

Resolution prepared by:
Marc A. Leckstein, Esquire
Leckstein & Leckstein, LLC
463 Prospect Avenue
Little Silver, NJ 07739

**RESOLUTION
GRANTING PRELIMINARY AND FINAL SITE PLAN APPROVAL**

**UNIFIED PLANNING BOARD
BOROUGH OF KEYPORT**

**BLOCK 120, LOTS 8 & 9 and BLOCK 130, LOTS 42, 48, 49, 50, 51 & 52
Application # 21-03
HUDSON POINTE AT KEYPORT, LLC
75 MANCHESTER AVENUE - HUDSON POINTE**

WHEREAS, Hudson Pointe at Keyport, LLC has applied to the Unified Planning Board of the Borough of Keyport for Preliminary and Final Site Plan Approval so as to be able to construct two (2) apartment buildings, consisting of twenty-four (24) units each, for a total of forty-eight (48) apartments, six (6) duplex units, a two-family home and two (2) single-family homes upon property located at 75 Manchester Avenue - Hudson Pointe, which is officially designated as Block 120, Lots 8 & 9 and Block 130, Lots 42, 48, 49, 50, 51 & 52 on the official Tax Map of the Borough of Keyport; and

WHEREAS, the applicant has provided notice to all property owners within two hundred feet and has caused notice to be published regarding said application in accordance with N.J.S.A. 40:55D-1 et. seq., this Board gaining jurisdiction thereunder; and

WHEREAS, a public hearing was held in the within matter at a regularly scheduled meeting of the Unified Planning Board held on August 26, 2021 during which all persons having an interest in said application were given an opportunity to be heard; and

WHEREAS, the Board having carefully considered the evidence and exhibits presented by the applicant and the review of the Borough experts;

NOW THEREFORE, be it Resolved by the Unified Planning Board of the Borough of Keyport that the following findings of facts are made:

1. This application constitutes a request for Preliminary and Final Major Site Plan approval to construct two (2) apartment buildings, consisting of twenty-four (24) units each, for a total of forty-eight (48) apartments, six (6) duplex units, a two-family home and two (2) single-family homes upon property located at 75 Manchester Avenue - Hudson Pointe, which is officially designated as Block 120, Lots 8 & 9 and Block 130, Lots 42, 48, 49, 50, 51 & 52 on the official Tax Map of the Borough of Keyport.
2. The subject property, consisting of 2.86 Acres (124,581.60 square feet), is located between Maple Place, Manchester Avenue, E. Seventh Street, and the Henry Hudson Trail. The site has approximately 415 feet of frontage on Maple Place, 275 feet frontage on Manchester Avenue and 50 feet of frontage on East Seventh Street.

3. The majority of the site is located within the Borough's Limited Industrial (LI) District and a portion (Lot 42) is located in the Residential A (RA) District. The entire site is part of the Hudson Pointe Redevelopment Plan adopted by the Borough of Keyport in June of 2020 and the proposed project complies with the specifications of that plan.
4. As originally submitted, there were two variances from the Redevelopment Plan required by this application. These consisted of the following:
 - a) Fencing: A 6 foot high opaque fence of durable material is required along adjoining property lines of all residentially zoned properties, whereas the proposed fencing is not provided along all adjoining properties.
 - b) Landscaped Buffer: A landscaping buffer is required between the site and all adjacent or adjoining residentially zoned properties, whereas the proposed plan does not provide a continuous buffer along Residential Lots 41, 47 and 53.

Both of these variances were being requested based upon aesthetic considerations as they allowed for a better development than forcing fencing and landscaped buffers into awkward areas. These benefits were demonstrated within the drawings and plans submitted into evidence as identified below. There were no negatives associated with the proposal. As this was a redevelopment zone, it was vital for the entire Borough that it be constructed in the most aesthetically pleasing manner. Accordingly, the variance could be granted pursuant to the provisions of N.J.S.A. 40:55D-70(c)(2).

5. Beyond the originally required variance relief, there were also two additional variance requests which arose due to requests made by the Board during the course of the application. It should be clear that these variances were created by the Planning Board's desire to improve the site plan and not at the suggestion of the applicant which was prepared to proceed in compliance with the adopted Plan. Specifically the necessary variance relief, which could be granted pursuant to the provisions of N.J.S.A. 40:55d-70(c)(2), is as follows:
 - a) Replacement of a proposed Community Club House with recreation space. The Redevelopment Plan specifically required a Club House be constructed. However, due to the Club House's proximity to the Henry Hudson Trail (it was immediately adjacent to it) and the County of Monmouth's insistence that the structure be shifted away from the Trail, five (5) parking spaces would be lost. As the Planning Board recognizes the importance of having as many parking spaces available for the development as conceivably possible, it was determined that the Club House should be eliminated from the project and replaced with a common recreation space with appropriate amenities such as a swing and adult exercise equipment. Not only would such properly designed recreation space allow for a place in which the children who

would live in the development could play, something which would not have existed if a Club House was present, but it would also allow the five (5) originally proposed parking spaces to remain. The Board finds that the benefits to the entire Borough of retaining those five (5) parking spaces surely outweighs the benefit of forcing the applicant to build the required Club House. Since the Club House would be replaced with recreation space, including amenities for children that would otherwise be lacking, the Board is unable to envision any negatives that arise by the change in amenities.

- b) Shifting of the proposed two-family home located on East Seventh Street (Lot 42) so as to create a rear yard setback of 40 feet whereas the ordinance requires a setback of 50 feet. This variance condition was a result of the recommendation of the Board's Engineer, Francis W. Mullan, P.E., C.M.E., in order to ensure that the two-family home would have enough depth to support a two car driveway. As originally proposed, the home would have had room for a four car parking area which looked more like a parking lot than a driveway. The revised proposal offered by the Board's Engineer would ensure that the parking area took the form of a normal residential driveway so as to improve the aesthetics of the property. The 10 foot setback variance (40 feet instead of 50 feet) was necessary to achieve this feature. The Board finds that the benefits to the entire Borough of ensuring proper aesthetics for the new development outweigh the benefits of strict adherence to the zoning ordinance. Forcing the applicant to comply with the ordinance on this feature would result in a unattractive parking area which would not blend well with the area and therefore create a negative for the community.
- 6. During all portions of these proceedings, the applicant was represented by its legal counsel, Salvatore Alfieri, Esquire of the law Cleary, Giacobbe, Alfieri, Jacobs, LLC which has offices located at 955 State Route 34, Suite 200, Matawan, New Jersey.
- 7. In support of the application, the following exhibits were marked into evidence by the applicant:
 - Exhibit A-1 :** Boundary & Topographic Survey dated May 7, 2019, revised through June 16, 2019 as prepared by WJH Engineering
 - Exhibit A-2:** Architectural Plans dated November 12, 2020, revised through May 13, 2021 as prepared by Monteforte Architectural Studios
 - Exhibit A-3:** Site Plan For Hudson Pointe, dated October 30, 2020, last revised May 14, 2021, as prepared by WJH Engineering
 - Exhibit A-4:** Pre and Post Development Drainage Area Maps, dated October 30, 2020, as prepared by WJH Engineering (Consisting of Two Sheets)
 - Exhibit A-5:** Stormwater Management Report, dated October 30, 2020, revised through May 14, 2021, as prepared by WJH Engineering

- Exhibit A-6:** Traffic Impact Analysis, dated April 6, 2021, as prepared by McDonough & Rea Associates
- Exhibit A-7:** Environmental Impact Statement, dated April 25, 2021, as prepared by Dubois and Associates, LLC.
- Exhibit A-8:** Portable Water Report, dated May 14, 2021, as prepared by WJH Engineering.
- Exhibit A-9:** Sanitary Sewer Report, dated May 14, 2021, as prepared WJH Engineering
- Exhibit A-10:** Preliminary & Final Site Plan Colorized Rendering as prepared by WJH Engineering
- Exhibit A-11:** Colorized Elevations and Renderings as prepared by Monteforte Architectural Studios
- Exhibit A-12:** Material Board showing shades of building exteriors
8. Beyond the exhibits marked into evidence by the applicant, the Board also marked its own exhibits into evidence as follows:

Exhibit B-1: "First Engineering & Planning Review" letter dated July 30, 2021 as prepared by Francis W. Mullan, P.E., C.M.E. and Stanley Slachetka, P.P., A.I.C.P. of T&M Associates.
 9. Both the Board Engineer, Francis W. Mullan, P.E., C.M.E. and Board Planner Kendra A. Lelie, P.P., AICP both of T&M Engineering were present at the meeting. Both professionals were sworn and confirmed the information contained within the Engineering and Planning Review letter (**Exhibit B-1**), which is incorporated into this Resolution by reference.
 10. In support of the application, the applicant presented sworn testimony from its professional engineer, Walter J. Hopkin, P.E. of WJH Engineering.
 11. Mr. Hopkin, relying primarily upon the colorized site plan rendering marked into evidence as **Exhibit A-10**. He explained the particulars of the proposed development, noting that the applicant was proposing to demolish existing vacant industrial buildings and replace them with the new structures noted in Paragraph 1 of this Resolution. The surrounding uses consisted of the Henry Hudson Trail and residential development.
 12. It was noted that the plan also included construction of a new two-family home along East Seventh Street (Lot 42), as discussed in Paragraph 5(b) of this Resolution. This new home would replace an existing two-family home currently located at One Maple Place which is going to be demolished in order to provide additional property for the new development. The new two-family house would remain under the ownership of the existing home's current owner, rather than the applicant. As a condition of approval, it was agreed that this new two-family home would nevertheless be constructed in a manner that matched the aesthetics of those existing residential properties near Lot 42, so as to ensure it would not stand out in a negative fashion in the neighborhood. .

13. Mr. Hopkin further noted that the single family homes which were going to be built as part of the project would not be maintained by the developer. Instead they would be sold off to private owners after construction. It had yet to be determined whether the apartment buildings and the duplexes would be kept under the developers control or be sold off as condominiums. Those decisions would be market driven in the future.
14. Mr. Hopkin noted that the applicant would be supplying 135 parking spaces in conjunction with the project. This was more than the 128 spaces required by the Redevelopment Plan. Accordingly, all parking requirements had been satisfied. The majority of the parking spaces would be exclusive to the apartment complex and duplexes. The parking would be permitted by management. However, as a condition of approval, the applicant assured the Board that the seven (7) parking spaces located along Maple Place, between the proposed apartment buildings and Manchester Avenue, would remain as public parking spaces rather than being only available to the new development.
15. It was noted the parking spaces proposed by the applicant would be 9 feet x 18 feet which, while complying with RSIS requirements, require a design waiver since the zoning ordinance requires spaces of 9 feet x 20 feet. The Board Engineer had no objection to this request.
16. As a condition of approval, the applicant agreed to enter into an easement agreement with the Borough to maintain the new roadway improvements. This agreement would be subject to review and approval of the Board Attorney and the Board Engineer.
17. As to the development itself, Mr. Hopkins indicated that there would be two (2) gazebos and three (3) electric charging stations for vehicles to utilize. The applicant would also be providing 384 shrubs and 283 trees. Additionally, decorative lighting would be installed by the Henry Hudson Trail. This was all shown on the site plan. (Exhibit A-3) As an overall condition, the applicant agreed to work with the Board's Engineer and Planner on solidifying the landscaping plan for the site.
18. As improved aesthetics was vital to the project, the applicant also agreed, as a condition of approval that all of the utilities for the project would be located underground.
19. It was also agreed, for aesthetical purposes, that a three (3) foot fence, with appropriate plantings, rather than a six (6) foot fence, would be installed along the portion of any residential property facing Maple Place. Additionally, it was agreed that at the front corner of any new home, fencing would step down to three (3) feet until it reached the public right of way. As mentioned in Paragraph 4 of this Resolution above, the existence of a three (3) foot fence was contrary to the six (6) foot fence requirement contained within the Redevelopment Plan. Yet for the reasons stated in Paragraph 4, the Board felt such variance relief was appropriate for these areas.

20. On the subject of trash collection, Mr. Hopkin noted that the duplexes and single family homes would follow normal trash collection procedures and bring cans to the curb for pick-up. With respect to the apartments, there would be a dumpster enclosure area located between the two buildings. Two (2) dumpsters would be located in this space. This was depicted on **Exhibits A-3 and A-10**. As a condition of approval, the dumpsters would have secure self closing rainproof lids. This would be true for both the refuse and recycling receptacles.
21. In response to Board concerns over the two dumpsters being proposed not being sufficient to accommodate both buildings, the applicant also agreed as a condition of approval to add an additional dumpster for Apartment Building # 1, if sufficient space could be found to locate it. That determination would be subject to the review and approval of the Board Engineer. If the Board Engineer did not believe an additional dumpster could be included, this condition would be moot and the applicant could proceed with its development.
22. It was made clear that the garbage pick-up for the apartment buildings, as well as the duplexes which would be constructed, would be by private hauler. This would be a condition of approval.
23. With respect to water runoff drainage from the site, Mr. Hopkin relied upon his stormwater management report. (**Exhibit A-5**) This report established that existing conditions would be improved after construction. With that said, as a condition of approval, it was agreed that a proper drainage detail would be supplied for the Board Engineer's review and approval.
24. To promote overall safety within the community Mr. Hopkin indicated that the applicant would make the new development subject to Title 39 jurisdiction so as to ensure it could be properly patrolled by the Borough's Police. This would be a condition of approval.
25. With respect to concern over the proper location for fire hydrants within the development, the applicant agreed to comply with the recommendations of the Borough's Fire Official. This would be a condition of approval.
26. In all, Mr. Hopkin indicated that he believed the site plan (**Exhibit A-3**) had been prepared appropriately and function as intended. He could not perceive of any reason why it would act as a detriment to the community.
27. Finally, it was agreed, as a condition of approval, that the applicant would comply with all of the recommendations contained within the Engineering and Planning Review Letter marked into evidence as **Exhibit B-1**.
28. In further support of the application, sworn testimony was also presented by the applicant's professional architect, James Monteforte, P.E. of Monteforte Architectural Studio, LLC.

29. Mr. Monteforte, relying upon **Exhibits A-2, A-11 and A-12**, explained the general features of what the applicant was proposing.
30. Focusing primarily on the proposed apartment buildings, Mr. Monteforte noted that each unit would have their own laundry and storage units so to make them self sufficient.
31. Mechanicals for the apartment buildings would be located on the roofs in a manner which would keep them from being seen from the ground.
32. It was noted that each unit would have their own balcony. Mr. Monteforte noted that the buildings had been designed to minimize exposure of these balconies onto neighboring residential properties along Fulton Street. Only the four (4) center balconies would overlook these adjacent properties.
33. Mr. Monteforte made clear that the apartment buildings and the duplexes would follow a consistent aesthetic scheme so as to make it a truly cohesive development. This was shown on the elevations marked into evidence as **Exhibit A-11**. Additionally, the exteriors would utilize the materials shown on the board marked into evidence as **Exhibit A-12**.
34. The applicant also presented testimony from its developer and property owners, John Kling and Len Rubenstein who both made clear their desire to work with neighboring property owners to make sure they would not be negatively impacted by the development.
35. No one else testified on behalf of the applicant.
36. The Board Professionals indicated that they had no objections to the proposed site plan, from an engineering and planning perspective, provided the comments within their review letter (**Exhibit B-1**) were adhered to.
37. The following members of the public did speak with respect to the application:
 - (a) **Frank Muccino, 15 Haven Way:** Mr. Muccino expressed concerns about water run off from the site. He was assured that the situation would be better than it currently is, as set forth within the storm water management report. (**Exhibit A-5**)
 - (b) **Christa Weston, 64 Fulton Street:** Ms. Weston, whose property is located directly behind the proposed apartment building trash enclosure area, expressed concern over how that area would impact her quality of life. It was noted that the dumpsters would be sealed and kept as orderly as possible.
 - (c) **Joe Walling, 197 7th Street:** Mr. Walling expressed concern as to the impact of the development on available public parking in the area and lighting from the new homes infringing on his property. It was noted that there was plenty of parking available in the development. Additionally, a six foot high fence would run the majority of the development to ensure his privacy.

- (d) **Mark Zibro, 3 Maple Place :** Mr. Zibro also expressed concern as to the availability of parking in the area once the development was completed. He noted that he has multiple vehicles and has grown to rely upon the fact that no one else parks along Maple Place to accommodate his parking needs. It was noted that these spaces along Maple would remain public parking spaces. Additionally, Mr. Zibro expressed concern over adequate buffering between his home and the parking lot which would be located to the rear of his property. It was ultimately agreed that the applicant would work with Mr. Zibro to install plantings and new fencing on his property if he wished them to do so. However, Mr. Zibro's requests for these items would have to be reasonable in nature and if reasonableness became an issue, it would be left to the Board Engineer's discretion whether the applicant needed to proceed with such improvements or not.
- (e) **Michael Lane, 51 First Street:** Mr. Lane expressed concerns over drainage from the site adversely impacting the Henry Hudson Trail. In furtherance of his concerns he submitted the following exhibits into evidence:

Exhibit L-1: Photographs of a drainage ditch which Mr. Lane took in 2007 at the south side of the Henry Hudson Trail.

Exhibit L-2: Two (2) photographs taken August 26, 2021 by Mr. Lane took showing current conditions along the Henry Hudson Trail.

To these concerns, the applicant reiterated that it would actually be improving the existing conditions at the site. It was also noted that they would be in compliance with all DEP regulations.

38. After considering all of the testimony and evidence placed into evidence, and assuming all representations are adhered to, the Board finds that the proposed site will function properly as proposed under the plans that have been submitted to the Board. There has not been any evidence presented to the Board as to why the site would not function as designed.
39. The requested variances are limited and were all discussed earlier in this resolution. Otherwise, the application completely conforms to the Redevelopment Plan which was adopted by the Borough Council.
40. Based upon all of the above, the Board finds that the applicant has met its burden in establishing that it is entitled to the requested preliminary and final site plan approval, with associated variances, and therefore such should be granted as requested.

NOW THEREFORE, be it further resolved by the Unified Planning Board of the Borough of Keyport that the application of Hudson Pointe at Keyport, LLC seeking preliminary and final major site plan approval, along with the associated variance relief and waivers, be granted subject to the following conditions:

1. Except as required to be revised within this Resolution, subject to the applicant's substantial adherence to the plans and reports submitted into evidence by the applicant as identified in paragraph 7 of this Resolution above.
2. Subject to the condition that the new two-family home to be built upon current Lot 42 be constructed in a manner which matches the aesthetics of the neighboring residential properties so as to ensure it remains consistent with the area. Said aesthetics to be subject to the review and approval of the Board Planner.
3. Subject to the plans being revised to shift the new two-family home to be built upon current Lot 42 so that it can accommodate a two car wide driveway so as to be able to accommodate four (4) vehicles. Said revisions to be subject to the review and approval of the Board Engineer.
4. Subject to the plans being revised so as to eliminate the Club House and replace it with a recreational open space with appropriate amenities such as a swing and adult exercise equipment. Said revisions and proposed amenities shall be subject to the review and approval of the Board Engineer and Planner.
5. Subject to the condition that the seven (7) parking spaces located along Maple Place, between the proposed apartment buildings and Manchester Avenue, remain as public parking spaces rather than being only available to the new development.
6. Subject to the condition that the applicant enter into an easement agreement with the Borough to maintain the roadway improvements which are going to be made. This agreement would be subject to review and approval of the Board Attorney and the Board Engineer.
7. Subject to the condition that the applicant work with the Board's Engineer and Planner on solidifying the landscaping plan for the site. Said final plans to be subject to the Board Engineer and Planner's review and approval.
8. Subject to the condition that all of the utilities for the project be located underground.
9. Subject to the condition that the plans be revised to show a three (3) foot fence with appropriate plantings, rather than a six (6) foot fence, being installed along the Maple Place side of any residential property. Additionally, at the front corner of any new home, fencing would step down to three (3) feet until it reached the public right of way.
10. Subject to the condition that all dumpsters utilized in the development, for both refuse and recycling purposes, have secure self closing rainproof lids.
11. Subject to the condition that, if possible, a third dumpster shall be added at the exterior of Apartment Building # 1. The determination of whether the installation of this third dumpster, which must be in an enclosure area, can fit within the area, shall be subject to the review and approval of the Board Engineer. If the Board Engineer concludes it cannot be appropriately added, this condition shall be rendered null and void.

12. Subject to the condition that garbage pick-up for the apartment buildings, as well as the duplexes, will be by private hauler.
13. Subject to the condition that the applicant supply a proper drainage detail to the Board Engineer for his review and approval.
14. The applicant shall make the development subject to Title 39 jurisdiction.
15. Subject to the condition that the applicant comply with the recommendations of the Borough's Fire Official as to the placement of fire hydrants.
16. Subject to the applicant attempting to meet the requests of Mark Zibro, the owner of 3 Maple Place, to install fencing and plantings which will act as a buffer between his property and the new development. With the above said, if the applicant believes Mr. Zibro is being unreasonable in his requests, it may turn to the Board Engineer for his opinion on same. If the Board Engineer concludes that the requests are indeed unreasonable, this condition would be rendered null and void.
17. The applicant agreed that it would comply with all of the comments contained within the Board Engineer and Planner's Review Letter dated July 30, 2021 which was marked into evidence as **Exhibit B-1**.
18. All representations made under oath on behalf of the applicant, or by its agents, shall be deemed conditions of this approval, and any misrepresentations or actions by the applicant contrary to the representations made before the Board shall be deemed a violation of this amended approval.
19. This application is granted only in conjunction with the conditions noted herein and but for the existence of the same, the within amended application would not be approved.
20. Subject to any and all other approvals as may be required by the Borough, County, State or Federal regulations, including, but certainly not limited to, all applicable building and construction codes.
21. Subject to the payment of any fees, escrows and taxes as may be due the Borough, prior to the issuance of a building permit.
22. This approval shall be deemed void by abandonment if a building permit is not applied for within one year of the date hereof.
23. Subject to all laws and ordinances enacted by either the State or the Borough relative to Affordable Housing, including, but certainly not limited to, payment of any required fees.
24. The action of the Unified Planning Board in approving this application shall not relieve the applicant of responsibility for any damage caused by this project, nor does the Unified Planning Board or its reviewing professionals and agencies accept any responsibility for the structural design of the proposed improvements or for any damage that may be caused by the development.

25. The applicant must publish adequate notice of this Resolution in the official newspaper of the Borough of Keyport at their sole cost, within ten days, and provide proof of publication to the Board Secretary within thirty days.

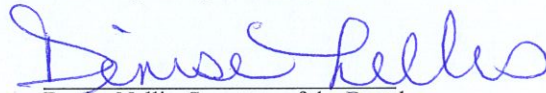
The foregoing was Moved by Mayor Kennedy, second by H. Aumack
and on Roll Call, the following vote was recorded:

Affirmative: Mayor Kennedy, H. Aumack, D. Pacheco, J. Royster, M. Sessa

Negative:

Abstentions: Councilmember Davidson (was not present for the hearing of this application)

The foregoing is a true copy of a Resolution adopted by the Unified Planning Board of the Borough of Keyport as copied from the Minutes of its meeting on September 23, 2021.



Denise Nellis, Secretary of the Board