

**RESOLUTION
GRANTING AMENDED PRELIMINARY AND FINAL MAJOR SITE PLAN APPROVAL
REDUCING PREVIOUSLY APPROVED BUILDING FOOTPRINT
WITH AN INCREASE IN
ALLOCATED PARKING SPACES**

**UNIFIED PLANNING BOARD
BOROUGH OF KEYPORT**

**BLOCK 116 LOT 1; BLOCK 133, LOT 1; BLOCK 117, LOT 1;
BLOCK 118, LOTS 7 & 8; BLOCK 132, LOT 1;
BLOCK 134, LOTS 47, 48, 49, 50 and 51
Application # 05-13
KEYPORT REALTY DEVELOPMENT LLC
101 GREEN GROVE AVENUE**

WHEREAS, Keyport Realty Development LLC has was granted Preliminary and Final Major Site Plan Approval to construct a 3.5 story 24 unit apartment building by way of a Resolution adopted by the Unified Planning Board of the Borough of Keyport on December 10, 2015; and

WHEREAS, the applicant has now returned to the Board seeking amended Preliminary and Final Major Site Plan Approval which would reduce the previously approved apartment building by approximately 5,000 square feet and increase the parking spaces originally provided by three (3) additional spaces; and

WHEREAS, Board Members John J. Kovacs and Jacqueline Kovacs-Olsen have recused themselves from all aspects of this application due to having property interests located within 200 feet of property involved with this application; 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 on the application was conducted in the within matter during a regularly scheduled meeting of the Unified Planning Board held on August 24, 2017 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 by the applicant, Keyport Realty Development, LLC, for amended preliminary and final major site plan approval, for the 3.5 story apartment building with 24 apartments, a gym, common room and associated building and surface parking on property officially known as Block 116, Lot 1 and Block 133, Lot 1 on the official tax map of the Borough of Keyport. The initial preliminary and final major site plan approval was granted by the Board by way of a Resolution adopted on December 10, 2015.

2. The applicant is seeking to reduce the size of the previously approved apartment building and to increase the available parking by three (3) spaces.
3. During all portions of these proceedings, the applicant was represented by Christopher J. Hanlon, Esquire of the law firm Hanlon, Niemann & Wright which has offices located at Juniper Business Plaza, 3499 Route 9 North, Suite 1-F, Freehold, New Jersey.
4. In support of the application, the following exhibits were marked into evidence by the applicant:

- Exhibit A-1 :** "Application To The Keyport Unified Planning Board"
- Exhibit A-2 :** "Preliminary and Final Major Site Plan" prepared by Michael Geller, P.E. of Geller, Sive & Company dated June 12, 2015, last revised March 23, 2017. (consisting of 12 sheets)
- Exhibit A-3 :** Architectural Plans and Elevations prepared by John M. Montoro, A.I.A. of The Montoro Architectural Group dated March 19, 2015, last revised January 26, 2017.
- Exhibit A-4 :** Correspondence dated May 17, 2017 captioned as "CAFRA Requirements For Proposed Parking Area at Green Grove Associates" prepared by Andrew L. French, PE of French & Parrello Associates.
- Exhibit A-5:** Revised version of Sheet F1.1 of **Exhibit A-3** with comments written upon it prepared by John M. Montoro, A.I.A.
- Exhibit A-6:** Amendment to "Building Summary Chart" as listed on **Exhibit A-5**. (Actual numbers are highlighted on sheet)
- Exhibit A-7:** Originally approved Site Plan, as revised through October 10, 2016.
- Exhibit A-8:** Conceptual site plan for proposed parking area at Green Grove Apartments as prepared by French & Parrello dated September 12, 2016, last revised October 19, 2016.

5. Beyond the exhibits marked into evidence by the applicant, the Board also marked its own exhibits into evidence as follows:

- Exhibit B-1:** "Resolution of Approval For Bifurcated Use Variance Approval For the Purpose of Constructing a Four Story Apartment Building With Twenty-Six (26) Dwelling Units and Associated Parking Where Such A Use Is Not Permitted" adopted by the Unified Planning Board of Keyport on January 23, 2014.
- Exhibit B-2:** "Resolution Granting Preliminary and Final Major Site Plan Approval With Height and Sign Area Variances So As to Construct A 3.5 Story Apartment Building With a Total of 24 Dwelling Units" adopted by the Unified Planning Board of Keyport on December 10, 2015.
- Exhibit B-3:** "First Engineering and Planning Review" letter authored by Francis W. Mullan, P.E., C.M.E. and Donna Miller, AICP, PP, of T&M Engineering.

6. Both the Board Engineer, Fran Mullan, P.E., C.M.E. and Board Planner Donna Miller, AICP, PP, of T&M Engineering were present at the meeting. Both professionals were sworn and certified as to the information contained within the T&M Engineering Review letter which was marked into evidence as **Exhibit B-1** and incorporated into this Resolution by reference.

7. In support of the application, the applicant presented sworn testimony from its professional architect, John M. Montoro, A.I.A. of the The Montoro Architectural Group which has offices at 150 West Saddle River Road, Saddle River, New Jersey.
8. Mr. Montoro relying upon **Exhibits A-5 and A-6** explained that the applicant was proposing to reduce the size of the building which had been previously approved by the Board. The new total figures being proposed were all listed within the "Building Summary Chart" which had been marked into evidence as **Exhibit A-6** and were as follows:

Floor In Question	Total Floor Area	Number of Bedrooms
1 st Floor Area	6,245 square feet	4 (2 Bedroom units)
2 nd Floor Area	10,660 square feet	10 (2 Bedroom units)
3 rd Floor Area	10,646 square feet	10 (2 Bedroom units)

TOTAL BUILDING AREA SUMMARY

Floor Level	Unit Floor Area	Building Common Area	Total Area	Total Units
First Floor	3,886 Sq. Ft.	2,359 Sq. Ft.	6,245 Sq. Ft.	4 (2-BR)
Second Floor	9,639 Sq. Ft.	1,021 Sq. Ft.	10,660 Sq. Ft.	20 (2-BR)
Third Floor	9,639 Sq. Ft.	1,007 Sq. Ft.	10,646 Sq. Ft.	
Sub-Total	23,164 Sq. Ft.	4,387 Sq. Ft.	27,551 Sq. Ft.	24 Units (2-BR)/ Community Areas

9. Mr. Montoro indicated that while the previously approved building had a length of 249 foot 6, the newly proposed dimensions would be 180 foot 6 lengthwise, a difference of 69 feet. From a width perspective, the previously approved building footprint had a dimension of 71.11 feet because there were stairs jutting out. As those stairs were now removed from the plans, and only the building itself was being measured, the width dimension was reduced to 60 foot 2 ½.
10. Mr. Montoro also noted that while the amended plan had the same number of apartment units as the previously approved plan, the setup had changed. Previously the first floor held single level units while the second and third floors had multiple level units. Now each of the floors would house single level units.
11. The edifice of the building was going to be changed as well. The previously approved building had dormers which, in Mr. Montoro's opinion had made the structure a bit awkward looking. The revised application now has the building exterior divided into sections, each with its own architectural style. This breaks the building up aesthetically and make it more pleasing to the eye. This was shown in elevations included with **Exhibit A-3**.

12. Reflecting upon the Board's concern in the previous application over the possibility of dens being turned into bedrooms, Mr. Montoro noted that those dens had been completely removed from all of the units in the amended application.
13. The applicant also presented testimony from its property manager, Christopher Knight, who spoke, with regard to the re-designed gym space and the new community room that was going to be constructed in the new building. He noted that the operations of the gym would ultimately be left up to the management of the building and that the new community room would be available to allow space for small meetings. It was acknowledged the gym amenity was being reduced from a previously envisioned 700 sq. ft. to a little less than 400 sq. ft.
14. The applicant recognized adequacy of the gym was a concern for the Board and therefore proposed to add an additional recreational element on the Green Grove Apartment property located across the street. That property had been made a part of this application during the original proceedings. Specifically, condition # 7 of the December 10, 2015 Resolution (**Exhibit B-2**) had required an access easement between the new property and the Green Grove Apartments to ensure residents of both properties would be able to use the new building's gym facilities. The applicant was not looking to be relieved from condition # 7, but was willing to offer more in light of the proposed reduction in available gym space.
15. It was the applicant's new proposal that the former swimming pool area of the Green Grove Apartments could be utilized as outdoor recreation space for both the residents of the new building and residents of the Green Grove Apartments. This area was delineated on a conceptual site plan marked into evidence as **Exhibit A-8**. The abandoned swimming pool area had been discussed extensively during the course of the original application. Condition # 11 of the December 10, 2015 Resolution (**Exhibit B-2**) had required the applicants to seek a wetlands delineation from the New Jersey Department of Environmental Protection related to the possibility of constructing a new parking area at that exact location.
16. With regard to condition # 11, the applicant presented sworn testimony from its environmental engineer Andrew L. French, P.E. of French and Parrello Associates, which has offices located at 1800 Route 34, Suite 101, Wall, New Jersey.
17. Mr. French directed the Board to his correspondence dated May 17, 2017 (**Exhibit A-4**), which included a letter from the DEP dated October 25, 2016 stating a CAFRA permit would be required to allow parking on the delineated area. Based upon that finding by the DEP, and his knowledge of the department's administrative code, Mr. French did not believe the applicant would ever be permitted to construct parking spaces over the former swimming pool area. The applicant was therefore asking to have condition # 11 of the December 10, 2015 Resolution (**Exhibit B-2**) waived.

18. As the applicant was seeking to have condition # 11 of the December 10, 2015 Resolution (**Exhibit B-2**) waived, it was now proposing to utilize the former swimming pool area (**Exhibit A-8**) as a site for outdoor recreation activities designed to serve residents of both the Green Grove Apartments and the newly proposed building. It was made clear that DEP regulations would not allow the installation of any permanent recreation equipment to be installed on the site, however temporary recreation related amenities, such as a volleyball net, could be utilized. As a condition of approval, the applicant agreed to work with the Board's Planner to determine what types of recreational activities could be conducted at the location without violating DEP regulations. The applicant agreed it would implement those recreation activities which the Board Planner approved. The conducting of the approved recreation activities by the applicant would be a continuing obligation under the terms of this Resolution and a recreation easement will need to be provided by the owner of the Green Grove Apartments to ensure that the residents of the new building will always have access for recreation purposes to the portion of the Green Grove Apartment property identified in **Exhibit A-8**. The agreement to this condition was stated by the developer for the applicant, Gilbert Rivera, who testified in support of the application.
19. Prior to the area delineated on **Exhibit A-8** being utilized for recreation purposes, it was going to be utilized for provide parking during the construction phase of the new building. This had been approved by the DEP. After construction of the new building is completed, the area would restored to a lawn surface for the recreational activities to be conducted upon.
20. As a permanent parking area would not be constructed in the area delineated on **Exhibit A-8**, the applicant had instead maximized whatever space it could from the design of the new building to provide additional parking spaces for the project. Three additional parking spaces were going to be provided, bringing the total of spaces available for the new building from the originally proposed 57 spaces to a new total of 60 spaces. This was shown on the site plan marked into evidence as **Exhibit A-2**. This testimony was presented by the applicant's site engineer, Michael Geller, P.E. of Geller Sive & Company having its offices located at 958 Adelphia Road, Adelphia, New Jersey.
21. Addressing comment 10.3 of the Board's First Engineering and Planning Review Letter (**Exhibit B-3**), requiring the applicant to remove the stockpile located within the existing Conservation Easement, the applicant agreed as a condition of approval that no Certificates of Occupancy would be issued for the new building until the comment was satisfied.
22. There was also an issue raised during the course of the hearing as to the height of a retaining wall with a fence set on top of it that was going to be installed on the property. The total height was anticipated to be 54 inches for the retaining wall with a 42 inch high fence set on

top of it, for a total of 96 inches. It was noted that this height would only be visible from the existing wetlands. To anyone viewing the structure from the land side of the property, it would have the appearance of a four (4) foot fence. The Board's Engineer agreed that this retaining wall/fence combination could be approved by way of a design waiver.

23. No one else testified on behalf of the applicant with respect to the application.
24. The following members of the public did speak on the proposed amendment, specifically noting their concerns over the current operations of the Green Grove Apartments with regard garbage enclosure areas and parking:
 - 1) Michael Lane - 51 First Street, Keyport
 - 2) John Kovacs - 33 Eighth Street, Keyport
 - 3) Collette Kennedy - 421 Atlantic Street, Keyport

It was the applicant's position that both issues would be addressed as part of the project based upon conditions included in the original approval which still applied.

25. No one else from the public spoke with respect to this application.
26. In considering this application, the Planning Board finds that the requested amended preliminary and final major site plan approval can be granted provided the applicant adheres to all of the conditions contained within the original Resolutions (**Exhibits B-1 and B-2**) with the exception of condition # 11 of the December 10, 2015 Resolution (**Exhibit B-2**) which the Board agrees can be waived since it does appear to be unlikely that a parking area will ever be approved over the former Green Grove Apartments swimming pool area. (**Exhibit A-8**).
27. The applicant notes that the changes being proposed in this amendment are actually to the benefit of the Borough since the proposed new building is actually being reduced in size rather than increased and will be more attractive under the design. Additionally, the revised plans allow for three (3) parking spaces more than the original proposal would have.
28. It must be noted however that the Board remains concerned about the reduction in available recreation at the new building. It therefore makes clear that this amended approval is only being granted based upon the applicant's agreement that a new active recreation area will be created once construction is completed in the former swimming pool area which is delineated on **Exhibit A-8**. This space must be made available for recreation for residents of both the new building and the Green Grove Apartments. Additionally, nothing about this new recreation area shall be read as relieving the applicant from its obligation under the original approval to allow Green Grove Apartment residents access to the new building's gym.
29. The Board also agrees the applicant should be granted a design waiver to allow for construction of a 96 inch high retaining wall/fence so as to better protect the property.

30. After considering the testimony and evidence placed into evidence, and assuming all representations are adhered to, the Board finds that proposed site will function properly as proposed under the amended plan. As a result, the Board finds that the requested amended preliminary and final major site plan approval may be granted.

NOW THEREFORE, be it further resolved by the Unified Planning Board of the Borough of Keyport that the application of Keyport Realty Development, LLC seeking amended preliminary and final major site plan approval, with the associated design waiver, at premises commonly known as 101 Green Grove Avenue, and officially designated as Block 116; Lot 1 and Block 133, Lot 1 on the official Tax Map of the Borough of Keyport be granted subject to the following conditions:

1. Subject to the continued adherence to all conditions of approval contained within the Resolution of Approvals dated January 23, 2014 (**Exhibit B-1**) and December 10, 2015 (**Exhibit B-2**) with the exception of condition # 11 in the December 10, 2015 Resolution which is hereby being waived.
2. Subject to the applicant's adherence to the plans and reports submitted into evidence by the applicant as identified in paragraph 4 of this Resolution above.
3. Subject to the applicant's compliance with the Engineering and Planning Review letter marked into evidence as **Exhibit B-3**.
4. Subject to the condition that the applicant will not be issued any Certificates of Occupancy until the stockpile noted within comment 10.3 of the Engineering and Planning Review letter (**Exhibit B-3**) has been removed in its entirety.
5. Subject to the condition of the applicant providing a space at the Green Grove Apartments, in the former swimming pool space delineated in **Exhibit A-8**, so as to provide an additional recreational area for residents of both the Green Grove Apartments and the newly proposed building. An access easement shall be provided and recorded with the county clerk ensuring that residents of both properties will have access to this new recreation area. Said easement to be submitted to the Board's attorney and its engineer for review and approval prior to its recording with the Monmouth County Clerk's Office. It is recognized that this space will not be constructed until after construction of the new building has been completed since the space will be utilized as a temporary parking area during the construction process.
6. Subject to the condition that the types of recreation to be provided in the new recreation area being constructed pursuant to the previous condition will be determined by the applicant in consultation with the Board's Planner who shall have final approval over what will be offered. The types of recreation to be held will be those allowable by the DEP within the designated space. The obligation of the applicant to offer the approved types of recreation in the designated space shall be a continuing condition of this resolution.

7. 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.
8. This amended 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.
9. Subject to any and all other approvals as may be required by the Borough, County, State or Federal regulations.
10. Subject to the payment of any fees, escrows and taxes as may be due the Borough, prior to the issuance of a building permit.
11. 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.
12. The action of the Unified Planning Board in approving this amended 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.
13. 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.

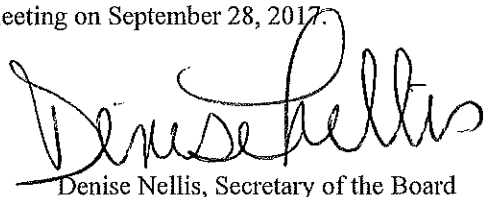
The foregoing was moved by M. Sessa, seconded by K. Davidson and on Roll Call, the following vote was recorded:

Affirmative: N. Vecchio, M. Sessa, L. Davidson, D. Fotopoulos, J. Oviedo

Negative:

Abstentions: R. Benedict

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 28, 2017.



Denise Nellis, Secretary of the Board