of the relief.



2. The Redevelopment Plan and the General Development Plan approval require a 50' landscape buffer with a berm to create a complete visual screen along the West Bay Avenue frontage.

There is no berming proposed along a majority of the site frontage, and the plantings proposed will not achieve the desired buffering objective. Topographically, motorists along West Bay Avenue will be 10 to 20 feet higher than the grade of the nearest pad sites in most areas. Looking down over the site.

To that end, we suggest that berming be provided as required in this location with a dense evergreen tree screening. We strongly recommend the use of large-scale, coniferous evergreens in the buffers throughout the site, particularly along West Bay Avenue, layered with shrub and deciduous tree masses.

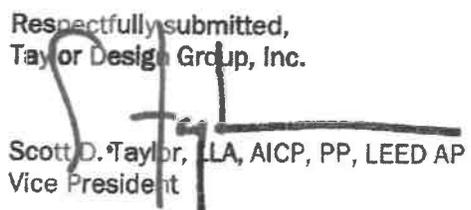
3. The plans should accurately show the proposed tree line based upon the actual site grading and clearing required for sight triangles.
4. The applicant requires a waiver from locating and identifying all trees on site per §55-191.1. If the Board considers granting this relief, we suggest that the clearing limits be staked in the field, and approved by our office prior to clearing. This will provide an opportunity to preserve any large desirable specimens that may exist at the edge of the cleared areas, without the applicant having to go to the time and expense of a full tree survey for the site.
5. Tree protection fencing should be shown on the site and grading plans at the limit of grading/clearing adjacent to all vegetation to remain. A note should be added stating that the fence location will be staked in the field and approved prior to any clearing.
6. Street trees are required per §55-162.2.B. at a spacing of 3-50' on center along all roads, driveways, alleys, etc. Only 34 street trees are proposed for phase 1, spaced at 100-200' on center, and many areas are devoid of trees.
7. Trees are required to be planted throughout the site at a rate of one tree per 1,000 square feet of upland lot area in accordance with §55-162.H.3. The plans should provide a schedule of the greenspace/reforestation requirement, and a level of planting which complies with the ordinance maximizing perimeter reforestation and buffering.
8. Additional plantings should be provided in and around the basin per the ordinance requirements.
9. Groundcover such as daylilies or shore juniper should be added to the fill in the limited plantings in the parking lot islands in lieu of expansive areas of unplanted mulch.
10. Planting bed lines should be shown for all planting areas, and large expanses of mulch should be reduced or filled with a low maintenance groundcover.
11. Testimony should be provided regarding irrigation and a note should be added to the Plans.
12. The Applicant should consider sodding the sites, particularly the frontage, to ensure immediate stabilization of the area and for improved aesthetics.
13. Parking lot trees are required by §55-162.G at the rate of two trees for every ten parking spaces.



14. We suggest that a substitute be considered for the proposed White Oak, as this species is very difficult to establish, and we have seen very high mortality rates for this tree in the area.
15. We have several additional minor concerns regarding species selection and plant material locations that we would be happy to work out with the applicant's professionals at their request.
16. The planting symbols for proposed materials should be more reflective of the ultimate size of the plants. In particular shade trees should be shown with a canopy of 20-25'.
17. A typical lot planting plan should be provided.
18. The following landscaping notes should be added to the plans:
 - *Street trees and parking lot trees shall have no branches lower than 7' above grade.*
 - *Burlap and twine should be removed from the top of the root ball.*
 - *All dead or severely declining plants shall be replanted within the next growing season.*
 - *All stakes and guys shall be removed after one growing season.*
 - *6" of topsoil shall be provided in all lawn and planting areas.*
19. We suggest that all street trees and buffer plantings be bonded as permitted by State Law.

If you have any questions or require additional information regarding this application, please do not hesitate to contact our office.

Respectfully submitted,
Taylor Design Group, Inc.


Scott D. Taylor, LLA, AICP, PP, LEED AP
Vice President

Ec (only): Martin Lisella, Administrator
Stacey Cole, Planning Board Secretary
Thomas Lombarski, CFO
Christine Roessner
Michael J. McKenna, Esq.
Kurt J. Otto, PE, CME
Christopher S. Vernon, Applicant, csv@mercermgt.com
Dino Spadaccini, Esq., Applicant's Attorney, dino@spadlaw.com
John W. Kornick, PE, Applicant's Engineer, jkornick@k2ce.com
James B Foran, Applicant's Architect, jbforan13@gmail.com

EXHIBIT C

Township of Barnegat

COUNTY OF OCEAN



900 WEST BAY AVENUE
BARNEGAT, NEW JERSEY 08005-1298
Email: clerk@barnegat.net

MUNICIPAL OFFICES: (609) 698-0080
FAX #: (609) 698-7980
Visit Our Website: www.barnegat.net

May 29, 2019

The Spadaccini Law Firm, LLC
98 Franklin Corner Road
Lawrenceville, NJ 08648

Attn: Dino Spadaccini, Esq.

Re: Application of: 1111 West Bay and Nautilus Associates, LLC
General Development Permit
Docket No. PB 17-05
Resolution No. P-2019-12

Dear Mr. Spadaccini,

Enclosed please find the Resolution memorialized at the May 28, 2019, Planning Board meeting. Please publish the Notices of Decision in one of the officially designated newspapers (*The Asbury Park Press*, *Press of Atlantic City*, *Manahawkin Beacon*) of the Planning Board within ten days. Upon receipt of the Affidavits of Publication, please forward to this office for the file.

Sincerely,


Stacey M. Cole,
Board Secretary

cc: 1111 West Bay and Nautilus Associates, LLC

**RESOLUTION
BARNEGAT TOWNSHIP PLANNING BOARD**

**RESOLUTION P-2019-12
DOCKET NO. PB 17-05**

RESOLUTION MEMORIALIZING THE BARNEGAT TOWNSHIP PLANNING BOARD'S APPROVAL OF AN APPLICATION FOR GENERAL DEVELOPMENT PLAN APPROVAL BY 1111 WEST BAY & NAUTILUS ASSOC. LIMITED LIABILITY COMPANY, FOR PROPERTY KNOWN AS BLOCK 92, LOTS 15, 16, 18, 18.01, 20, 21, 23, 23.03, 23.04; BLOCK 92.103, LOTS 1-4; BLOCK 92.104, LOTS 1-16; BLOCK 92.105, LOTS 1-23; BLOCK 92.106, LOTS 1-24; BLOCK 92.107, LOTS 7-8; BLOCK 92.108, LOTS 15-24; BLOCK 92.109, LOTS 14-15; BLOCK 92.113, LOTS 42-45, AS SHOWN ON THE BARNEGAT TOWNSHIP TAX MAP.

WHEREAS, the applicant, 1111 West Bay & Nautilus Assoc. Limited Liability Company, has submitted an application to the Barnegat Township Planning Board seeking General Development Plan for property known as Block 92, Lots 15, 16, 18, 18.01, 20, 21, 23, 23.03, 23.04; Block 92.103, Lots 1-4; Block 92.104, Lots 1-16; Block 92.105, Lots 1-23; Block 92.106, Lots 1-24; Block 92.107, Lots 7-8; Block 92.108, Lots 15-24; Block 92.109, Lots 14-15; Block 92.113, Lots 42-45, as shown on the Barnegat Township Tax Map; and

WHEREAS, the applicant has satisfied all applicable notice requirements of the New Jersey Municipal Land Use Law and the Township of Barnegat and has provided proof thereof to the Barnegat Township Planning Board; and

WHEREAS, the Planning Board has reviewed the application, together with all of the documents submitted therewith, and the Board has received input and advice from its professional staff; and

WHEREAS, the Planning Board conducted a public hearing on April 23, 2019, at which time the Board heard and considered the presentation made by the applicant, and at which time the public had an opportunity to be heard.

NOW, THEREFORE, the Planning Board hereby makes the following findings of fact and conclusions of law with regard to the application:

A. The property in question is an irregularly shaped tract which is located on the southerly side of West Bay Avenue approximately 180 feet west of the intersection with Nautilus Drive. The property has an area of approximately 140.88 acres. The Shoreline Sand and Gravel tract previously contained a sand and gravel contracting and mining operation which has been abandoned for some time while the Compass Point tract is currently vacant and wooded. The majority of the site is located in the Residential Low/Adult Community (RL/AC) Zone while a portion of the site fronting on West Bay Avenue is located in the Neighborhood Commercial (CN) Zone.

B. On June 10, 2010, the Township Committee adopted Resolution 2010-285, which authorized the Planning Board to conduct an investigation to determine if the property in question and the adjoining Compass Point development were in need of redevelopment. Collectively, these properties were designated as the "Shoreline Sand and Gravel Area." On March 3, 2012, Birdsall Services Group prepared a report entitled, "Shoreline Sand and Gravel Area in Need of Redevelopment Investigation," which concluded that the property in question met several of the statutory criteria for designation as an area in need of redevelopment. On April 10, 2012, the Planning Board voted to recommend to the Township Committee that the Shoreline Sand and Gravel Area be determined to be a Redevelopment Area. On April 7, 2014, the Township Committee adopted Resolution 2014-229, which authorized the preparation of a redevelopment plan for the Shoreline Sand and Gravel Area.

C. On March 29, 2016, CME Associates prepared a report entitled, "Shoreline Sand and Gravel and Compass Point Redevelopment Plan," which was subsequently amended on

January 31, 2017 and May 24, 2018. This redevelopment plan is intended to serve as a planning tool to guide the redevelopment of the Shoreline Sand and Gravel Area. The Township Committee adopted the January 31, 2017 redevelopment plan by Ordinance 2017-05 on March 7, 2017. In addition, on May 12, 2017, the Pinelands Commission adopted Resolution No. PC4-17-09, which certified Ordinance 2017-07. The Township Committee then adopted the May 24, 2018 amended redevelopment plan by Ordinance 2018-18 on May 24, 2018. Finally, on June 27, 2018, the Pinelands Commission issued a letter which stated that Ordinance 2018-18 may take effect.

D. The applicant is now seeking General Development Plan approval to permit the construction of 777 detached senior manufactured homes and a 13,500 square foot clubhouse. The clubhouse will include a swimming pool and an active recreation area. Walking paths are also proposed along the westerly side of the site. According to CME Associates, the proposed development appears to be consistent with the latest redevelopment plan that was approved by the Township Committee.

E. The applicant initially proposed to phase the development of the site over a period of 20 years with construction commencing in 2019 and continuing through 2039 (*See*, Condition 2). The Phasing Plan (Sheet 10) includes a schedule which shows the anticipated timing for the various components of the project. In addition, the proposed development will be serviced by municipal water and sanitary sewer as well as by underground gas and electric lines. In addition, a series of bio-retention basins, infiltration basins, and a pond are proposed to mitigate the stormwater runoff generated by the proposed development.

F. In support of the application, the applicant submitted the following documents:

1. A set of General Development Plans (10 sheets) prepared by John W. Kornick, P.E., with K2 Consulting Engineers, Inc., Haddonfield, N.J., bearing a latest revision date of February 9, 2019.

2. A Fiscal Impact Report prepared by Tiffany A. CuvIELLO, P.P., with Tiffany A. CuvIELLO, P.P., LLC, Galloway, N.J., dated February 8, 2019.
3. A draft Developer's Agreement between the Township of Barnegat and 1111 West Bay & Nautilus Assoc. Limited Liability Company.
4. A copy of a February 8, 2019 letter from Mr. Steven Bagge, P.E., with K2 Consulting Engineers, Inc., to the Barnegat Township Planning Board, which describes the plans submitted in support of this application for General Development Plan approval and addresses the requirements of the Municipal Land Use Law, N.J.S.A. 40:55D-45.2.
5. All of the other documents referred to in the February 27, 2019 review letter issued by the Planning Board Engineer, John J. Hess, P.E., P.P., C.M.E.

G. At the public hearing held on April 23, 2019, the applicant was represented by Dino Spadaccini, Esq., The Spadaccini Law Firm, LLC, 98 Franklin Corner Road, Lawrenceville, N.J. During the hearing Mr. Spadaccini provided an overview of the General Development Plan, presented the application, and responded to questions and/or comments made by the Planning Board members and members of the public.

H. During the public hearing, the following exhibits were marked into evidence:

- A-1 Site Rendering Plan prepared by John W. Kornick, P.E., with K2 Consulting Engineers, Inc., dated April 19, 2019 (colored version of Site Rendering Plan).
- A-2 Exhibit Board containing 18 architectural Renderings.
- A-3 Exhibit Board containing 6 architectural Renderings.

I. During the public hearing, the Planning Board heard the testimony of John W. Kornick, P.E., with K2 Consulting Engineers, Inc., whose professional qualifications were accepted and who provided testimony regarding the following matters:

1. General testimony regarding the application.
2. Testimony regarding Exhibits A-1 through A-3.
3. Testimony describing the manufactured homes which are proposed for the site.

4. Testimony explaining the proposed Phasing Plan.
5. Testimony confirming that once the General Development Plan is approved, the applicant will be required to submit formal site plan and/or subdivision applications to the Planning Board for each phase of the project.
6. Testimony confirming that the General Development Plan must be revised to provide access from the site to the Cloverdale Farm County Park.
7. Testimony confirming that the proposed development will conform to the general layout and intensity shown on the General Development Plan.
8. Testimony confirming that the affordable housing obligation for the proposed development will be constructed off-site within the Sweet Jenny Redevelopment Plan area.
9. Testimony confirming that all residential uses at the site will be age-restricted to fifty-five (55) years and older.
10. Testimony confirming that the infiltration basin presently shown on the plans as being located within the 50-foot front yard setback along West Bay Avenue will be removed and relocated so as to be outside of the 50-foot front yard setback.
11. Testimony confirming that the Developer's Agreement must be approved by the Township Committee.
12. Testimony describing the manner in which the proposed manufactured home community will operate (*i.e.*, the owner will own the underlying lot containing the manufactured homes; the manufactured homes will be privately owned by the purchasers of the individual homes).
13. Testimony describing the details of the Circulation Plan (Sheet 2 of 10).
14. Testimony confirming that the streets at the site will be privately owned and that the applicant proposes to connect to Pelican Avenue (which is a public street).
15. Testimony confirming that the applicant will confer with the Walters Development Co., to ensure the availability (including any necessary upgrades) of adequate water and sanitary sewer capacity to service the proposed development.
16. Testimony acknowledging that connections are proposed to the existing sewer in Nautilus Drive and Savannah Drive and confirming that the existing sewer mains have (or will have) adequate capacity to accommodate the proposed flows.

17. Testimony confirming that the water mains and the sanitary sewer mains at the site will be operated and maintained by the developer and that the water connections to the site are to be metered with master meters.
18. Testimony confirming that the applicant will meet and/or confer with the Planning Board's professionals to determine the manner in which the proposed walking paths along the westerly portion of the site will be extended to other areas of the property.
19. Testimony confirming that the Local Services Plan will be revised to address whether the site will be serviced by underground telephone service and/or cable TV.
20. Testimony confirming that to the full extent permitted by grading at the site, the applicant will preserve the maximum amount of existing vegetation located within the 50-foot perimeter buffer around the site.
21. Testimony confirming that the applicant will meet and/or confer with the Planning Board Engineer to discuss and/or finalize the design of the regional pump station on Fairway Drive to ensure that there is adequate conveyance capacity.
22. Testimony confirming that the applicant will comply with all of the terms and provisions of the review letter issued by the Planning Board Engineer, dated February 27, 2019.

J. During the public hearing, the Planning Board heard the testimony of Christopher S. Vernon, Manager, 1111 West Bay & Nautilus Assoc. Limited Liability Company, Yardville, N.J., who provided testimony regarding the following matters:

1. General testimony regarding the application.
2. Testimony describing the general history of the project and the overall permit process, etc.
3. Testimony regarding Exhibits A-1 through A-3.
4. Testimony explaining the rationale for the applicant's request for approval to phase the development of the site over a period of 20 years, including market conditions and other factors. (*See* Condition 2.)

K. During the public hearing, Tiffany A. CuvIELLO, P.P., A.I.C.P., was present, was sworn-in, and made available to provide testimony on behalf of the applicant.

L. During the public hearing, the following individuals addressed the Planning Board regarding the application.

1. Ernest L. Miles Jr., 2 Glen Road, West Orange, N.J., made general comments in opposition to the application.
2. Ronald Miles, 88 Monroe Place, Bloomfield, N.J., made general comments in opposition to the application.
3. Karen Margrini, 28 Rockybrook Drive, Barnegat, N.J., asked whether the applicant was proposing a Homeowners Association and whether the residents would be subject to formal rules and regulations.
4. Donald Weid, 114 Heritage Pt. Boulevard, Barnegat, N.J., asked general questions regarding the proposed perimeter buffer at the site.
5. Melissa Melber, 40 Savannah Drive, Barnegat, N.J., asked questions regarding the general manner in which drainage will be handled at the site.
6. Kenneth Miles, 777 Springdale, East Orange, N.J., raised concerns regarding the proposed drainage at the site and made general comments in opposition to the application.
7. Bill Collins, 61 Cloverdale Road, Barnegat, N.J., made general comments in opposition to the application.
8. Steven Bauer, 22 Bridgewaters Passage, Barnegat, N.J., asked general questions regarding the proposed perimeter buffer at the site and the manner in which the buffer is proposed to be landscaped.
9. Karl Dean, 60 Nautilus Drive, Barnegat, N.J., raised general concerns about the Phasing Plan for the project and asked questions regarding the proposed interior circulation and access to and from the site.
10. Christine Roessner, 33 Cloverdale Road, Barnegat, N.J., asked general questions and made general comments regarding the application.
11. Gordon Miles, 29 Mullen Drive, Erial, N.J., asked general questions regarding the proposed perimeter buffer at the site and made general comments in opposition to the application.
12. Tony Houston Sloan, Jr., 75 Nautilus Drive, Barnegat, N.J., asked questions and raised general concerns regarding potential overdevelopment and other facets of the application.

13. Renee Tortoriello, 75 Nautilus Drive, Barnegat, N.J., asked questions relating to the costs of the manufactured homes, questions regarding the proposed drainage at the site, and made general comments regarding the application.
14. John Gennarelli, 102 Pine Oak Boulevard, Barnegat, N.J., raised concerns about the proposed layout of the manufactured homes, expressing concern about potential overdevelopment, asked questions about the Phasing Plan and future site plan applications, and asked questions about the affordable housing component of the application.
15. Ryan Roessner, 33 Cloverdale Road, Barnegat, N.J., asked general questions and made general comments regarding the application.
16. Relda Lockwood, 27 Rockybrook Drive, Barnegat, N.J., asked general questions and made general comments regarding the application.

M. At the conclusion of the hearing, the Planning Board, after considering and weighing all of the evidence presented, and after considering all of the comments made during the course of the hearing, and after applying the standards contained in the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., including the provisions relating to General Development Plans, N.J.S.A. 40:55D-45, et seq., and the standards contained in the Code of the Township of Barnegat, determined that the application for General Development Plan approval should be granted.

NOW, THEREFORE, BE IT RESOLVED by the Barnegat Township Planning Board that the applicant's request for General Development Plan approval is hereby approved and granted.

BE IT FURTHER RESOLVED that the Planning Board Secretary shall forward a copy of this Resolution to the applicant, the applicant's engineer, Township Clerk, and the Building Department.

BE IT FURTHER RESOLVED that the applicant shall cause notice of the Planning Board's decision to be published in an official newspaper of the Barnegat Township Planning Board within ten (10) days of its passage.

BE IT FURTHER RESOLVED that the Planning Board's approval of this application is made specifically subject to the following conditions:

1. The applicant shall comply with all representations made to the Planning Board by the applicant's witnesses and professionals.

2. The applicant initially proposed to phase the development of the site over a period of 20 years. N.J.S.A. 40:55D-45.1b provides that the term of the General Development Plan shall be determined by the Planning Board (using the guidelines set forth in subsection c.), except that the term of the approval shall not exceed 20 years from the date upon which the developer receives final approval of the first section of the planned development. With regard to this application, the Planning Board determined, and the applicant agreed, that the term of the General Development Plan approval shall be 15 years (not 20 years) and that the applicant **shall** return to the Planning Board with an appropriate application, on notice to the public, once every five (5) years, to provide the Planning Board with a thorough status report regarding all aspects of the overall development project. These public hearings will be separate and apart from the public hearings held for the purpose of considering the applicant's request for the required formal site plan and/or subdivision approval for each of the phases of the project.

3. The site shall be developed so as to conform to the general layout and intensity shown on the General Development Plan.

4. The applicant shall be required to submit formal site plan and/or subdivision applications to the Planning Board for each phase of the project.

5. The General Development Plan shall be revised to provide access from the site to the Cloverdale Farm County Park.

6. The affordable housing obligation for the proposed development shall be

constructed off-site within the Sweet Jenny Redevelopment Plan area.

7. All residential uses at the site shall be age-restricted to fifty-five (55) years and older.

8. The infiltration basin presently shown on the plans as being located within the 50-foot front yard setback along West Bay Avenue shall be removed and relocated so as to be outside of the 50-foot front yard setback.

9. The Developer's Agreement shall be approved by the Township Committee.

10. The applicant shall confer with the Walters Development Co., to ensure the availability (including any necessary upgrades) of adequate water and sanitary sewer capacity to service the proposed development.

11. The water mains and the sanitary sewer mains at the site shall be operated and maintained by the developer and the water connections to the site shall be metered with master meters.

12. The applicant shall meet and/or confer with the Planning Board's professionals to determine the manner in which the proposed walking paths along the westerly portion of the site will be extended to other areas of the property. The final design of the walking paths must be approved in writing by the Board's professionals.

13. The Local Services Plan shall be revised to address whether the site will be serviced by underground telephone service and/or cable TV.

14. To the full extent permitted by grading at the site, the applicant shall preserve the maximum amount of existing vegetation located within the 50-foot perimeter buffer around the site. The final resolution of this issue must be approved in writing by the Board's professionals.

15. The applicant will meet and/or confer with the Planning Board Engineer to discuss

and finalize the design of the regional pump station on Fairway Drive to ensure that there is adequate conveyance capacity. The final design must be approved in writing by the Board Engineer.

16. The applicant shall comply with all of the terms and provisions of the review letter issued by the Planning Board Engineer dated February 27, 2019.

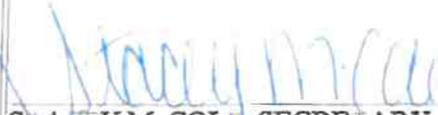
17. The applicant shall submit revised plans reflecting the conditions contained in this Resolution of Approval.

18. The applicant shall reimburse the Barnegat Township Planning Board for all professional fees associated with regard to this application within thirty (30) days of the date of this resolution.

19. This approval is made subject to all other applicable rules, regulations, ordinances, and statutes of the Township of Barnegat, the County of Ocean, and the State of New Jersey. The applicant shall obtain all approvals required by any federal, state, county, or municipal agency having regulatory jurisdiction of this development. Upon receipt of all such approvals, the applicant shall supply the Planning Board with a copy of the permit or, if applicable, other written indication of approval. In the event that any other agency requires a change in the plans approved by the Planning Board, the applicant must, and shall, reapply to the Planning Board for approval of that change.

20. The applicant shall resubmit this entire proposal for re-approval should there be any deviation from the terms and conditions of the Resolution or from the documents submitted as part of this application, all of which are made a part hereof and shall be binding on the applicant.

21. The applicant shall provide a statement from the Barnegat Township Tax Collector that all taxes are paid in full as of the date of this Resolution and as of the date of the fulfillment of any conditions of this Resolution.


STACEY M. COLE SECRETARY
Barnegat Township Planning Board


JACK LEONARDO, CHAIRMAN
Barnegat Township Planning Board

CERTIFICATION

I certify that the foregoing application was duly approved by the Barnegat Township Planning Board at its regular meeting held on April 23, 2019, and that the approval of the application was thereafter memorialized in this Resolution by a vote of the Barnegat Township Planning Board at its regular meeting held on May 28, 2019, a quorum being present and voting in the majority.


STACEY M. COLE, SECRETARY
Barnegat Township Planning

EXHIBIT D

TRAFFIC CONTROLS ON PRIVATE PROPERTY

39:5A-1. Application for Subtitle 1 of Title 39

Written request; provisions made applicable.

Upon the filing of a written request by a person, or by the board of directors of any corporation, or by the board of trustees of any corporation or other institution of a public or semipublic character not for pecuniary profit, incorporated under Title 15 of the Revised Statutes, with the clerk of any municipality of this State within which the property of such person, corporation or institution is situate, that the provisions of subtitle 1, Title 39, of the Revised Statutes shall be made applicable to the semipublic or private roads, streets, driveways, trails, terraces, bridle paths, parkways, parking areas, or other roadways open to or used by the public, tenants, employees, and the members of such institutions for purposes of vehicular travel by permission of such persons, corporations or institutions and not as matter of public right, the provisions of subtitle 1, Title 39, of the Revised Statutes, shall, in the discretion of the municipal authorities vested with the police powers in the locality within which the property of such persons, corporations or institutions is situate, and with the approval of the Commissioner of Transportation of this State, be made applicable thereto. Such written request shall contain the name and post office address of the person, corporation or institution and shall designate with reasonable accuracy the semipublic or private roads, streets, driveways, trails, terraces, bridle paths, parkways, parking areas, or other roadway open to or used by vehicular traffic, to be affected thereby.

Procedure to be Followed: In order to make provisions of Subtitle 1 of Title 39 applicable to private property, the following steps are required before approval can be recommended to the Commissioner of Transportation:

1. A letter of Application from the owner(s) of the private property to municipal officials requesting Subtitle 1 be made applicable.
2. A Site Plan showing the parking areas, roadways, driveways, etc., must be submitted to municipal officials with the letter of Application.
3. The municipal officials must then submit a copy of the Application and a copy of the Site Plan to the Department of Transportation for a review and **recommendations**.
4. Upon request from the Department of Transportation, a Resolution must be submitted requesting approval of Subtitle 1 of Title 39; or,
5. Upon request from the Department of Transportation, an Ordinance must be submitted for the Application of Subtitle 1 of Title 39 and various traffic regulations (Parking, Stop Signs, One-Way Streets and Speed Limits) to be approved by the Commissioner of Transportation.

Following is a sample application to be prepared by the applicant for the establishment of Subtitle I of Title 39 pursuant to 39:5A-1.

**APPLICATION TO HAVE N.J. MOTOR VEHICLE
STATUTES MADE APPLICABLE TO PRIVATE PROPERTY**

FROM: _____ (Owner of Property) _____ DATE: _____

TO: _____ (Municipal Officials) _____

SUBJECT: Application to have motor vehicle statutes made applicable to:
_____ (List Location) _____

By authorization of N.J.S.A. 39:5A-1, application is hereby made by
_____ (Property Owner(s)) _____

requesting that the provisions of Subtitle 1, Title 39, of the Revised Statutes shall be made
applicable to the semi-public roadways, driveways, parking areas and other areas used for
vehicular traffic on the property shown on the enclosed map or site plan and known as
_____ (Name of Development) _____.

Authorized Signature

cc: Chief of Police

Following is a sample resolution to be submitted by the municipal officials with the application
for the establishment of Subtitle 1 of Title 39.

**APPLICATION TO HAVE N.J. MOTOR VEHICLE
STATUTES MADE APPLICABLE TO PRIVATE PROPERTY**

FROM: Cottages at Compass Point LLC
1111 West Bay Avenue LLC

DATE: 10/23/20

TO: Barnegat Township

SUBJECT: Application to have motor vehicle statutes made applicable to:
1111 West Bay Avenue, Barnegat, NJ 08005

By authorization of N.J.S.A. 39:5A-1, application is hereby made by
Cottages at Compass Point LLC/111 West Bay Avenue LLC

requesting that the provisions of Subtitle 1, Title 39, of the Revised Statutes shall be made
applicable to the semi-public roadways, driveways, parking areas and other areas used for
vehicular traffic on the property shown on the enclosed map or site plan and known as
Cottages at Compass Point



Authorized Signature

EXHIBIT E

**DASTI, MURPHY, McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**

JERRY J. DASTI, ESQ. [I.D. No. 005441973]

620 West Lacey Road
Post Office Box 1057
Forked River, New Jersey 08731
(609) 971-1010 FAX (609) 971-7093
*Attorneys for Declaratory Plaintiff,
Township of Barnegat*

**IN THE MATTER OF
THE APPLICATION OF:**

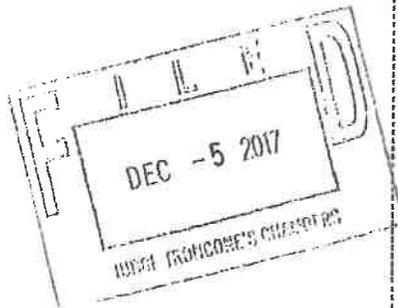
**THE TOWNSHIP OF BARNEGAT,
COUNTY OF OCEAN**

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
OCEAN COUNTY

DOCKET NO.: OCN-L-1856-15

CIVIL ACTION – MOUNT LAUREL

**CONSENT ORDER APPROVING
SUPPLEMENTAL SETTLEMENT
AGREEMENT BETWEEN THE
TOWNSHIP OF BARNEGAT, FAIR
SHARE HOUSING CENTER, III WEST
BAY AND NAUTILUS, LLC AND
BARNEGAT HILLS ASSOCIATES, LP
AND
APPROVING THE REDEVELOPMENT
PLAN TERM SHEET AGREED TO BY
THE AFOREMENTIONED FOUR (4)
PARTIES**



THIS MATTER having been opened to the Court by Dasti, Murphy, McGuckin, Ulaky, Koutsouris & Connors, P.C. on behalf of the Declaratory Plaintiff, Township of Barnegat (hereinafter referred to as “the Township” or “Barnegat”) via Declaratory Judgment Complaint filed on July 2, 2015 to approve the Township’s Housing Element and Fair Share Plan (hereinafter referred to as the “Fair Share Plan”) in response to In Re: Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015) (“Mount Laurel IV”); and the Court having granted the Township temporary immunity from all Mount Laurel lawsuits from the time of the filing of the Township’s Declaratory Judgment action (hereinafter referred to as the “DJ Action”); and

**DASTI, MURPHY
McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
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FORKED RIVER, N.J. 08731

the Court having appointed Philip Caton, P.P./FAICP, as the Special Mount Laurel Master (hereinafter referred to as the "Special Master"); and Fair Share Housing Center (hereinafter referred to as "FSHC") having participated in the Township's DJ Action as an interested party and not by way of formal Motion to Intervene; and having reached a Settlement Agreement dated April 20, 2017 with Barnegat fully resolving the Township's DJ Action (hereinafter referred to as "Settlement Agreement"), superseding an earlier Agreement between the Township and FSHC that partially resolved the Township's DJ Action; and Frank J. Petrino, Esquire having filed with the Court an objection to the April 20, 2017 Settlement Agreement on behalf of 1111 West Bay and Nautilus, LLC (hereinafter referred to as "Shoreline"); and on June 13, 2017, John Paul Doyle, Esquire having filed with the Court an objection to the April 20, 2017 Settlement Agreement on behalf of Barnegat Hills Associates, L.P. (hereinafter referred to as "Compass Point"), and as a result thereof FSHC, Shoreline and Compass Point were permitted to intervene and be considered interested parties in this litigation; and the Township Professionals and Representatives of all three (3) Interveners having engaged in successful mediation supervised by the Court's Special Master; and after having agreed upon an Amendment to the prior Settlement Agreement entered into by and between the Township and FSHC on April 20, 2017; and representatives of the parties having represented in open Court their clients' consent to the following Amendment to the aforementioned Settlement Agreement and the Redevelopment Plan Term Sheet (hereinafter referred to as the "Term Sheet"); and the Supplemental Agreement to the aforementioned Settlement Agreement is attached hereto as "Exhibit A", which has been executed by representatives of the four (4) participants in this litigation, and the Court having heard representations of all parties and the terms of the agreements having been spread upon the record in open Court before The Honorable Mark A. Troncione, J.S.C. on November 3, 2017, at which time the public was given

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prior notice and an opportunity to comment on the Agreements reached herein; and the Court having scheduled the completion of a Mount Laurel Fairness Hearing on November 3, 2017 to consider whether the terms of the agreement are fair and reasonable to low and moderate income households of the region; and the Township having provided adequate notice of the Fairness Hearing to the public, all known affordable housing advocates in the region and interested parties; and no written objections to the Agreement having been filed in response to the notice; and the Township having prepared an Affidavit of Public Notice providing documentary proof of adequate notice; and the Special Master having reviewed the Agreement and, on June 19, 2017, having issued a Master's Report (hereinafter referred to as the "Report") evaluating the fairness of the Settlement Agreement; and the Master having concluded in his Report that the Settlement Agreement is fair and reasonable to the region's low and moderate income households; and the Master having further recommended in his Report for the Court to approve the Settlement Agreement subject to certain conditions to be completed in advance of a Final Compliance Hearing; and the Township having provided the Court, the Special Master and FSHC with all relevant documents prior to the Hearing and in conjunction with its efforts to secure approval of the Settlement Agreement; and the Court having conducted the Fairness Hearing on June 23, 2017 and November 3, 2017; and the Township, FSHC, Shoreline and Compass Point having participated in the Hearing and having expressly supported the proposed Supplemental Agreement and the Term Sheet as advancing the interests of the region's low and moderate income households; and the Special Master having testified in support of the conclusions set forth in his Report and to respond to questions posed by the Court and counsel for the Township, FSHC, Shoreline and Compass Point; and the Court having accepted as evidence in the record the Agreement, Resolution, Affidavit of Public Notice, and the Master's Report; and the Court having marked into evidence as C-1, the proposed Term Sheet ("Exhibit

DASTI, MURPHY
McQUOKIN, ULANKY,
KOUTBOURIS & CONNORS

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B”), and as C-2 the Supplemental Agreement to the aforementioned Settlement Agreement; and the Court having considered the documents on the record and the Special Master’s testimony; and, as a result of the foregoing, the Court having made at the conclusion of the Hearing various findings of fact and determinations of law as set forth on the record; and good cause therefore appearing:

IT IS on this 5th December day of ~~December~~, 2017,

ORDERED AND ADJUDGED as follows:

1.) The Township published sufficient notice of the Fairness Hearing which (a.) provided all interested parties with a sufficient opportunity to meaningfully submit comments, objections, or support for the proposed Agreement in advance of the Hearing; and (b.) provided interested parties with the opportunity to participate in the Hearing at the discretion of the Court.

2.) Pursuant and to the standards articulated by Judge Skillman in Morris County Fair Housing Council v. Boonton Township, 197 N.J. Super. 359 (Law Div. 1984), and further addressed by the Appellate Division in East/West Venture v. Bor. of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996), the Court hereby accepts and approves the Agreement and concludes that said Agreement is fair, reasonable, and adequately protects the interests of the region’s lower-income persons.

3.) The Court directs the four (4) parties to return to this Court on March 9, 2018 at 1:30 p.m. for a Final Compliance Hearing, recognizing that the parties need to address the outstanding Conditions referenced in the Report, additional requirements of the Supplemental Agreement and Term Sheet such as amending the existing Redevelopment Plan for the Shoreline and Compass Point Property; consider a Redevelopment Plan for property on Route 9; prepare the necessary Pilot Agreement for the Route 9 property, enabling Ordinances,

DASYL, MURPHY
McGUCKIN, VLAKY,
KOUTSOURIS & CONNORS
COUNSELLORS AT LAW
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et cetera. In addition, the parties shall advise the Court no later than February 8, 2018 at 1:30 p.m. if they have reached agreement on the remaining issues and if the Township has acted in good faith to address the outstanding obligations in order to implement in full the intent and purpose of the Supplemental Agreement and Term Sheet, and if there is no such agreement, the Court will, at that time, determine how to proceed with this matter.

4.) The Township's current temporary immunity from Mount Laurel lawsuits shall remain in force until March 9, 2018, subject to further Order of the Court.

5.) The agreement as to the Term Sheet which was spread upon the record at the November 3, 2017 Fairness Hearing, and was agreed to by all interested parties, is as follows:

- a.) Barnegat Hills Associates, L.P. (hereinafter referred to as "Compass Point") will construct eight (8) family rental units on the Compass Point site. The units will be shielded, landscaped and buffered from the age-restricted housing. In addition, 1111 West Bay and Nautilus, LLC (hereinafter referred to as "Shoreline") and Compass Point may continue to discuss with each other constructing one hundred (100) affordable units on Route 9, rather than ninety-two (92) affordable units on Route 9, and eight (8) affordable units in Compass Point.
- b.) Shoreline will be allowed to build up to six-hundred fifty (650) manufactured home pad sites of its site. There is no affordable set aside under these circumstances.
- c.) The approximately one-hundred fifteen (115) acre Shoreline site will not be subdivided into individual pad sites.
- d.) As part of the Amended Redevelopment Plan, Shoreline will construct a clubhouse of approximately 12,000 sq. ft., with an additional approximate 12,000 sq. ft. of outside recreational areas including bocce court, outdoor swimming pool, picnic areas, fire pits, *et cetera*. For the approximate 12,000 sq. ft. of community area under the roof and enclosed, approximately twenty (20%) percent will be utilized by Shoreline for sales. The remainder will be utilized for the community in terms of lounge area, card room, *et cetera*.

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- e.) No family units of any kind will be constructed on the Shoreline site or the Compass Point site (other than the potential eight (8) family affordable housing units). The eight (8) family units to be constructed on the Compass Point site shall be generally located as shown on the attached Concept Plan. The remaining 113 age-restricted, market share, single-family homes shall be constructed on the Compass site.
- f.) Shoreline will construct ninety-two (92) affordable housing units and up to twenty-eight (28) market-share rental units on the 6.2 acre site on Route 9. Shoreline will utilize his good efforts to tie up that site which is listed for approximately \$900,000.00. The Township will agree to a PILOT Agreement for the ninety-two (92) affordable housing units. However, the twenty-eight (28) market-share units will not be subject to a PILOT Agreement. Shoreline has entered into a contract to purchase property on Route 9 east of the New Jersey Garden State Parkway (Block 195, Lots 5 and 6.01), which property the Township hereby acknowledges and confirms is suitable for development thereon of inclusionary housing, including 92 family affordable units and approximately 28 market rate family units. *In the event that the contract referenced herein does not culminate in a successful closing of title, Shoreline understands its responsibility to obtain similarly suitable property east of the New Jersey Garden State Parkway upon which must be constructed the 92 family affordable units (as well as 28 market rate family units if the property is of sufficient size). The Township will agree to rezone the property and undertake a redevelopment plan of that property in order to confirm that it will be suitable for rehabilitation and redevelopment purposes, and will be suitable for the subject of a pilot agreement.*
- g.) Of the ninety-two (92) affordable housing units, fifty (50%) percent will be low income units, including thirteen (13%) percent which will be very low income units, and the affordable housing units will otherwise comply with all requirements of the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, *et seq.*, with the exception that in lieu of ten (10%) percent of affordable units in rental projects being required to be at thirty-five (35%) percent of median income, thirteen (13%) percent of affordable units in such projects shall be required to be at thirty (30%) percent of median income. In addition, Shoreline will follow the COAH guidelines in terms of phasing the affordable housing units in with the manufactured home development such that the minimum percentage of the 92 (or 100 if the option in paragraph 5(a.) of this Consent Order is exercised) very-low, low and moderate income units on the Route 9 site shall be completed

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pursuant to N.J.A.C. 5:93-5.6(d) as the corresponding percentage of the six-hundred fifty (650) (higher number if the option in paragraph 5(v.) of this Consent Order is exercised) total market rate, age-restricted housing units are completed on the Shoreline site. For example, if the total number of units is 742 (650+92), Shoreline must have the first affordable unit ready for occupancy before the 163rd market rate unit is occupied. If Compass Point is added (approximately 100 Units) to the Shoreline development pursuant to Paragraph 22 hereof, it would be the 188th market rate unit.

- h.) Shoreline shall be responsible for all normal professional fees incurred by the Township for its professional staff including, but not limited to, the Amended Redevelopment Plan, New Redevelopment Plan for Route 9, Site Plan approvals, Zoning Ordinance adoptions, *et cetera*. The Amendments to the Redevelopment Plan shall be prepared and adopted within one-hundred twenty (120) days of the entry of the Order of Preliminary Compliance and the Redevelopment Area designation and Redevelopment Plan for the Route 9 site shall be prepared and adopted within one-hundred twenty (120) days of the entry of the Order of Preliminary Compliance. In addition, as to both sites Shoreline shall be responsible for normal inspection fees. Shoreline will comply with all applicable RSIS standards for all of his sites, including those standards applicable to curbs and sidewalks.
- i.) As indicated previously the Township will agree to a PILOT Agreement for the affordable housing units on Route 9, but not the 28 market-share units.
- j.) In lieu of payment for the Municipal services pursuant to the Municipal Services Act for the pad sites, inasmuch as the manufactured home development will have private roads, private sewer and water lines under the roads, privately maintained detention basins, *et cetera*, the Township will not require payment of any fees for the pad sites pursuant to the Municipal Services Ordinance previously adopted by the Township.
- k.) There will not be individual connections of the pad sites to the sanitary sewer and water facilities in the manufactured home development. Rather the developer will receive one (1) quarterly sewer bill and one (1) quarterly water bill based upon the meter(s) to be constructed and paid for by the developer where the lines meet the existing Township facilities.

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- l.) The developer will pay normal sanitary sewer and water connection fees as well as standard quarterly water and sewer fees for the Route 9 site.
- m.) As to the manufactured home site there will be one (1) connection fee based upon the size of the meters. Standard rates for the sanitary sewer and water facilities of the manufactured home site will control.
- n.) The Township will be responsible for off-site sanitary sewer and water systems. The Township represents that there is sufficient water and sanitary sewer capacity to service all of the sites, including Compass Point. All of the on-site sanitary sewer and water lines shall be constructed by Shoreline or Compass Point. The Shoreline on-site sanitary sewer and water facilities shall remain in private ownership. Compass Point shall determine at the time of site plan/subdivision application whether it intends to have the on-site sanitary sewer and water lines in private ownership or whether they shall be conveyed for no further consideration to the Township. Shoreline/Compass Point will be responsible for any off-site assessments or site improvements mandated by the County of Ocean as a condition of Ocean County Planning Board Approval.
- o.) Each of the developers shall comply with the normal rules and requirements of the Pinelands Commission in terms of payment or Pineland Development Credits, remediation issues, if any, *et cetera*.
- p.) Inasmuch as there will be no public improvements on the Shoreline site, no performance bonds or maintenance bonds will be required. However, Shoreline will be required to pay the standard inspection fees to the Township for inspecting those improvements. Similarly, in the event that Compass Point decides that there will be no publicly owned improvements on the Compass Point site, no performance bonds or maintenance bonds will be required. However, Compass Point will be required to pay the standard inspection fees to the Township for inspecting those improvements.
- q.) Inasmuch as the stormwater management basins shall be constructed by, owned and maintained by Shoreline, there will be no storm water management fees (normally \$2,500.00 per unit). Similarly, in the event that Compass Point decides to construct, own and forever maintain the stormwater management basins to be constructed on its site, there will be no stormwater management fees (normally \$2,500.00 per unit).

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- r.) Shoreline shall provide the appropriate and standard performance guarantees and thereafter maintenance guarantees for the Route 9 site.
- s.) Shoreline and Compass Point shall comply with any requirements of the Pinelands Commission in terms of individual site drainage as well as drainage throughout on those properties located in the Pinelands. Shoreline will construct, own and maintain any onsite sanitary sewer or water pumping stations, as needed.
- t.) For the Route 9 site, Shoreline shall connect through the sanitary sewer and water facilities, through either adjoining properties or in the rear of the site, by connecting to the mains in Old Shore Road. Unless it chooses to do so, Shoreline will not be required to connect to the sanitary sewer and water facilities for the Route 9 site into Route 9.
- u.) A Final Compliance Hearing is scheduled before this Court on March 9, 2018 at 1:30 p.m. By that date the Township and all parties shall act in good faith and work in conjunction to adopt all necessary Redevelopment Plan amendments, new Redevelopment Plan and Pilot Agreement for the Route 9 family rental apartments, *et cetera* (except for the approvals of the Pinelands Commission which may take more time). In addition, the parties shall advise the Court no later than February 8, 2018 at 1:30 p.m. whether the parties are continuing to act in good faith to meet their respective obligations in terms of the needed plan amendments and adoption of the new Redevelopment Plan and enabling Ordinances.
- v.) If Shoreline, or an entity in which Shoreline retains a substantial (50%) interest, purchases the Compass Point property, Shoreline will be permitted to construct manufactured homes on the Compass Point property at the same yield per acre as the Shoreline Sand & Gravel property, and pursuant to the same terms and conditions applicable to the Shoreline site set forth herein. The project shall be buffered from West Bay Avenue by the construction of a berm, as well as heavy wooded and other landscaping within a 50 ft. front yard setback.
- w.) An Amendment to the Shoreline and Compass Point Redevelopment Plan and a Redevelopment Plan and PILOT Agreement for the Route 9 project shall be prepared and all adopted or approved within one-hundred twenty (120) days of the adoption of the Order of Preliminary Compliance. The Route 9

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project would need to obtain appropriate site plan and other outside agency permits and approvals.

- x.) The Township will not be required and Shoreline agrees to waive any requirement for Township garbage collection, snow plowing, street cleaning, leaf collection, road maintenance repair, *et cetera*, inasmuch as the Township will agree that the roads and improvements will be privately owned, and in exchange therefore the Township will not impose any Municipal Service Fee pursuant to the existing Township Ordinance. Similarly, in the event Compass Point waives any requirement from the Township for garbage collection, snow plowing, street cleaning, leaf collection, road maintenance repair, *et cetera*, because the Compass Point roads and improvements will be privately owned, in exchange therefore the Township will not impose any Municipal Service Fee pursuant to the existing Township Ordinance.
- y.) As part of the redevelopment process, Shoreline and Compass Point acknowledge they will be responsible to pay their pro rata share toward the over-sizing of the off-site sanitary sewer and water facilities in accordance with the agreements previously entered into by and between the Township and Walters Development Company/Mark Madison, LLC. Compass Point and Shoreline acknowledge receipt of the aforementioned Agreements from the Attorney for the Township.
- z.) The parties agree that the payment for a two-bedroom, age-restricted, manufactured unit is 0.57 EDUs for sewer, and 0.38 EDUs for water. It is understood that it is the Township's professional opinion and calculation that the aforementioned are the correct EDUs to be charged to Shoreline for purposes of calculating off-site reimbursement due for the expansion of sanitary sewer and water (including pressure reduction) facilities in order to service this site. If there is a disagreement as to this numeric calculation with the developer to whom payment is due, that disagreement shall be resolved between Shoreline and The Walters Group, although the Township shall provide expert opinion from the Township Engineer that this calculation is correct.
- aa.) Attached hereto as C-2 is the "Supplemental Agreement in the matter of the Application of Barnegat, County of Ocean, Docket No. OCN-L-1856-15". The parties acknowledge that the aforementioned supplemental agreement is an amendment to the aforementioned Settlement Agreement previously entered into by and between the Township and FSHC dated April 20, 2017. All

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parties herein acknowledge their acceptance and approval of the Supplemental Agreement through their signature to that Supplemental Agreement as well as the Term Sheet which is more specifically set forth hereinabove.

bb.) Counsel for the Township shall provide copies of this Order to all counsel of record and the Court's Standing Master within seven (7) days of receipt.

6. This Consent Order can be entered into in counterparts by counsel for the four (4) aforementioned parties in interest.


THE HONORABLE MARK A. TRONCONE, J.S.C.

I hereby consent to the entry of this Order as to form and content:

**DASTI, MURPHY, MCGUCKIN, ULAKY,
KOUTSOURIS & CONNORS, P.C.**
*Attorneys for Declaratory Plaintiff,
Township of Barnegat*

Jerry J. Dasti, Esquire

FAIR SHARE HOUSING CENTER

Adam M. Gordon, Esquire

ECKERT SEAMANS
Attorneys for 1111 West Bay and Nautilus, LLC (Shoreline Sand and Gravel)

Frank J. Petrino, Esquire

CARLUCCIO, LEONE, DIMON, DOYLE & SACKS, P.C.
Attorneys for Barnegat Hills Associates (Compass Point)

John Paul Doyle, Esquire

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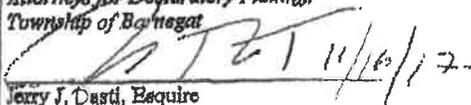
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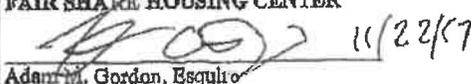

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*Attorneys for Declaratory Plaintiff
Township of Barnegat*


Jerry J. Dasti, Esquire

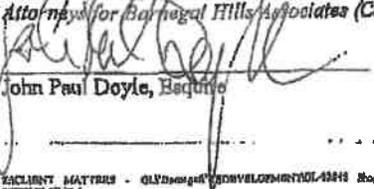
FAIR SHARE HOUSING CENTER


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ECKERT SEAMANS
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Frank J. Petrino, Esquire

CARLUCCIO, BONE, DIXON, DOYLE & SACKS, P.C.
Attorneys for Barnegat Hills Associates (Compass Point)


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R.D. BOX 107
BARNEGAT HILLS R.L., 03751

EXHIBIT MATTERS - ALL DEVELOPMENTAL ASSES Should be and GOVERNMENTMENT BE RESPONSABLE HEALTHYORDER APPROVING DEVELOPMENT.

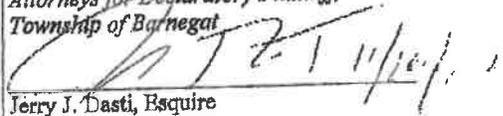
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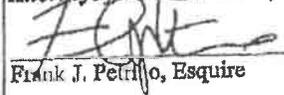
**DASTI, MURPHY, MCGUCKIN, ULAKY,
KOUTSOURIS & CONNORS, P.C.**
*Attorneys for Declaratory Plaintiff,
Township of Barnegat*


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ZACLIGHT MATTERS - 04/Barnegat/HILLS DEVELOPMENT/OL-22815 Shoreline Sand & Gravel SETTLEMENT RE AFFORDABLE HOUSING ORDER APPROVING SETTLEMENT.00

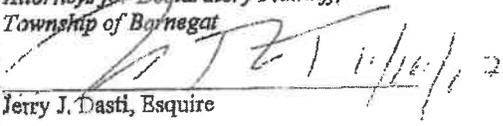
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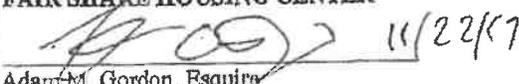

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*Attorneys for Declaratory Plaintiff,
Township of Barnegat*


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EXHIBIT A

OCN-L-001856-15 11/07/2017 10:49:31 AM Pg 15 of 30 Trans ID: LCV2017439231

SUPPLEMENTAL AGREEMENT IN
IN THE MATTER OF THE APPLICATION OF BARNEGAT, COUNTY OF OCEAN
DOCKET NO. OCN-L-1856-1B

WHEREAS, The Township of Barnegat ("Township") reached a settlement agreement dated April 20, 2017 with Fair Share Housing Center ("FSHC") (the "Agreement"), which Agreement superseded an earlier partial settlement agreement between the Township and FSHC dated November 1, 2016; and

WHEREAS, on June 9, 2017, Frank J. Petrino, Esq., filed with the Court an objection to the April 20, 2017 settlement agreement on behalf of 1111 West Bay and Nautillus, LLC ("Vernon"), an owner of real property in Barnegat Township referenced in the Agreement as a compliance mechanism in the Agreement; and

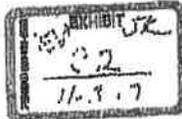
WHEREAS, on June 13, 2017, John Paul Doyle, Esq., filed with the Court an objection to the April 20, 2017 settlement agreement on behalf of Barnegat Hills Associates, L.P. ("Compass Point"), an owner of real property in Barnegat Township referenced in the Agreement as a compliance mechanism in that Agreement; and

WHEREAS, the Hon. Mark A. Troncone, J.S.C., having directed the Township, FSHC, Vernon, and Compass Point (collectively "the parties") to attempt to mediate the filed objections to the Agreement with the assistance of the Special Master in this matter, Phillip B. Caton, PP, AICP; and

WHEREAS, the parties having through that mediation successfully resolved the objection, subject to certain modifications to the Agreement and the execution of a consent order between the parties to be approved by the Court ("Consent Order"); and

WHEREAS, the parties having agreed to modify the Agreement as follows, with all other terms not explicitly modified remaining in effect:

1. Paragraph 7 of the Agreement is hereby replaced by the following new paragraph 7:
7. The following provisions relate to the 100-unit Vernon/Compass Point on- or off-site family rental development referenced in the above chart:
 - a. The Township, Vernon, and Compass Point agree to ensure that the affordable housing obligations for the Vernon and Compass Point developments are met through the provision of family affordable housing, in accordance with the Consent Order. The affordable housing obligation which was originally contemplated to be age-restricted units for the Vernon and Compass Point developments instead will be satisfied as 100 family affordable units as described herein and in the Consent Order.
 - b. Together, the affordable housing obligations for the Vernon and Compass Point developments total 100 units.
 - c. The Township will assist if necessary and encourage both developers to combine their resources to construct one family rental affordable housing complex east of the Parkway, for all of the approximately 100 affordable family units in accordance with the Consent Order, provided that the 6 units associated with Compass Point, may be constructed on the site owned by Barnegat Hills Associates, L.P. in accordance with the Consent Order.



- d. The affordable rental family units to be developed and made available by each of Vernon and Compass Point, either off site on the east side of the Parkway or, in the case of Compass Point, on its site, will be phased in with the market units to be developed on each of their respective sites (i.e. the Vernon and Compass Point sites west of the Parkway) in accordance with the phasing rules set forth in NJAC 5:93 - 5.6 (d), such that the minimum percentage of very-low, low and moderate income family affordable units shall be completed pursuant to N.J.A.C. 5:93-5.6(d) as the corresponding percentage of the total market housing units on each age-restricted site are completed.
- e. Vernon will be required to locate and acquire a site for this new complex, presumably along Route 9, similar to the areas in which Walters has now constructed two (2) affordable housing complexes, one (1) age restricted and one (1) family, in accordance with the provisions of the Consent Order. Compass Point shall subdivide sufficient land from its property to construct 8 family affordable units as part of subdivision approval, unless it reaches a formal agreement with Vernon to construct 8 affordable units as part of the Route 9 site prior to that approval.
- f. Further details regarding how the Township will provide a realistic opportunity for these 100 affordable units are in accordance with the provisions of the Consent Order. The affordable units shall otherwise be developed consistent with the provisions of that agreement and the terms of this settlement agreement. The Township agrees during the compliance phase to take all necessary steps to provide a realistic opportunity for the 100 affordable family units by, among other things, adopting ordinances, and amending redevelopment plans.
2. Paragraph 13 of the Agreement is hereby replaced with the following paragraph 13:
13. As an essential term of this settlement, within one hundred and twenty (120) days of Court's approval of the April 20, 2017 settlement agreement at a fairness hearing, the Township shall introduce and adopt a revised Housing Element and Fair Share Plan and Spending Plan consistent with this Agreement and ordinances providing for the amendment of the Township's Affordable Housing Ordinance and Zoning Ordinance, and redevelopment plans, to implement the terms of this settlement agreement and the zoning contemplated herein.
3. Prior to becoming effective, the Agreement and the modifications referenced in this Supplemental Agreement must be approved by the Court following a fairness hearing as required by *Morris Cty. Fair Hous. Council v. Boonton Twp.*, 187 N.J. Super. 369, 387-89 (Law Div. 1984), *aff'd o.b.*, 209 N.J. Super. 108 (App. Div. 1986); *EastWest Venture v. Borough of Fort Lee*, 288 N.J. Super. 311, 328-29 (App. Div. 1998). The Township shall present its planner as a witness at this hearing. FSHC agrees not to challenge a fair share plan that conforms to the terms of this agreement at the fairness hearing. In the event the Court approves this proposed settlement, the parties contemplate the municipality will receive "the judicial equivalent of substantive certification and accompanying protection as provided under the FHA," as addressed in the Supreme Court's decision in *In re N.J.A.C. 5:98 & 5:97*, 221 N.J. 1, 88 (2016). The "accompanying protection" shall remain in effect through July 1, 2026. If the Agreement and/or the modifications referenced in Supplemental Agreement are rejected by the Court at a fairness hearing, the Parties may nevertheless agree to continue the effectiveness of the Agreement as modified by this Supplemental Agreement, which

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continuation shall be documented by the exchange of letters signed by the Parties or other assignees.

4. If an appeal is filed of the Court's approval or rejection of the Agreement and/or this Supplemental Agreement, the Parties agree to defend the Agreement and/or this Supplemental Agreement on appeal, including in proceedings before the Superior Court, Appellate Division and New Jersey Supreme Court, and to continue to implement the terms of the Agreement and/or this Supplemental Agreement if the Agreement and/or as this Supplemental Agreement are approved before the trial court unless and until an appeal of the trial court's approval is successful at which point, the Parties reserve their right to rescind any action taken in anticipation of the trial court's approval. All Parties shall have an obligation to fulfill the intent and purpose of this Agreement.
6. The terms of this Supplemental Agreement may be enforced by the Parties through a motion to enforce litigant's rights or a separate action filed in Superior Court, Ocean County. A prevailing movant or plaintiff in such a motion or separate action may be entitled to reasonable attorney's fees.
6. Unless otherwise specified, it is intended that the provisions of this Supplemental Agreement are to be severable. The validity of any article, section, clause or provision of this Supplemental Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Supplemental Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections.
7. This Supplemental Agreement shall be governed by and construed by the laws of the State of New Jersey.
8. This Supplemental Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.
8. This Supplemental Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same agreement.
10. The Parties acknowledge that each has entered into this Supplemental Agreement on his own volition without coercion or duress after consulting with his counsel, that each party is the proper person and possess the authority to sign the Supplemental Agreement, that this Supplemental Agreement contains the entire understanding of the Parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.
11. Each of the Parties hereto acknowledges that this Supplemental Agreement was not drafted by any one of the Parties, but was drafted, negotiated and reviewed by all Parties and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the Parties expressly represents to the other Parties that: (i) it has been represented by counsel in connection with negotiating the terms of this Supplemental Agreement; and (ii) it has conferred due authority for execution of this Supplemental Agreement upon the persons executing it.

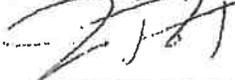
- 12. Any and all Exhibits and Schedules annexed to this Supplemental Agreement are hereby made a part of this Supplemental Agreement by this reference thereto. Any and all Exhibits and Schedules now and/or in the future are hereby made or will be made a part of this Supplemental Agreement with prior written approval of both Parties.
- 13. Any conflict between the provisions of this Supplemental Agreement and the Agreement, including any addenda to that Agreement, shall be determined in favor of this Supplemental Agreement.
- 14. No member, official or employee of the Township shall have any direct or indirect interest in this Supplemental Agreement, nor participate in any decision relating to the Supplemental Agreement which is prohibited by law, absent the need to invoke the rule of necessity.
- 15. Anything herein contained to the contrary notwithstanding, the effective date of this Supplemental Agreement shall be the date upon which all of the Parties hereto have executed and delivered this Supplemental Agreement.
- 16. All notices required under this Supplemental Agreement ("Notice[s]") shall be written and shall be served upon the respective Parties by certified mail, return receipt requested, or by a recognized overnight or by a personal carrier to the persons specified as receiving notices under the Supplemental Agreement. In addition, where feasible (for example, transmittals of less than fifty pages) shall be served by facsimile or e-mail. All Notices shall be deemed received upon the date of delivery. Delivery shall be affected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days notice as provided herein.

Please sign below if these terms are acceptable.

On behalf of Fair Share Housing Center:


 Adam M. Gordon, Esq.
 Dated: 11/22/17

On behalf of the Township of Barnegat, with the authorization of the governing body and Planning Board:


 Jerry J. Dastl, Esq.
 Dated: 11/16/17

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On behalf of 1111 West Bay and Navillus, LLC:

Dated:

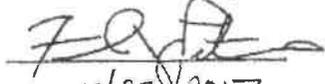
On behalf of Benjamin Hill Associates, L.P.:

Dated:

11/27/17

OCN-L-001856-15 11/07/2017 10:49:31 AM Pg 19 of 30 Trans ID: LCV2017439231

On behalf of 1111 West Bay and Nautilus, LLC:


Dated: 11/27/2017

On behalf of Barnegat Hills Associates, L.P.:

Dated: _____