

**BOROUGH OF NEW PROVIDENCE
PLANNING BOARD
GH NP CENTRAL, LLC**

RESOLUTION

WHEREAS, GH NP Central, LLC (the “Applicant”) is the owner of property located at 730 Central Avenue and 111 Spring Street (Block 210, Lots 20.01, 22 and 32), with frontage on Central Avenue and Spring Street, in the A4 Affordable Housing Zone (the “Site” or “Property”), and has applied to the Planning Board of the Borough of New Providence (the “Board”) for preliminary and final site plan approval, variance and design waiver relief, in connection with the construction of an inclusionary residential development, consisting of two (2) four-story multifamily apartment buildings (84 units) with ground-floor parking garages and ten (10) three-story carriage house buildings (108 units) for a total of 192 units, 38 of which will be designated as affordable units, together with various site improvements including a clubhouse with an outdoor pool, patio, and play area; and

WHEREAS, the Applicant seeks the following bulk variance and design waiver relief:

1. A variance for a multifamily residential building having a length of 219.5 feet, whereas multifamily residential buildings are not permitted to exceed 200 feet, pursuant to Section 310-50.1J(h) of the Zoning Ordinance;
2. A variance for a freestanding sign having a setback of 2 feet from the property line, whereas freestanding signs are not permitted to be less than 15 feet from the property line, pursuant to Section 310-50.11(d) of the Zoning Ordinance¹;
3. A variance for a freestanding sign having a setback of 6 feet from Private Road “A”, whereas freestanding signs are not permitted to be less than 15 feet from internal roadways, pursuant to Section 310-50.11(e) of the Zoning Ordinance²;

¹ The Applicant subsequently modified the proposal to relocate the signs in a conforming location such that the requested relief for same was no longer required.

² The Applicant subsequently modified the proposal to relocate the signs in a conforming location such that the requested relief for same was no longer required.

4. A design waiver for no landscaping along the internal roadways, whereas a minimum three (3) foot wide landscape strip is required between the curb and sidewalk along all internal streets, pursuant to Section 310-50.1K(b)2 of the Zoning Ordinance; and
5. A design waiver for street trees planted approximately 24 feet apart, whereas the street trees are required to be planted within landscape strips at an average of 40 feet part, pursuant to Section 310-50.1K(b)3 of the Zoning Ordinance; and

WHEREAS, the Applicant served the required notices in accordance with the Municipal Land Use Law (“MLUL”); and

WHEREAS, public hearings on notice were held on such application on October 19, November 9, and December 14, 2021, at which times interested citizens were afforded an opportunity to appear and be heard; and

WHEREAS, the Board has examined, considered, and placed on file with its record all of the exhibits submitted by the Applicant; and

WHEREAS, the Board does hereby make the following findings of fact and conclusions:

1. The Property is a roughly 27 acre, irregularly shaped lot located to the southwest of the intersection of Central Avenue and Spring Street. Spring Street borders the eastern side of the Property providing access to Commerce Street, which creates the Property’s southern boundary. The Property is surrounded by the Technology and Business 2 Innovation (TBI-2) Zone and the R-2 Single-Family Zone. The Allen W. Roberts Elementary School is located to the southwest of the Property.

2. The Property is a component of the Borough’s Third Round Affordable Housing Compliance and the Borough’s Court-approved Settlement Agreement with Fair Share Housing Center. The Borough’s Housing Element and Fair Share Plan (“HEFSP”) and the Settlement Agreement provide for the construction of 192 multifamily residential units, 20% or 38 units of which are set aside as affordable units. As part of the Settlement Agreement with Fair Share Housing Center, the Applicant, through its predecessor in title and contract vendor, donated 3.4

acres of the northern portion of the Property to the Borough. The 3.4 acre lot was previously subdivided, creating Lot 20.01, which includes a soccer field and access driveway from Central Avenue.

3. The Property is presently improved with a large, one-story building and three (3) small accessory buildings. A detached garage is located to the northwest of the principal building and a small one-story brick and concrete block building northeast of Commerce Street. A cell tower enclosure is affixed to the northwest corner of the principal building. The Property also has a gate and attendant booth at the southern end of the driveway.

4. The Property is constrained by several easements, including a 20-foot-wide access and utility easement to the north of the principal building for the existing cell tower; an underground right-of-way agreement with JCP&L; two (2) 20-foot-wide access easements on Lot 20.01 along the driveway entrance and exit; an additional 20-foot-wide utility easement for the cell tower along the driveway; and a conservation easement along the western side of the Property.

5. The Applicant proposes to demolish all of the existing improvements on the Property, including the removal of pavement, concrete, curbing, landscaping, fences, a fuel tank, storm and sanitary sewer pipes and structures. The existing cell tower and enclosure were decommissioned and relocated to adjacent Lot 21 to the north (site plan approval was granted earlier in 2021). The Applicant proposes to replace the existing improvements with an inclusionary residential development consisting of two 42-unit apartment buildings (84 units), seven 12-unit townhouse/carriage house style multifamily apartment buildings (84 units), and three 8-unit townhouse/carriage house style multifamily apartment buildings (24 units) for a total of 192 units, 20% of which (38 units) will be set aside as affordable units. The proposal also includes a clubhouse with an outdoor swimming pool, patio, and play area, a direct pedestrian walkway from

the southeastern section of the development to Commerce Drive, as well as various other site improvements.

6. The Applicant's proposal is depicted and described on the following documents:
 - a. Site Plans prepared by Beth E. Kenderdine, P.E., dated July 13, 2021, last revised October 4, 2021, same consisting of ten (10) sheets;
 - b. Plan of Survey prepared by David Lucchi, P.L.S., dated November 16, 2020, unrevised, same consisting of one (1) sheet;
 - c. Architectural Plans prepared by Avelino Martinez, R.A., dated August 14, 2020, last revised September 21, 2021, same consisting of 25 sheets; and
 - d. Traffic Statement prepared by Daniel D. Disario, P.E., P.T.O.E., dated October 3, 2021.

7. The Applicant received the following review memoranda:
 - a. Planning Memorandum prepared by M. McKinley Mertz, P.P., A.I.C.P., and Lauren M. Purdom, P.P., A.I.C.P., dated October 15, 2021;
 - b. Engineering Memorandum prepared by Kevin Boyer, P.E., C.F.M., dated October 15, 2021;
 - c. Police Department Memorandum prepared by Captain Daniel Henn, dated August 20, 2021, last revised October 5, 2021; and
 - d. Bureau of Fire Prevention Memorandum prepared by the Fire Official, Edward Nasto, dated September 28, 2021.

8. McKinley Mertz, the Borough Planner; Kevin Boyer, the Borough Engineer; and Keith Lynch, the Director of Planning and Development, were duly sworn according to law.

9. James Webber, Esq., and Samantha Alfonso, Esq., of Dempsey, Dempsey & Sheehan, entered their appearances on behalf of the Applicant. Mr. Webber provided an overview of the application and the relief requested. He confirmed that the Applicant would relocate the proposed signage so as to comply with the setback requirements, thereby eliminating the need for two of the variances initially requested.

10. Beth Kenderdine, P.E., of Edwards Engineering Group, having a business address of P.O. Box 8437, Somerville, New Jersey, was duly sworn according to law, provided her qualifications, and was accepted by the Board as an expert in the field of civil engineering.

11. Referencing the Site Plans submitted with the application materials, Ms. Kenderdine described the Property and the existing and proposed improvements. She also addressed the engineering questions and recommendations set forth in the October 15, 2021 Review Memorandum prepared by the Borough Engineer, Kevin Boyer, and stipulated, on behalf of the Applicant, to complying with same.

12. Ms. Kenderdine addressed the engineering questions and recommendations set forth in the October 15, 2021 Review Memorandum prepared by the Borough Planner, McKinley Mertz, and stipulated, on behalf of the Applicant, to complying with same. She advised that the Applicant would work with the Borough Planner as to the parking lot landscaping, as well as the overall landscaping throughout the Site. Ms. Kenderdine noted that the Applicant is actually proposing to plant more trees than required and, therefore, requires design exception relief for the spacing of the street trees. She advised that the Applicant could comply with the requirement, but that same would result in the removal of trees from the landscaping plan. Ms. Kenderdine confirmed that the gate house will be demolished.

13. On discussion of the existing gravel driveway that leads to a clearing in the wetlands on the western side of the Property, Mr. Webber stipulated, as a condition of approval, that this area of the Property could be used for passive recreation and that the Board could retain jurisdiction over same to ensure that the area is not developed. He further stipulated that the Applicant would remove the trailer currently located in said area. Mr. Webber concurred that any

development proposed in this area would require the Applicant to return to the Board for approval of same.

14. Ms. Kenderdine addressed the landscape, lighting and sign comments in the Planner's review letter. She testified that details for the proposed light poles are provided on Sheet C-7 on the Site Plans. Ms. Kenderdine explained that the lighting fixtures are a lantern style so as to be consistent with the carriage house style of the carriage houses. The Applicant stipulated to providing the specifications for the exterior building fixtures and illumination characteristics. Ms. Kenderdine noted that the Property is bordered by commercial properties and wetlands so light spillage should not be an issue. Nonetheless, the Applicant stipulated that all exterior lighting fixtures will be shielded or downward directed to prevent light spillage onto the adjacent properties. Ms. Kenderdine explained that the rain garden originally proposed beyond the northern parking lot has been removed because the parking lot was reconfigured to improve the rim road and the rain garden could no longer be accommodated. She further explained that the Applicant proposes additional landscaping between the parking lot and the building.

15. On questioning, Ms. Kenderdine testified that a significant amount of impervious coverage will be removed and replaced with landscaping. At the Board's request, she agreed to submit an overlay exhibit to help clarify the locations of the existing pavement that will be removed and replaced. On questioning as to phasing, Mr. Webber suggested that the Board could condition the approval on the Applicant attending a pre-construction meeting to discuss same. On questioning as to whether the existing trees could be protected, Mr. Webber advised that the Applicant would submit a tree protection plan based on recommendations from the Borough arborist, same to be subject to the review and approval of the Board professionals. Ms. Kenderdine

noted that the Applicant will also be required to submit a soil erosion and sediment control plan in accordance with the Somerset-Union Soil Conservation District requirements.

16. Ms. Kenderdine reviewed the comments in Captain Daniel Henn's Review Memorandum dated October 5, 2021. She explained that the cul-de-sacs had been removed from the plans in order to retain the grade, maintain the existing trees, and reduce the amount of proposed additional impervious coverage. Ms. Kenderdine noted that the cul-de-sacs were not required by the Residential Site Improvement Standards ("RSIS"). The Applicant stipulated that all of the buildings will be labeled and signed so emergency personnel can quickly and efficiently locate each of the units. Ms. Kenderdine testified that the Applicant will provide public pedestrian access off Commerce Street between Buildings 9 and 10 and off the sidewalk on Spring Street by the main driveway. She confirmed that the Property will have out outdoor security cameras, a compliant pool fence, and that the Applicant will stipulate to allowing Title 39 enforcement so that the Police Department can enforce traffic/parking on the Site.

17. Ms. Kenderdine reviewed the comments in the Fire Official's Review Memorandum dated September 28, 2021. She confirmed that the bridge leading to Central Avenue will be rated to ensure it can handle the weight of fire apparatus. Ms. Kenderdine explained that the watermain needs to be designed in more detail and that the Applicant will provide a loop system if possible, noting that same needs to be coordinated with NJ American Water. She testified that the Fire Department Connection ("FDC") will be demolished and replaced with a code compliant connection. Ms. Kenderdine advised that Storz connections will not be used for any new fire hydrants. She explained that gas service will be required for the building and that the provision of same will be coordinated by the Applicant and the utility provider. As to electric service, the

location of the transformers and other related equipment will be coordinated with Jersey Central Power and Light.

18. On questioning by the Board, Ms. Kenderdine advised that the Applicant will retain an independent contractor for trash removal, the Police Department will be given access to any relevant recordings from security cameras on the Property, and that the proposed fencing will be consistent with the overall site (i.e., brick). She explained that the Applicant proposed to replace the existing gate on Commerce Drive with a solid fence and confirmed that the fencing around the pool will be code compliant. Ms. Kenderdine confirmed that barbed wire is not proposed.

19. On questioning, Ms. Kenderdine contended that the stormwater management would be improved given the removal of a significant amount of impervious coverage.

20. Members of the public questioned whether an environmental impact study was done and if one is required by the Borough (Mr. Boyer confirmed that Applicant is in compliance with the requirements); whether the Site could be developed further (yes, but same would require further approval from the Board); whether pedestrians will have access to the Site for recreational purposes (subject to the Applicant's approval as the Site is private property); whether the development will be a gated community (no); whether the cell tower would remain (no, it is being removed and relocated 200' to the north to 41 Spring Street); whether the Applicant will maintain the stormwater management facilities on an adjacent property (no, but the Applicant will find out who owns same); whether the foot path from Spring Street to the school will remain (yes); whether there is sufficient emergency access (yes); whether a study had been done to ensure the chemicals from treating the lawn would not flow into the Salt Brook (no); whether the sanitary sewer system can accommodate the proposal (the Applicant will be required to submit a study); and whether the

fire hydrant system will have a loop system (it will depend on whether NJ American Water approves same).

21. At the November 9, 2021 hearing, Mr. Webber addressed questions raised by the Board and members of the public at the prior hearing. He introduced into evidence, as Exhibit A-2, an Open Space Comparison, prepared by Ms. Kenderdine and explained that the exhibit was in response to the Board's request for an overlay showing the areas of impervious coverage that will be converted into greenspace. He advised that the Applicant is still waiting for confirmation that there is sufficient capacity in the sanitary sewer system and that the culverts adjacent to Lot 34 were conveyed to the Borough by way of an easement.

22. The Board Chairman advised that he had visited the Site and that, in his opinion, the culverts may need to be improved by the Borough. He further advised that at his visit, he observed refuse in the wetlands area and suggested that the area be cleaned and existing impervious coverage be removed so that portion of the Property could be returned to its natural state. On discussion, Mr. Webber advised that the Applicant had previously stipulated to removing the impervious coverage in the wetlands area and confirmed that any additional development on that portion of the Property would require Board and NJDEP approval. Ms. Kenderdine added that a conservation easement encapsulates the wetlands so no changes to the wetlands are permitted. On discussion of a pedestrian gate on the access road off of Central Avenue, the Board Chairman suggested large boulders because they would prevent vehicular access.

23. Avelino Martinez, R.A., of Blackbird Group Architects, LLC, having a business address of P.O. Box 5943, Newark, New Jersey, was duly sworn according to law, provided his qualifications, and was accepted by the Board as an expert in the field of architecture. Referencing

Exhibit A-1, a compendium of renderings prepared by Blackbird Group Architects, Mr. Martinez described the existing and proposed conditions.

24. Mr. Martinez testified that the Site is located between Central Avenue to the north, Commerce Drive to the south and Spring Street to the east. The Site is currently occupied by two buildings: a 190,000 square foot corporate building and a one-story 13,000 square foot building in the southwest corner of the Property. He testified that the proposed development consists of two apartment buildings referred to as Buildings 1 and 2, both of which consist of three stories constructed above a one-story parking garage, with each building having 42 dwelling units for a total of 84 dwelling units. Mr. Martinez explained that, on the southern portion of the Property, the Applicant proposes 10 three-story buildings consisting of eight- and twelve-unit carriage-style carriage houses with a total of 108 dwelling units. A clubhouse and pool are also proposed.

25. Mr. Martinez testified that the proposed courtyard areas in the middle of the two apartment buildings trigger the variance for the building length of 219.5 feet. Mr. Martinez described the exterior rendering of the twelve-unit carriage-style carriage houses shown on Sheet 5 of Exhibit A-1. He explained that the carriage house units consist of three stories with pitched roofs and opined that the design gives the development a suburban, residential feel. Each carriage house unit has a garage and driveway.

26. Referencing Sheet A-1.1 of the Architectural Plans, Mr. Martinez described the floor plan layout for an eight-unit carriage-style multi-unit building, which has two units per module. There is direct access from the garage on the ground floor to the units. There are duplex units (Type 2E duplex) with a living room, dining room, and kitchen on the ground floor behind the garage with bedrooms, bathrooms and walk-in closets at the rear of the building on the second floor. There are also duplex units (Type 3A duplex) on the second and third floors with a living

room, dining room and kitchen on the second floor over the garage and bedrooms, bathrooms and a walk-in closet in the front of the building on the third floor.

27. Mr. Martinez testified that 38 of the proposed 192 dwelling units will be affordable units equally distributed throughout the complex. He explained that the affordable units are located on the third floor on either end of the carriage house buildings, but that the carriage houses do not have elevators. On questioning, Mr. Martinez stipulated, on the Applicant's behalf, that the appearance of the buildings will be substantially similar to what is depicted on the renderings, in terms of materials, architectural design, color, etc., subject to the availability of similar materials at the time of construction. Mr. Martinez confirmed that the exterior materials will be the same on all four sides of the buildings. He testified that the carriage houses are 38' high and that the 12-unit buildings are the same as the 8-unit buildings, just with four additional units.

28. Mr. Martinez testified that the parking garage is located on the ground floor of the apartment buildings and that each apartment building has 76 parking spaces consisting of 44 individual spaces and 32 tandem spaces. He explained that each of the three floors above the parking garage contain 14 units consisting of one-, two- and three-bedroom units, elevators and stairs on each end. Mr. Martinez testified that some of the units have balconies or Juliette balconies, which are balconies that have a sliding door with a railing in front to provide light, air and space but do not provide access to the outside as a regular balcony does. He explained that the courtyard and lobby are in the center of each building with the garages on either side. The buildings are 36'-6" tall, whereas 38' is permitted, and the roofs are primarily flat with a pitched roof around the perimeter for a more residential appearance. Mr. Martinez testified that the flat portion of the roof is 4' lower than the pitched roof so the condensers, which will be located on the roof, will not be visible.

29. Mr. Martinez testified that the apartment buildings are 219'-6" wide and 145'-8" deep and that the additional building length allows for wider courtyards which provide more light, air and space to the residential units. He explained that the courtyards also break up the building façades and reduce the appearance of massing. Mr. Martinez noted that the 50' distance between the wings of the building will allow the Applicant to install landscaping. On questioning, he testified that all of the units are handicapped accessible, except for the third-floor affordable units, and that the parking garage also has handicapped compliant parking spaces.

30. Mr. Martinez testified that the one-story clubhouse on the southwest portion of the Property is 22' high as measured to the midpoint of the roof and will consist of the leasing office, a bar area, fireplace, restrooms with showers for the pool, fitness center and utility and package rooms. He explained that the entrance to the clubhouse faces the residences. Mr. Martinez confirmed that the architectural design of the clubhouse is similar to that of the residential units and will be constructed using the same types of materials.

31. As to refuse and recycling within the apartment buildings, Mr. Martinez testified that each floor of has two chutes: one for trash and one for recycling. The trash chute will empty into a trash compactor in the trash room on the garage level and will then be fed into a sealed dumpster. The recycling chute empties into a dumpster. Mr. Martinez testified that, as to the refuse and recycling within the carriage houses, each unit will have bins for trash and recyclables with designated areas for same in the garage. He explained that the trash and recyclables will be picked up by a private hauler.

32. Mr. Martinez addressed the Boards questions about the trash compactor and dumpsters in the apartment buildings. He explained that the dumpster is a two cubic-yard dumpster that will be wheeled outside for pickup by building management staff. Mr. Martinez testified that,

if the trash compactor is full, residents will not be able to open the chute doors because the doors have an interlock. He explained that there will be additional bins for residents to use if the compactor is full. Mr. Martinez stipulated, on behalf of the Applicant, that the superintendent of the apartment buildings will monitor the trash area to ensure it remains clean and orderly.

33. On discussion of the affordable units, Mr. Martinez testified that all of the affordable units are identified on the floor plans. Ms. Mertz confirmed that the distribution of the affordable units throughout the development is consistent with the zoning requirements and the Uniform Housing Affordability Controls. Mr. Martinez testified that, while only 8 three-bedroom affordable units are required, the Applicant proposes 10 such units, all of which are located in the carriage house buildings. He confirmed that all of the affordable units are end units located on the third floor in the carriage house buildings and that all of the affordable units will have the same amenities as the market-rate units. Mr. Martinez testified that all of the eight- and twelve-unit carriage house buildings have two affordable units, and that each apartment building has nine affordable units. He explained that the one-bedroom affordable units are all located in the apartment buildings.

34. On discussion of the electric vehicle charging stations, Mr. Martinez stipulated that the Applicant will comply with the required number of charging stations for electric vehicles and that, here, the requirement will be 45 stations, but that the exact locations of the chargers have not yet been determined. He advised that residents living in the carriage houses can install their own charger in their garages, and the breaker panels in the carriage houses will accommodate the installation of a charging port.

35. On discussion of whether generators are proposed, Mr. Martinez testified that each apartment building will have a generator to provide power for the elevator and emergency lighting

in common areas, but that the carriage house buildings will not have generators. On questioning, Mr. Martinez confirmed that the carriage house buildings will not have heat if there is an extended power outage because the carriage house units will have gas-fired forced hot air heat systems that require electricity for the fans. A Board Member advised that the Borough provides heating shelters, but the shelter could be overwhelmed with an additional 400 to 500 residents using the shelter. The Applicant agreed to consider installing a generator to support the clubhouse so residents could shelter there in an emergency.

36. On questioning regarding the HVAC and hot water units, Mr. Martinez advised that the layout for the utilities has not been fully engineered, but that he anticipates that the HVAC and hot water units will be contained within a closet within the residential units. Mr. Martinez testified that the compressors will be located at grade along the perimeter of the carriage houses approximately 3 feet from the rear of the buildings and that, to the extent any of them will be visible from Spring Street and Commerce Drive, landscape buffering will be installed.

37. On questioning as to whether any green building techniques are proposed, Mr. Martinez advised that the Applicant is not applying for LEED certification, but will incorporate green building techniques where possible. He explained that the inclusion of a parking area below the residences in the apartment buildings reduces the amount of impervious coverage that would otherwise be required; materials from the demolition of the existing structures will be recycled and the concrete will be crushed and reused; the HVAC equipment will be high-efficiency; the windows will exceed insulation requirements; the appliances will be 100% energy efficient; the lights will be LED; and, there will be lighting sensors that control the brightness of the lights. He contended that the proposed building techniques address the Borough of New Providence Sustainable Building Design Guidelines.

38. Mr. Martinez addressed the architectural comments and questions in the Borough Engineer's Review Memorandum dated October 15, 2021. On questioning as to the removal of the cul-de-sacs, Mr. Webber reiterated that the removal of the cul-de-sacs reduced the lot coverage and the need for the retaining walls at Commerce Drive and Spring Street, thereby allowing the existing grade and mature trees to be maintained. Mr. Martinez then addressed the architectural comments and questions in the Borough Planner's Review Memorandum dated October 15, 2021. Mr. Martinez confirmed that there are 38 affordable units, 6 of which will be one-bedroom units, 22 of which will be two-bedroom units and 10 of which will be three-bedroom units. He further confirmed that the affordable and market-rate units will have the same amenities. On questioning, Mr. Martinez testified that the average size of the apartment units is 1,500 square feet and the carriage house units are 1,750 square feet. He explained that each apartment building will have two storage rooms on each side of the building for tenant storage and confirmed that the floor plans comply with New Jersey and Federal Fair Housing Act requirements.

39. On questioning as to the lighting, Mr. Martinez advised that the buildings will not be illuminated other than by the accent light fixtures to be located near the entrances to the apartment buildings. The Applicant stipulated that the exterior lighting would be limited to safety level lighting around the doorways, entrances and garages. Mr. Martinez testified that one monument sign is proposed and that the location and signage thereon will conform with the signage requirements.

40. Mr. Martinez confirmed that the buildings will be labeled/signed as requested in Captain Henn's Review Memorandum dated October 5, 2021. He then addressed the comments and questions in the Fire Official's Review Memorandum dated September 28, 2021. Mr. Martinez testified that the carriage houses and clubhouse will be sprinklered and that the Applicant will

work with the Fire Department regarding the location of the Fire Department Connections (“FDCs”). He explained that the apartment building stairwells will have standpipes and the Applicant will coordinate with the Fire Department regarding valving and connections. Mr. Martinez advised that each residential unit would have a smoke and carbon monoxide detector and that the complex will have pull stations to report the location of an emergency. He explained that access to the sprinkler rooms will be via a Knox box. Mr. Martinez confirmed that the sprinkler system load calculations will reflect the added suppression need for a battery fire in an electric vehicle in the parking garages.

41. Members of the public questioned whether the Applicant will accept a Veteran’s Affairs Certificate of Eligibility for purchase of a unit (the units are rentals and not for purchase); what would happen if an affordable unit becomes vacant (affordable units are subject to a 30-year deed restriction and remain affordable for that period of time) whether green or solar roofs are proposed (no); whether the pitched roof design of the buildings would generate additional stormwater runoff than flat roofs (no); and whether the stormwater runoff patterns would be changed (no).

42. At the December 13, 2021 hearing, Mr. Webber provided an update as to some of the issues raised at the prior meetings. He advised that the boulders along the athletic field (Lot 20.01) will be extended to delineate the Applicant’s Property from the Borough’s property, rather than a gate or fence as was previously proposed. Mr. Webber noted that the culvert to the west by the residential neighborhood is located on Borough property and, therefore, the Borough will continue to maintain it along with the culvert that runs across the Applicant’s Property. He confirmed that the gravel area near the wetlands that was previously used for parking trucks will be removed, and the area will be returned to its natural state. Mr. Webber advised that the Applicant

is unable to provide emergency back-up power for the apartment buildings or carriage houses, but that the clubhouse will have an emergency generator so residents in need of warmth or electricity will not have to go to a warming shelter. He confirmed that the pedestrian access to the pathway on Commerce Street will not have a gate.

43. On discussion of the cul-de-sacs, Mr. Webber advised that Captain Henn from the Police Department deferred to the Board's recommendation and Mr. Webber noted that elimination of the cul-de-sacs avoids disturbance of the wetlands, eliminates grading and preserves the trees. Mr. Webber advised that the Applicant had widened the entrance on Spring Street as requested by the Fire Department.

44. Mr. Webber explained that the Applicant proposes to add balconies to the two-bedroom affordable units at the ends of the multi-family apartment building. He confirmed that the complex will have an onsite superintendent and a back-up superintendent. Mr. Webber advised that the Borough Engineer confirmed the Applicant's proffer regarding the two-acre reduction in impervious coverage. He further advised that he received confirmation that the sanitary sewer system has the capacity to handle the complex and that the Applicant will comply with any conditions of approval relating thereto.

45. On discussion, the Applicant stipulated to sharing footage from its security cameras with the Police Department if requested and that the location of the security cameras and associated lighting will be determined in consultation with the Police Department. On discussion of snow removal, Ms. Mertz advised that same is not generally handled with a formalized agreement, but rather an informal agreement between the Borough and the Applicant. She noted that the Borough Council could require said maintenance obligations to be set out in a developer's agreement or some other document.

46. Mr. Webber confirmed that the emergency access roadway will not be gated and, instead, boulders and signage are proposed to delineate the properties. He reminded the Board that the main entrance to the development will be on Spring Street and that the Applicant does not presently intend to restrict access from the emergency access roadway.

47. Dan Disario, P.E., of Langan, having a business address of 989 Lenox Drive, Lawrenceville, New Jersey, was duly sworn according to law, provided his qualifications, and was accepted by the Board as an expert in traffic engineering with a certificate in traffic operations. Mr. Disario testified that he had prepared a traffic statement comparing the trip generation of the proposed development with the trip generation of the prior development, which included two commercial buildings. For the prior development, Mr. Disario testified that the estimated number of trips during the weekday morning peak hour (one hour between 7 a.m. and 9 a.m.) is 180 vehicles entering and 30 vehicles exiting the Site for a two-way total of 210 trips. For the proposed residential development, the estimated number of trips during the weekday morning peak hour is 20 vehicles entering and 70 vehicles exiting for a two-way total of 90 trips - a reduction of 120 trips from what previously existed. Mr. Disario testified that the trip generation for the afternoon peak hour (one hour between 4 p.m. and 6 p.m.) for the prior use was 35 vehicles entering and 175 exiting for a two-way total of 210 trips, whereas the trip generation for the afternoon peak hour for the proposed development is 65 vehicles entering and 40 vehicles exiting for a two-way total of 105 trips – a reduction of 105 trips from what previously existed. Mr. Disario conceded that the proposed residential development results in an increase of 85 trips during the Saturday midday peak hour (one hour between 11 a.m. and 2 p.m.) with 95 vehicles entering and 80 vehicles exiting for a two-way total of 175 trips compared to 90 two-way trips for the prior use (50 vehicles entering and 40 vehicles exiting). He confirmed that the proposed development represents an increase in

trips during the Saturday midday peak hour, but reminded the Board that the increase in Site trips will be less than 100 peak-hour trips overall. Mr. Disario contended that the increase of 85 trips during the Saturday midday peak hour will not have a discernible impact on traffic and that the traffic from the residential development will be reduced from what it was during the week compared to the previous use. On questioning, Mr. Disario noted that the traffic study does not account for the Property's proximity to the train station and that same would likely reduce the number of trips because residents can walk to the station. On further questioning, Mr. Disario contended that the proposed development will not have a detrimental impact on pedestrian safety.

48. After substantial discussion regarding the use of the emergency access, Mr. Webber reiterated that the Applicant is only interested in using the road off Central Avenue for emergency access and stipulated, on the Applicant's behalf, to providing traffic measures to restrict same to emergency access only. Mr. Webber further stipulated, that the Applicant will work with the Borough and its professionals in determining the most appropriate measure(s) to limit access to the Site from Central Avenue.

49. Paul Ricci, P.P., Ricci Planning, having a business address of 177 Monmouth Avenue, Atlantic Highlands, New Jersey, was duly sworn according to law, provided his qualifications, and was accepted by the Board as an expert in the field of professional planning. Mr. Ricci introduced into evidence, as **Exhibit A-3**, a compendium of photographs of the Property and the surrounding area, and, as **Exhibit A-4**, revised floor plans showing the newly proposed balconies for the two apartment buildings. Mr. Webber advised that the floor plan now shows the proposed balconies for the two-bedroom affordable units for a total of six balconies on each of the two multi-family units (total of 12 balconies for the two buildings).

50. Mr. Ricci noted that the proposal is nearly conforming except for the minor deviation for the building length of 219.5 feet. He confirmed that the proposal complies with all of the requirements for setbacks, parking, building height, coverage, density and the affordable housing set aside.

51. As to the requested relief for the length of the building, Mr. Ricci contended that granting the requested variance for the building length will not detract from the zoning requirements in the A-4 Zone. He further contended that the longer buildings are a better zoning alternative as they allow the Applicant to provide courtyards which will provide additional light, air, and open space. Referencing Exhibit A-4, Mr. Ricci described the views of the Property from across the street, from the intersection of Spring Street and Commerce Drive, and from Commerce Drive. Mr. Ricci opined that the existing evergreen plantings mitigate the visibility of the building from Spring Street.

52. Mr. Ricci contended that granting the requested relief would advance the purposes of the Municipal Land Use Law set forth in Section 2 thereof, including the promotion of the general welfare and a desirable visual environment, as well as the provision of sufficient space for residents and adequate light, air and open space. He opined that the benefits associated with granting the requested relief substantially outweigh the detriments associated therewith. Mr. Ricci further contended that the requested relief can be granted without substantial detriment to the public good or substantial impairment of the Master Plan and Zoning Ordinances. On questioning, Mr. Ricci confirmed that variance approval for the height of the fence was previously granted so no additional variance is required. He further confirmed that the proposed signage will be relocated to eliminate the need for any variance relief relating thereto.

53. Robert Sherman, having an address of 15 Hawthorne Drive, was duly sworn and expressed concern about stormwater management and offered his comments regarding the emergency access road. Mr. Boyer testified that he reviewed the Applicant's calculations regarding the reduction in impervious coverage and confirmed that same is accurate.

54. Phil Dempsey, having an address of 40 Hawthorne Drive, expressed concern regarding the proposed lighting on the emergency access road. Mr. Lynch, Director of Planning and Development, advised that there is no lighting on the roadway beyond the gatehouse. Mr. Webber added that there is light spillage from the commercial building to the east, so the road is already illuminated. Mayor Morgan noted that the road has never had lighting and the use of the road will be for emergency vehicles only such that additional lighting is unnecessary.

55. No other member of the public commented on, or objected to, the Applicant's proposal.

DECISION

56. After reviewing the testimonial and documentary evidence presented and based thereon, the Board, by a unanimous vote of 7 to 0, finds that the Applicant has satisfied its burden of proving its entitlement to preliminary and final major site plan approval, together with the requested bulk variance relief pursuant to N.J.S.A. 40:55D-70(c)(2) and design waivers.

The Bulk Variance Relief – Positive Criteria:

57. As to the requested relief for the excessive length of the multifamily residential building (219.5 feet proposed; 210 feet permitted), the Board finds that the Applicant has demonstrated that the purposes of the MLUL will be advanced by the requested deviations from the zoning requirements, and that the benefits to be derived therefrom will substantially outweigh the relatively modest detriments associated therewith, in accordance with N.J.S.A. 40:55D-

70(c)(2). In this regard, the Board finds that the excessive building length will provide increased open space within the proposed courtyard, as well as an increase in the amount of sunlight in the proposed dwelling units, and will provide a more aesthetically pleasing environment than a conforming building length. As such, the Board concurs with the unrefuted expert testimony of the Applicant's Professional Planner that the proposal advances the following purposes set forth in Section 2 of the MLUL: (a), (c), (g), and (i) in that granting the requested relief will promote the general welfare; provide adequate light, air and open space; provide sufficient space in appropriate locations for residential, recreational, and open space; and promote a desirable visual environment.

58. The Board further finds that the Applicant has demonstrated that the benefits of granting the requested relief substantially outweigh the detriment associated therewith, particularly given the magnitude of the benefits (i.e., additional open space; increased light, air and open space; and improved aesthetics to be derived therefrom). The Board notes that the existing building on the Site is approximately 500 feet in length by 320 feet in depth, and that the proposed building could be approximately 20% larger if the Applicant were to construct a 200-foot by 200-foot building, rather than the proposed 219.5 foot by 145 foot building.

59. As such, the Board finds that the Applicant has satisfied the positive criteria for the requested bulk variance relief, pursuant to N.J.S.A. 40:55D-70(c)(2).

The Bulk Variance Relief – Negative Criteria

60. As to the negative criteria, the Board finds that the Applicant has demonstrated that the requested relief can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the Master Plan and Land Development Ordinance. As to the substantial detriment prong of the negative criteria, the Board accepts the

unrefuted expert testimony provided by the Applicant's professional planner, Mr. Ricci, that the proposed building length is consistent with the lengths of other buildings in the immediate area, which range from 240 feet to 650 feet. The Board further finds that the existing and proposed landscaping will significantly mitigate any visual detriment associated with proposed length of the building. This finding is supported by the lack of any public opposition as to the length of the building.

61. As to the substantial impairment prong of the negative criteria, the Board notes that affordable housing is a permitted use in the A4 Affordable Housing Zone. The Board further notes, as testified to by Mr. Ricci, that the proposal otherwise complies with the A4 Affordable Housing Zone requirements, particularly since the proposal complies with the setback, height, building coverage, and density requirements. In this regard, the Board notes that the proposal will reduce the existing coverage significantly (38% existing; 29.8% proposed; 50% permitted).

62. As such, the Board finds that the Applicant has satisfied the negative criteria for the requested bulk variance relief, pursuant to N.J.S.A. 40:55D-70(c)(2).

The Design Waiver Relief:

63. As to the requested design waiver relief for non-conforming landscape strips and street tree spacing, the Board finds that the literal enforcement of the provisions relating to same is impracticable and/or will exact undue hardship due to peculiar conditions pertaining to the Property. As to the landscape strips, the Board recognizes that the Applicant has stipulated to working with the Borough Planner to provide adequate landscaping throughout the Site. As to the street tree spacing, the Board recognizes that the Applicant is actually proposing more trees than would be otherwise required if the Applicant were to comply with the spacing requirements. As

such, the Board finds that the Applicant has demonstrated an entitlement to the requested design waiver relief.

The Preliminary and Final Major Site Plan Approval:

64. As to the requested preliminary and final major site plan approval, the Board finds that good cause exists and the Applicant has complied with the requirements set forth in Chapter 305 of the Ordinance. As such, the Board finds that the Applicant is entitled to the requested preliminary and final major site plan approval.

WHEREAS, the Board took action on this application at its meeting on December 14, 2021, and this Resolution constitutes a Resolution of Memorialization of the action taken in accordance with N.J.S.A. 40:55D-10(g);

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of New Providence, on the ____ day of _____, 2022, that the application of **GH NP Central, LLC**, for preliminary and final site plan approval, design waiver and bulk variance relief, as aforesaid, be, and is hereby, granted, subject to the following conditions:

- (1) The Applicant shall post sufficient funds with the Borough to satisfy any deficiency in the Applicant's escrow account;
- (2) The Applicant shall prohibit the use of the emergency exit by residents (i.e., same shall be solely used for emergency access purposes) and the nature and location of the instrumentalities restricting such access (i.e., signage, gates, boulders, etc.) shall be subject to the review and approval of the Borough Engineering Department. If the Applicant and the Borough Engineering Department cannot agree as to same, the Board shall retain jurisdiction and shall be the arbiter of any such disagreements;
- (3) The Applicant shall obtain any necessary approvals for the sanitary sewer and shall comply with any requirements set forth in said approvals;
- (4) The Applicant shall designate an employee to be responsible for the monitoring of the trash and recycling areas to ensure that said areas remain sanitary and clean;

- (5) The Applicant shall incorporate green building techniques, but shall not be required to obtain LEED Certification;
- (6) The Applicant shall revise the plans to reflect that the dropped block curb at the accessible ramps be modified to concrete curb for easier accessibility;
- (7) The Applicant shall submit signed and sealed certifications of ADA compliance for all as-built pedestrian facilities (curb ramps) at the completion of construction;
- (8) The Applicant shall revise the plans to include calculations for existing and proposed drivable surfaces;
- (9) The Applicant shall complete and submit the Checklist for Conducting Stormwater Management Reviews found in Section 3.4 of the Tier A Municipal Stormwater Guidance Document, same to be subject to review and approval by the Borough Engineering Department;
- (10) The Applicant shall complete and submit the Major Development Stormwater Summary (Attachment D of the Tier A Permit), same to be subject to the review and approval of the Borough Engineering Department;
- (11) The Applicant/Owner shall enter into an easement agreement with the Borough to allow for the Borough to access and inspect the stormwater management facilities pursuant to the requirements of the MS4 Tier A Permit held with the NJDEP, same to be subject to the review and approval of the Borough Engineering Department and the Borough Attorney;
- (12) The Applicant shall submit a Stormwater Operation and Maintenance Manual for review and approval prior to the start of construction. Once approved, same shall be incorporated into the easement described in the immediately preceding condition in a form acceptable to the Borough Engineer and Borough Attorney;
- (13) The Applicant shall make the Stormwater Operation and Maintenance Report available to the Borough within 14 business days upon request and shall submit same to the Borough Clerk and Engineer for review and recordation annually;
- (14) The Applicant shall revise the plans to depict sight triangles for all proposed intersections;
- (15) The Applicant shall revise the plans to reflect that salt storage and snow maintenance equipment shall not be stored on the Property;
- (16) The Applicant shall provide construction cost estimates for on- and off-site improvements for review and determination of applicable bonding and inspection fees in accordance with the MLUL requirements;

- (17) The Applicant shall be responsible for repairing any damage within the Borough right-of-way to the satisfaction of the Borough Engineer, including, but not limited to, sidewalks, curbs, and asphalt, caused by construction activities associated with the installation of the improvements on the Site;
- (18) The Applicant shall submit a signed and sealed as-built survey for review prior to the issuance of a Certificate of Occupancy and the as-built survey shall accurately depict all constructed site features, including but not limited to, grading contours, spot elevations, drainage structures, utilities, etc., and same shall be subject to the review and approval of the Borough Engineering Department;
- (19) The Applicant shall revise the plans to reflect that the proposed signage will comply with the minimum required setback of 15 feet, as well as the other requirements set forth in Section 310-6 of the Ordinance, and same shall be subject to the review and approval of the Borough Engineering Department;
- (20) The Applicant shall work, in good faith, with the Borough Planner as to the proposed landscaping and street tree spacing. The Applicant shall also install landscape screening for any mechanical equipment proposed to be located in the front-yard setback;
- (21) The Applicant shall comply with the Borough's Affordable Housing Ordinance (Chapter 275 of the Ordinance) as well as the Uniform Housing Affordability Controls regarding construction phasing of the affordable units, as well as the proposed bedroom distribution (6 one-bedroom units; 22 two-bedroom units; and 10 three-bedroom units for a total of 38 affordable units);
- (22) The Applicant shall revise the plans to include the patios and balconies discussed and stipulated to by the Applicant and shall revise the impervious coverage calculations accordingly, all of which shall be subject to the review and approval of the Borough Engineering Department;
- (23) The Applicant shall revise the plans to include direct pedestrian connections from the Site to the walking path that extends west along Commerce Street and same shall be subject to the review and approval of the Borough Engineering Department;
- (24) If not already provided, the Applicant shall provide a detail for each proposed type of apartment configuration;
- (25) The construction (materials, colors, style, etc.) shall be substantially similar to what is depicted on the renderings submitted to the Board;
- (26) The Applicant shall construct the clubhouse such that the materials, colors, and architectural style are substantially similar to the construction materials, colors and architectural style of the residential buildings;

- (27) The Applicant shall submit a lighting schedule and/or manufacturer's specification details with the Lighting Plan and same shall address the proposed light fixtures for the apartment and carriage house buildings, including clarification of the proposed mounting heights;
- (28) All lighting shall be appropriately shielded and/or downward directed to minimize the amount of light spillage onto adjacent properties;
- (29) Any tree removal shall be in accordance with the requirements set forth in the Borough's tree removal standards (Chapter 247 of the Ordinance);
- (30) The Applicant shall revise the plans to depict the proposed location of the required electric vehicle charging stations within the multi family apartment buildings and the site (i.e., 10% of the number of approved parking spaces or 45 spaces) and same shall be subject to the review of the Borough Engineering Department. The EV charging spaces for the carriage houses have not yet been determined. The Applicant shall coordinate with the Bureau of Fire Protection as to the location of any disconnects for said charging stations and, once approved, shall revise the plans accordingly;
- (31) The Applicant shall revise the plans to reflect the locations of all proposed mechanical equipment and same shall be subject to the review and approval of the Borough Engineering Department;
- (32) The Applicant shall revise the plans to reflect the inclusion of a generator that will supply power to the proposed clubhouse and same shall be subject to the review and approval of the Borough Engineering Department;
- (33) The Applicant shall work with the Borough as to proposed procedures for snow removal, particularly as to the emergency access road that borders the Borough's property, and same shall be subject to the review and approval of the Borough Engineering Department and, if necessary, Borough Attorney;
- (34) The Applicant shall submit a report to the Bureau of Fire Prevention regarding the status and rating of the bridge leading to Central Avenue and said bridge shall accommodate the largest fire apparatus;
- (35) The Applicant shall work with the Borough Engineering Department and New Jersey American Water to provide a loop hydrant system. If such a system is not approved by New Jersey American Water, the Applicant shall work with the Borough Engineering Department and the Bureau of Fire Prevention to establish an alternate system;

- (36) The Applicant shall coordinate with the Bureau of Fire Protection as to the location of any proposed Fire Department Connections and shall provide any additional information as to same if requested by the Bureau of Fire Protection;
- (37) The Applicant shall work with the Bureau of Fire Protection as to the valving and connections of the proposed standpipes;
- (38) The Applicant shall not provide Storz connections for any new fire hydrants;
- (39) The Applicant shall provide details for the fire alarm system interconnections with suppression, as well as access to FACPs, same to be subject to the review and approval of the Bureau of Fire Protection;
- (40) The Applicant shall install Knox boxes so the Fire Department can access all valves, panels, and controls in the sprinkler rooms;
- (41) The Applicant shall revise the plans to reflect that gas services are being provided to all buildings and the Applicant shall also confirm all electric service locations to the carriage house and apartment buildings;
- (42) The Applicant shall revise the plans to clarify that the sprinkler system load calculations reflect the added suppression needed for a Battery Electric Vehicle (BEV) fire in the parking garage;
- (43) The Applicant shall ensure that all buildings are properly labeled so that emergency personnel can quickly and efficiently navigate the Site;
- (44) The Applicant shall revise the plans to reflect the proposed pedestrian access to the Site;
- (45) The Applicant shall revise the plans to reflect the height of the parking garage doors on both apartment buildings;
- (46) The Applicant shall install proper signage restricting parking on the private roads;
- (47) The Police Department shall have Title 39 authority to enforce parking violations;
- (48) The Applicant shall revise the plans to note that the wetland area along the western edge of the Property that was previously used to store vehicles and maintenance equipment shall be restored to its natural state (i.e., the Applicant shall remove all impervious coverage, refuse, and the existing trailer and replace same with vegetation) and used solely for passive recreation purposes. Any future improvements involving said area of the Property shall require the Applicant to return to the Board for further approval, as well as obtain any outside approvals, and the Board shall retain jurisdiction as to same;

- (49) The Applicant shall provide a copy of the recorded wetlands conservation easement to the Borough Engineering Department and Borough Clerk;
- (50) The Applicant shall coordinate the locations of security cameras and associated lighting for same with the Borough Police Department;
- (51) The Applicant shall provide the Police Department, if requested to do so, with any footage recorded on the security cameras;
- (52) The Applicant shall install compliant pool fencing and gates, same to be subject to the review and approval of the Borough Engineering Department;
- (53) The Applicant and its contractors shall participate in a pre-construction meeting with Borough officials to discuss staging and phasing for the project;
- (54) The subject development proposal shall be constructed/effectuated strictly in accordance with the plans and testimony presented to the Board and any conditions testified to during the hearing, even if not specifically set forth herein, shall apply thereto;
- (55) The Applicant shall post all performance and maintenance guarantees required by the Borough Engineer and shall pay all taxes, escrows and fees to the Borough official and shall obtain any necessary municipal governmental approvals;
- (56) The aforementioned approval shall be subject to all requirements, conditions, restrictions and limitations set forth in all prior governmental approvals, to the extent same are not inconsistent with the terms and conditions set forth herein;
- (57) The Applicant shall comply with all Federal, State, County and Borough statutes, ordinances, rules, regulations and requirements affecting development in the Borough, County and State; and
- (58) All notes included in the approved plans, including any notes required by this Resolution, shall be deemed to be conditions of approval having the same force and effect as conditions expressly set forth in this Resolution.

ROLL CALL VOTE:

Those in Favor: Mr. Castagna, Mr. Hoefling, Mr. Keane, Mr. Sartorius and
Chairman Lesnewich

Those Opposed: -----

The foregoing is a true copy of a Resolution adopted by the Planning Board of the Borough of New Providence at its meeting of February 15, 2022

Approved this 15th day of February, 2022.

Margaret Koontz
Margaret Koontz, Secretary


Robert Lesnewich, Chairman