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 Attorneys for the Defendants,
 Township of Teaneck and Mark Bocchino

Red Real Estate Associates, LLC	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION: BERGEN COUNTY
Plaintiff,	:	
	:	DOCKET NO. BER-L-003265-21
v.	:	
	:	CIVIL ACTION
Township of Teaneck; Mark Bocchino, :		
In his official capacity as the		
Construction Code Official of the :		CERTIFICATION
Township of Teaneck		

Mark Bocchino, a full age, by way of certification says that:

1. I am the Construction Code Official of the Township of Teaneck.

I was also appointed at Teaneck Municipal Affordable Housing
 Liaison.

2. Attached is a true copy of a signed Developer's Agreement
 between Red real Estate Associates LLC and the Township of
 Teaneck with respect to the development at 764 New Bridge Road,
 Teaneck, New Jersey dated November 5, 2019.

3. Red Real Estate Associates LLC has not completed its obligations
 with respect to providing affordable housing units with respect
 to the above development. Specifically, it has not identified

two affordable housing units which meet the Uniform Housing Affordability Controls, has not submitted Affordable Housing Deed Restrictions therefor, has not affirmatively marketed the affordable units through Teaneck's Administrative Agent for Affordable Housing, Frank Piazza of Piazza and Associates or paid the required fees therefor, and has not paid the required non-residential development fee for the retail portion of the development.

4. The development at 764 New Bridge Road is located in the Northwestern portion of Teaneck near the border with New Milford and River Edge.
5. The proposed off-site location for the two required affordable housing units is located in the Northeastern portion of Teaneck near the border with Englewood on the East side of Teaneck Road in a poorer minority neighborhood than that in which the development is located. The proposed off-site property has previously been used as a retail use and is not currently suitable for two-family use. No application has been received by my office to convert same to residential use nor have any inspections been performed in connection therewith.
6. I certify that the foregoing statements made by me are true. I understand that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: _____

Mark Bocchino

Dated: 6-3-21


Mark Bocchino

DEVELOPER'S AGREEMENT

TOWNSHIP OF TEANECK

This **DEVELOPER'S AGREEMENT** (the "Agreement") made this 5th day of March, 2019, by and among the **Township of Teaneck**, a municipal corporation of the State of New Jersey, with its governmental offices located at the Paul A. Volcker Municipal Green, 818 Teaneck Road, Teaneck, New Jersey 07666 (hereinafter referred to as the "Township"); and **Red Real Estate Associates, L.L.C.** with an address c/o The Kamsam Corp, 270 Sylvan Avenue, Englewood Cliffs, New Jersey 07632 (hereinafter referred to as the "Developer");

W I T N E S S E T H :

WHEREAS, the Developer is the owner/lessee of land commonly known as 764 New Bridge Road and shown and designated as Block 1001, Lot 6.01 on the Tax Assessment map of the Township of Teaneck; and

WHEREAS, application was made for the development of the property as a mixed use development consisting of 10,931 square feet of ground floor retail and 19 residential units, of which eighteen (18) are one (1) bedroom units and one(1) is a two-bedroom unit; and

WHEREAS, the Developer was granted approval by the Board of Adjustment of the Township of Teaneck, a duly constituted approving authority of the Township, (hereinafter referred to as the "Board"), which approval is memorialized in the Resolution of the Board dated May 5, 2016, which is annexed hereto as **Exhibit A**; and

WHEREAS, the aforesaid approval was expressly conditioned upon the entry by the Developer into a Developer's Agreement with the Township and the parties wish to express by this Agreement their acceptance of the conditions, safeguards and limitations under which on-site and off-site construction will proceed;

NOW, THEREFORE, in consideration of the approval heretofore granted to the Developer, the mutual covenants herein contained, and the mutual benefits to be derived by the parties from the performance thereof, it is **AGREED** as follows:

I

IMPROVEMENTS

1. Improvements to be Completed by Developer.

(a) The Developer shall, at its sole cost and expense, construct and install all of the improvements shown on the site plan, required as part of the approval of the development application, and as made necessary during the course of construction, pursuant to lawful orders of supervisory personnel of the Township or any other governmental authority.

(b) The Developer shall not commence any construction until and unless the premises have been made safe for the public by the installation of such fences, barricades, dust, soil erosion and mud abatement devices, and lighting required by the New Jersey Uniform Construction Code or as may be necessary in the reasonable discretion of the Township Engineer or Municipal Inspectors in order to prevent the possibility of personal injury, property damage or nuisance. If the Developer fails to maintain such devices after commencement of such construction, the Construction Official may suspend work at any time without notice. Thereafter the Township may cause necessary protective devices to be installed, such devices to be installed at the Developer's expense. The Township may at any time cause temporary safety devices to be installed and shall, circumstances permitting, give prior notice thereof to the Developer.

(c) The Township Manager and any Township employee that he/she may delegate is hereby authorized to approve and/or require minor modifications to the site plan and/or building plan, if those modifications are necessitated by conditions in the field which demonstrate that it would be impractical for the Developer to complete the improvements in accordance with the site plan or building plan, or that any planned site improvement will not function for its intended purpose as a result of such a field condition, and, provided, further that any such modifications do

not require a variance from the requirements of the Township zoning ordinance. Major modifications shall only be granted by the approving authority.

2. Compliance with Law. All improvements shall be constructed and installed in accordance with such state and federal laws as pertain thereto and in accordance with such specifications, ordinances, rules and regulations which are validly enacted or promulgated by the Township, its officers, employees and agents. All buildings and structures are subject to inspection and approval by the applicable sub-code official. All other site improvements not under the jurisdiction of the Construction Code Official shall be made subject to the inspection and approval of the Township Engineer or his designee.

3. Drainage Facilities. Storm and surface waters shall be piped to drainage facilities in accordance with the drainage system shown on the site plan and said installation shall meet the approval of the Township Engineer. Drainage facilities shall be maintained in accordance with the Operations and Maintenance manual for River Commons, annexed hereto as **Exhibit E** and made part hereof.

4. Fire Prevention Facilities and Hydrants. Fire prevention facilities and hydrants shall be installed at the Developer's expense as set forth on the site plan and subject to the approval of the Township Fire Official in accordance with applicable law.

5. Signage. Unless heretofore approved as part of the development application, no signs shall be placed upon the construction site without approval by the Construction Code Official.

6. Underground Installation of Utilities. Developer may install utilities lines above and below ground as needed and as shown on the approved site plan.

7. Grading, Surfacing and Paving. Before grading of any roadway, driveway or parking area, the site shall be cleared of all debris, branches, matted leaves, mud and any other materials that would be regarded unsuitable under sound construction practices. All roadways, parking areas and driveways shall be constructed in accordance with specifications approved by the Township Engineer.

8. Duty to Provide Details to Plans. In the event that the Township Engineer reasonably requires further details of the Site Plan, or of any proposed public or site improvement to be submitted and approved, the Developer shall furnish such details on written notice from the Township Engineer, within ten (10) working days.

9. As-built Survey. The Developer shall provide the Township Engineer with an "as-built" survey indicating the location and size of all buildings, sanitary sewer and storm drainage lines and structures, including all inverts, top of manholes, top of grates, location and elevation of all retaining walls and grades throughout the site, including the final location and grades of curbs, sidewalks, roadways, parking areas and waterways.

10. Pre-Construction Meetings and Inspections.

(a) The Township contemplates inspections of all facilities on the site. At least forty eight (48) hours prior to commencement of construction, Developer shall coordinate a meeting with contractors, the Township Construction Code Official and the Township Engineer, commonly referred to as a pre-construction meeting. The Developer shall notify the Township Engineer at least forty-eight (48) hours, or more as practicably possible, prior to the commencement of construction of any such facilities. In the event of temporary suspension of construction, the Township Engineer shall be notified of the renewed starting date of construction. The Township Engineer shall use his best efforts to have inspections completed in a timely manner so as to permit the Developer to proceed with construction in an orderly, safe, and expeditious manner. No backfilling after the installation of any curbing, drainage, sanitary sewers, utilities, water lines or other improvements shall be done without the approval of the Township Engineer.

(b) At the Developer's expense, the Township may retain an engineer and/or hydrologist to monitor the installation of the infrastructure and foundation to insure that the Developer is in compliance with all Department of Environmental Protection requirements. In addition, and with the Developer's consent and at the Developer's expense, the Township may retain other types of experts to insure such compliance.

11. Inspection and Escrow Fees. An escrow account shall be established to facilitate payment of engineering inspection fees. This account shall be initially funded by the Developer in the amount of \$5,024.00. Inspections by the Township Engineering Department shall be charged against this account at the rate prescribed by the appropriate ordinance. A minimum balance of \$5,000.00 shall be maintained by the Developer. In the event the Township requires more money it shall request so in writing to the Developer. A second escrow account shall be established to facilitate payment of legal and administrative fees and shall be initially funded by the Developer in the amount of \$5,000.00.

12. Television Inspection. Upon completion, sanitary lines and storm lines installed or improved by the Developer will be "T.V." inspected, if requested by the Township Engineer, at Developer's expense, to ensure conformance to specifications and to determine if breaks, settlement or misalignment have appeared since the backfilling of trenches.

13. Building and Engineering Permits. The Building Department shall not issue building permits to the Developer until the Developer has obtained from the Engineering Department all necessary permits, as appropriate, including but not limited to:

- a. soil erosion and sediment control;
- b. street opening;
- c. sanitary sewer;
- d. storm sewer;
- e. curb and sidewalk;
- f. construction permits;
- g. sewer cut-off;
- h. demotion permit

Additionally, prior to the issuance of a building permit, the developer shall submit proof of all required permits and approvals from all applicable governing agencies, as appropriate, including but not limited to:

- i. Bergen County Utility Authority (BCUA);

- ii. Bergen County Planning Board;
- iii. DEP Sanitary Sewer Extension;
- iv. Bergen County Road Opening;
- v. Bergen County Soil Conservation District
- vi. N.J. Department of Environmental Protection; and

Finally, prior to the issuance of a building permit, Developer shall provide all easements, licenses and rights-of-way required by the approval in a form acceptable to the Township Engineer and Township Attorney.

14. Field Requirements. This Agreement is subject to additional in-the-field directions and requirements, in accordance with applicable codes, or when reasonably required by the Construction Code Officer and applicable Sub-code officials and Health Officer, as to all structures and work. All such directions and requirements shall be given in a reasonable and timely fashion prior to commencing operations, or during or after operation where such direction and requirements are necessary to adequately insure that the improvements to be installed under this Agreement function properly and carry out all the purposes for which they are designed, in a good workman-like manner consistent with sound engineering principles. The Township Engineer shall have the same powers with respect to work and installations to be installed that are not within the jurisdiction of the Construction Code officer and sub-code officials and Health Officer. The provisions of this paragraph will not be utilized to require unusual additional work or facilities beyond that which is necessary to adequately insure that the facilities operate and function properly to carry out the purposes for which they were designed. Nothing herein shall be deemed to authorize by implication the disapproval of construction materials and methods that are permitted under law or the NJ Uniform Construction Code, except if expressly provided to the contrary herein or except if other and different standards for specification are shown on the Site Plan or Subdivision (including site grading plans, profiles and detailed plans submitted with the Site Plan Specifications shown on the approved Site Plan shall in accordance with the standard road construction and sewer

construction specifications of the Township, a copy of each is on file and available for inspection in the office of the Township Engineer, and shall govern and control.

15. Time for Completion. Unless extended by resolution of the approving authority and the Township Council, the improvements and work referred to herein, shall be completed on or before thirty-six (36) months from the date of this Agreement, subject to *force majeure*.

16. Performance Guaranty.

(a) Prior to receipt of a building permit and pursuant to N.J.S.A. 40:55D-53, the Developer agrees to submit to Engineering for filing with the Township Clerk a surety bond, or an irrevocable letter of credit or such other performance guaranty satisfactory to the Township Attorney and approved by the Township Attorney, in the amount of **\$90,432.00** for the installation of the specified improvements and conditioned upon the performance of the terms and conditions of this Agreement, together with a cash bond in the sum of **\$10,048.00**.

(b) Upon the completion or installation of a portion of the bonded improvements by the Developer, and upon the approval and certification by the Township Engineer, the Developer may apply for a proportional reduction in the original amount of such performance guarantee. A reduction or release of the performance, or maintenance guaranty as hereinafter set forth, shall be in accordance with this Agreement and in accordance with the procedures established by the Municipal Land Use Law (N.J.S.A. 40:55D-53).

(c) Pursuant to N.J.S.A. 40:55D-53, in the event that the developer shall seek a temporary certificate of occupancy for a development, unit, lot, building, or phase of development, as a condition of the issuance thereof, the developer shall furnish a separate guarantee, referred to herein as a "temporary certificate of occupancy guarantee," in favor of the municipality in an amount equal to 120% of the cost of installation of only those improvements or items which remain to be completed or installed under the terms of the temporary certificate of occupancy and which are required to be installed or completed as a condition precedent to the issuance of the permanent certificate of occupancy for the development, unit, lot, building or phase of development and which are not covered by an existing performance guarantee.

(d) Pursuant to N.J.S.A. 40:55D-53, a developer shall furnish to the municipality a "safety and stabilization guarantee," in favor of the municipality. At the developer's option, a "safety and stabilization guarantee" may be furnished either as a separate guarantee or as a line item of the performance guarantee. A "safety and stabilization guarantee" shall be available to the municipality solely for the purpose of returning property that has been disturbed to a safe and stable condition or otherwise implementing measures to protect the public from access to an unsafe or unstable condition, only in the circumstance that:

(i) site disturbance has commenced and, thereafter, all work on the development has ceased for a period of at least 60 consecutive days following such commencement for reasons other than force majeure, and

(ii) work has not recommenced within 30 days following the provision of written notice by the municipality to the developer of the municipality's intent to claim payment under the guarantee. A municipality shall not provide notice of its intent to claim payment under a "safety and stabilization guarantee" until a period of at least 60 days has elapsed during which all work on the development has ceased for reasons other than force majeure. A municipality shall provide written notice to a developer by certified mail or other form of delivery providing evidence of receipt.

The amount of a "safety and stabilization guarantee" for a development with bonded improvements in an amount not exceeding \$100,000 shall be \$5,000.

The amount of a "safety and stabilization guarantee" for a development with bonded improvements exceeding \$100,000 shall be calculated as a percentage of the bonded improvement costs of the development or phase of development as follows:

\$5,000 for the first \$100,000 of bonded improvement costs, plus two and a half percent of bonded improvement costs in excess of \$100,000 up to \$1,000,000, plus one percent of bonded improvement costs in excess of \$1,000,000.

A municipality shall release a separate "safety and stabilization guarantee" to a developer upon the developer's furnishing of a performance guarantee which includes a line item for safety and stabilization in the amount required under this paragraph.

A municipality shall release a "safety and stabilization guarantee" upon the municipal engineer's determination that the development of the project site has reached a point that the improvements installed are adequate to avoid any potential threat to public safety.

17. Maintenance Guaranty. Pursuant to N.J.S.A. 40:55D-53, Developer agrees to provide the Township with a maintenance bond or irrevocable letter of credit to run for a period of two (2) years from the date of completion and official approval for all improvements required by this Agreement and those improvements enumerated on the Site Improvement Schedule. Said bond will be in the amount of **fifteen (15%) percent** of the total costs of the improvements listed on **Exhibit B** and will be provided in form satisfactory to the Township Attorney. Said bond or irrevocable letter of credit shall assure the maintenance of said improvements and facilities by the Developer and provide for the reimbursement of all expenditures incurred by the Township for their repair and maintenance and/or such other expenses as may be necessary to keep the same in good working order during the two (2) year period. The Township shall provide the developer with thirty (30) days notice prior to incurring such expenses except for emergency repair. No provisions in this paragraph or in this Agreement, however, shall be construed to impose a duty or liability for maintenance, inspection or repair on the part of the Township with respect to any private facilities or improvements, whether bonded hereunder or otherwise.

18. Sanitary Sewer and Storm Drain Facilities. Interior sanitary and storm drain facilities necessary to properly serve the development shall be installed and all CP-1 requirements completed prior to the issuance of a Certificate of Occupancy. Any provision hereof notwithstanding, all sanitary sewer facilities necessary to properly serve the development shall be fully installed and operable prior to the issuance of a Certificate of Occupancy.

19. Soil Movement and Testing Requirements.

(a) The Developer shall not move any soil to or from the site without first submitting to the Township Engineer and to the Township Police Chief a written plan detailing the manner in which soil will be removed from the site or brought to the site, the destination of all soil to be removed from the site, the dates of removal, and the routes to be taken by vehicles removing the soil or bringing the soil. No soil shall be moved to or from the site or brought to

the site unless and until the Developer receives approval from the Township Engineer and the Police Chief for the Township of Teaneck with respect to said plan, which approval shall not be unreasonably withheld.

(b) The Developer shall also comply with any and all conditions or requirements imposed by the Township Engineer with respect to erosion control, truck cleaning, or any other soil movement requirement he may deem necessary. These requirements may include specific conditions with regard to the maintenance of the tracking pad on the site and with respect to the cleaning of Township Streets, if required by the Township Engineer.

(c) The Developer shall also move soil to or from the site in trucks filled to such weight as is deemed appropriate after consultation with the Township Engineer. If the Township Engineer determines that delivery vehicles should not be filled to capacity so as to minimize the possibility of damage to Township Streets, the Developer shall comply with said requests. In the event Developer causes any damage to the street, the Developer shall provide repairs to same or compensate the Township for the costs of any repairs.

(d) The Developer shall also provide the Township Engineer with the results of soil testing, if required by the Township Engineer, with respect to any soils moved to or from the site. The disposal of soil removed from the site and the deposit of soil brought onto the site shall be subject to the review and approval of the Township Engineer.

II

BUILDINGS AND STRUCTURES

20. Building and Structure Designs. The design of any building or structure on the site shall be substantially in accordance with the Site Plan and the evidence submitted to the Board.

21. Building Plan Changes; Procedure. Developer agrees that the completed building and structures shall comply in all respects with the building plan filed with the approving authority and the architectural submissions to the approving authority, except as otherwise provided in this Agreement or except as the same may be modified by resolution of the approving authority. The Township Engineer shall have the authority to permit minor field adjustments and modification in the installation of the improvements of buildings and structures as contemplated in the site plan where field conditions and good engineering practices permit. The Construction Official shall have the authority to approve changes in the building plan that do not affect, vary or contradict the site plan or the terms of this Agreement.

22. Final Certificate of Occupancy; Breach of Agreement.

(a) No Final Certificate of Occupancy shall be issued nor shall any security be released until:

(i) all of the improvements herein provided for have been certified in writing by the Township Engineer to have been completed in a good and workmanlike manner and in accordance with the approved plans;

(ii) "as built" plans have been submitted and approved for the work performed;

(iii) the sanitary facilities to serve the subject premises have been constructed in accordance with the plans submitted and approved by the Board of Health and the Township Engineer;

(iv) all requirements of this Agreement, the approving authority and any other governmental agency have been met; and

(v) all taxes have been paid which may be due on the property.

(b) If at the time the Developer applies for a Certificate of Occupancy, the on-site surface pavement and/or landscaping has not been completed for the reason that the season is inappropriate for such work, the Township shall nevertheless, upon compliance with all of the other requirements herein, issue its temporary Certificate of Occupancy subject to posting of suitable temporary certificate of occupancy guarantee, pending completion of the on-site surface pavement and/or landscaping, which shall be completed expeditiously as soon as weather permits.

(c) In no case shall a Certificate of Occupancy be issued unless the provisions of this Agreement have been complied with. Without limitation upon any other remedy provided herein or by law, the Township of the approving authority may order that no Certificate of Occupancy shall be issued until or unless any breach or default of this Agreement is cured, or that no further permit or Certificate shall be issued until such breach or default is cured. Such order shall be made in writing and shall be sent promptly to the Developer and shall specify the alleged breach or default complained of, so that the Developer will be apprised of what it is that is alleged to require curing.

(d) Phased Occupancy: Developer may apply for temporary certificates of occupancy for portions of the building while other portions are still under construction. The Township Engineer and Construction Official shall establish parameters for the phased occupancy of the building after the issuance of the building permits and establish requirements to ensure that adequate safety precautions are provided by the Developer to ensure that there is no danger to health and safety to the public and occupants of the building. Nothing contained herein shall relieve the developer from satisfying the requirements of the Uniform Construction Code and obtaining a Temporary certificate of occupancy from the Construction Code Official.

III

GENERAL PROVISIONS

23. Engineering and Legal Charges. The engineering review, planning and legal costs incurred by the Township and approving authority to the date of this Agreement or incurred under the performance of this Agreement, including but not limited to any enforcement proceedings, shall be reimbursed by the Developer at the hourly rates established pursuant to the provisions of Township ordinances.

24. Title Certification. Upon execution and delivery of this Agreement, Developer will file with the Township Clerk either a copy of the Deed reflecting title vested in the Developer

or a certificate issued by an attorney at law of New Jersey, certifying to the Township that title to all lands shown on the site plan required for all site improvements on the Developer's property is or will be validly vested in Developer on or before commencement of construction. Within ten (10) days after any transfer of title taking place thereafter, a further certificate of title of New Jersey counsel will be filed, certifying as to the condition of the title and showing all ownership interests.

25. Compliance with Resolutions of Approving Authority. Developer agrees to make provision for, implement and perform each of the conditions contained in the approving authority's Resolution attached as **Exhibits A**, with accompanying comments from the Board Engineer and Planner.

26. County Planning. Developer agrees that prior to commencement of any clearing or construction operation, it shall obtain Bergen County site plan approval and post with the County of Bergen all the bonds and other performances guarantees required by the County of Bergen, if any. Before issuance of the building permit, Developer will submit evidence to the Construction Official and the Township Engineer of final approval by the County authorities having jurisdiction over the site plan and the drainage facilities, together with evidence of having met the requirements of all County agencies concerning the posting of a bond or other security.

27. Transfers Not in the Ordinary Course. It is agreed that any assignment or transfer or sale of the subject property, or any part thereof, shall not operate to relieve the Developer from its obligations hereunder to complete the construction of all the improvements required hereunder and to maintain the same for the one (1) year period of the maintenance bond, without the express written consent of the Township, nor will the same, without such consent, relieve the Developer from performing during said period all the obligations of this Agreement required to be performed during such period.

28. Approvals by other Governmental Agencies. It is agreed and understood that the developer shall be responsible to secure at its own cost and expense any and all approvals required by state, county, federal, municipal, or other agencies having jurisdiction prior to commencement or construction or issuance of a Certificate of Occupancy.

29. Compliance with Board of Health Requirements. The lawful requirements of the Board of Health of the Township will be complied with as to all matters within its jurisdiction.

30. Effect of Site Plan Approval. It is agreed that the granting of approval of the site plan shall not be deemed as approval of the Developer's building plans or as requiring issuance of a building permit or a Certificate of Occupancy, which are matters within the exclusive jurisdiction of the Construction Official.

31. Limitation of On-Site Parking. There will be no parking at such locations within the site as the Fire Department, Police Department, or Township Council shall lawfully determine as "no Parking" or "fire zones," or as designated on the approved site plan. Signs to such effect shall be provided and maintained by the Developer at all times. During construction there shall be no parking or storage of materials that will prevent access by emergency vehicles.

IV

LIMITATION ON MUNICIPAL LIABILITY

32. Municipal Parties Not Liable to Third Persons. The covenants, undertakings, agreements or other obligations mentioned in this Agreement shall not be construed as representations by the Township, or by any Township officer, board or employee to have or to assume any contractual or other liability to or with any persons, firms, or corporations dealing with the Developer or otherwise using or having an interest in the aforementioned premises, nor shall this Agreement be construed to work any liability on the Township approving authority persons.

33. Municipal Parties Not Liable to Contractors or Suppliers. Nothing herein contained shall be construed to render the Township or any of its officers, boards, or employees liable for any charges, costs or debts or material, labor or other expenses incurred in the making of the improvements.

34. Indemnification. Developer shall be and remain liable for any and all damage or money loss occasioned to the Township of the approving authority or their officers or agents by

any neglect, wrongdoing, omission or commission of or by the Developer or by any person, firm or corporation acting for the Developer arising from the making of the site improvements, from the performance of the terms hereof, from the granting of site plan approval, or from or out of this Agreement, and shall save, indemnify and hold harmless the Township, its officers, agents, boards and employees; and the approving authority, its members, officers, agents and employees, from any and all actions at law or in equity, charges, debts, liens, encumbrances, costs and counsel fees which may arise from any such damage or loss, from the making of the site improvements, from the performance of the terms hereof from the granting of site plan approval or from or out of this Agreement, except where the Township of the approving authority or its agents or officers have been judicially determined to have acted contrary to law and in bad faith. This indemnification shall not affect the Developer's right to proceed against any third parties.

V

OPERATIONS

35. Operations Without Nuisance. Developer agrees not to commit a public or private nuisance and further agrees to abate any such nuisance within five (5) days of written notice from the Township. The Developer shall comply with the Township noise control ordinances and any applicable ordinance regulating construction. Notwithstanding anything to the contrary herein, no provisions of this Agreement shall be deemed a waiver of any rights or powers of the Township or any agency of the Township under any statute, ordinance or other law.

36. Abatement of Unsafe Conditions. Developer shall correct and make safe any dangerous or unsafe condition created by the Developer or those acting for it, adversely affecting public safety or general welfare, or affecting the safety or welfare of other occupants of the project, as determined by the appropriate enforcement official of the Township.

37. Preservation of Existing Trees. Developer shall safeguard and preserve all trees on the site, except such as are located in or immediately proximate to a building, parking or street

area and except such trees as may be felled with the approval of the Township Engineer, all in accordance with the approved site plan.

38. Insurance. Developer shall maintain insurance covering its operations and those of its agents, subcontractors and employees, both on the site and off-site, in a form and amount at least equal to that specified below:

Comprehensive
General Liability

Minimum Coverage

Bodily injury and property Damage
include Blanket Contractual Liability
for the assumption of all liability
pertaining to site not caused by the
direct negligence of the Township.

\$1,000,000.00

Comprehensive
Automobile Liability

Bodily Injury

Provide \$2,000,000.00
for each occurrence

Property Damage

Provide \$500,000.00
for property damage
for each occurrence
with no limitation
on aggregate.

Umbrella Excess
Liability

Provide \$1,000,000.00
for each occurrence
not to exceed
\$2,000,000.00 in the
aggregate.

Workman's Compensation and
Employer's Liability to cover
all contractor's employees in
accordance with statutory
requirements.

The insurance coverage required shall also include specifically that the Developer hereby assumes entire responsibility and liability for any and all damage or injury of any kind or nature to person whether employees or otherwise, and to property real or personal including adjoining property caused by or resulting from the execution of the work occurring in connection therewith and agrees to indemnify defend, and hold harmless the Township, the approving authority, and/or their agents and/or employees from and against any injury to persons or to property caused or occasioned directly or indirectly by the Developer, its agents, employees, or subcontractors, or any materials, tools, implements, appliances, scaffolding, ways, works or machinery or other property of the Developer. In the event of loss, damage or injury, which may cause a claim to be filed, Developer shall submit to the Township in writing, all particulars and details relating to the incidence, including all subsequent related effects of such loss, damage or injury. Each incident shall be listed separately. The Certificate of Insurance must be referenced to this project. The insurance coverage required shall include a provision whereby there shall be no cancellation of any such insurance coverage unless and until fifteen (15) days written notice is provided to the Township and the Board.

39. Orders to Stop Work. The Developer agrees that any time the Developer fails to comply, after having been provided with written notice of said failure, with any of the terms of this Agreement or any part of the requirements herein mentioned, the Township may forthwith stop all further work on said improvements until the work has been corrected or otherwise made to comply with the terms of this Agreement. If the violation is not corrected within forty-eight (48) hours, or such other time as is reasonably practicable, then the completion of said work may be undertaken by the Township at the expense of the Developer and Developer's surety, upon prior written notice to the Developer.

VI

MAINTENANCE/USE OF PREMISES

40. Days and Hours of Construction. Construction operation shall be limited to the hours between 6:30 a.m. and 8:00 p.m. on weekdays, excluding holidays, and to the hours of 7:30 a.m. and 8:00 p.m. on weekends and legal holidays established in Section 36-5 of the Code of the Township, in accordance with the provisions of Sections 21-15 and 29A-23.2 of the Code of the Township. No construction or operation shall take place, except in cases of emergency, other than during the aforesaid days and times. In the event of a need for any changes to the aforementioned construction schedule Developer shall seek and obtain approval from the Township Manager.

41. Sanitary Facilities.

Developer shall provide restroom facilities for the workers at locations to be designated by the Construction Code Official.

42. Maintenance and Repair after Construction.

(a) All buildings, structures, improvements (including pavements, sidewalks, street lighting, curbs, landscaping, utilities and other site improvements), and all other facilities shall be periodically inspected, kept, maintained and repaired, in such a manner that such buildings, structures, improvements and facilities will, at all times, be in good condition, good repair, good working order and appearance, and shall be maintained and repaired in such a manner as shall be consistent with the safety and welfare of the occupants of the development and of the public generally.

(b) In the event of a transfer, the Developer agrees to include provisions requiring compliance with the terms hereof in the deed of transfer. The Developer's obligation for such maintenance and repairs shall constitute covenants which run with the land and shall bind the Developer, its successors and assigns. The covenants shall be enforceable by, in addition to all parties entitled to enforce the same, the Township or the approving authority. Should it become necessary or advisable for the Township or the approving authority to institute legal proceedings to enforce the within covenants, Developer or its successors or assigns agree to pay the Township or

the approving authority's costs in bringing any such action including reasonable counsel fees at the rate set forth in this Agreement which is in force at the time of any such proceedings.

(c) The Township will have the right, but not an obligation, of maintenance and inspection of (1) storm drainage facilities, (2) sanitary sewer mains, and (3) roadways, which constitute a part of the "Improvements" to be completed by the Developer as defined in paragraph 1 of this Agreement. If the Developer or owner neglects to make repairs within a reasonable time period, the Township shall have the authority to have the necessary work performed and to charge the Developer or owner for the cost of work done.

43. Additional Maintenance Repair; Snow and Ice Removal. In addition to assuming liability for the maintenance and repair responsibility set forth in paragraph 37, during construction and for so long as the Developer continues to own the Property, the Developer shall be responsible to maintain and keep in good condition all on-site sidewalks, curbs, landscaping, recreational areas, walkways, private roadways and interior driveways and parking areas and facilities and improvements used and enjoyed in common by the occupants and to conduct all snow and ice removal and sanding operations on all private roadways, driveways and parking areas in keeping with the ordinances of the Township, at no cost or expense to the Township. Thereafter, such responsibility shall remain with any successor owner. The reasonable decision and determination of the Township Engineer and/or Construction Official as to compliance with the foregoing standards shall be final and conclusive on all parties.

44. Parking Regulations. The developer shall have a responsibility for enforcing parking regulations on the site; however, nothing in this paragraph is intended to usurp the legal authority of the Township Police and Fire Department to monitor fire lanes or otherwise protect the public interest.

45. Refuse Pickup. The removal of refuse, including bagged leaves from the property shall be the responsibility and expense of Developer.

46. Interior Roadways; Legal Jurisdiction. The parties further agree that the Developer, and its successors and assigns, to assume certain liabilities hereunder, will be bound to

file annually the "written request" referred to in N.J.S.A. 39:5A-1, to the end that the private roads, streets, driveways, trails, parkways, parking areas, or other roadways within the site, will become subject to the provisions of Title 39 of the Revised Statutes. It is further agreed that such written request will not be rescinded, in the manner set forth in N.J.S.A. 39:5A-2, or otherwise, without the written approval by resolution of the Township. Law enforcement jurisdiction would be implemented as with any other property in the Township.

VII

EASEMENTS

47. Easements for Emergency Access. Developer hereby grants the Township an easement for emergency access over all interior private roads for ambulance, police, fire and sanitation, health and safety services. Entry will not be made except upon notice to the Developer and coordination with the Developer in consideration of the circumstances.

48. Drainage Easements. If shown on the Site Plan, the Developer shall grant to the Township such drainage easements as depicted, and containing such terms and provisions and in such form as shall meet with the approval, respectively, of the Township Engineer and Township Attorney. The Developer shall be responsible for the maintenance of these easements. Developer shall execute a drainage easement to the Township of Teaneck as more particularly set forth in **Exhibit D**, annexed hereto and made part hereof. The Developer shall be responsible for recording same. The Developer shall provide the Township of Teaneck with a title policy insuring that the Developer is lawfully seized of the premises for which an easement is granted to the Township of Teaneck and that there are no liens or encumbrances having a priority over the proposed easement.

49. Other Easements. To the extent, if any, that the approved site plan or resolutions of approval require the developer to grant to the Township any other restriction, dedication or easement, the Developer shall prepare restrictive deeds, deeds of dedication or easements, as the circumstances may require for all lands to be so restricted pursuant to the site plan approval. Developer shall procure an opinion letter from an Attorney at Law of the State of New

Jersey that said easements, deeds or restrictions are valid and subject to no senior lien or encumbrance.

VIII

MISCELLANEOUS

50. Severability of Provisions. If any paragraph, section, clause, sentence, provision or other part of this Agreement, or the application thereof to any person, firm or corporation, or its application to any facts or circumstances, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remaining paragraphs, sections, clauses, sentences, provisions, or other parts of this Agreement. The provisions of this contract are intended to be severable.

51. Successors Bound. This Agreement shall be binding upon the successors and assigns of the parties signing it.

52. Agreement No Waiver. Nothing contained in this Agreement shall be deemed a waiver by any party of its rights under any ordinance or state statute or other law, or be construed as an abridgement, preemption or waiver of the powers of the Township, approving authority, or any other agency or public body.

53. Provisions Enforceable as Conditions. Each of the provisions of this Agreement shall have the same force and effect as if set forth at length as conditions of the grant of site plan approval.

54. Amendments in Writing. This Agreement may be changed, modified, or amended only by a written instrument signed by the parties hereto or their successors.

55. Recording. This Agreement may be recorded in the discretion of the Township and at the expense of the Developer. Upon completion of construction, compliance with all of the terms and conditions contained herein and expiration of the maintenance period for which the maintenance bond is posted, the Township will execute a discharge of this Agreement which the Developer may record, subject to the continuing easements and obligations contained in this

Agreement being included in a Declaration of Covenants and Restrictions filed by the Developer in the Bergen County Clerks office with such easements and obligations to run with the land.

56. Deposits as Preconditions. Building permits or certificates of occupancy shall not be issued unless the deposits mentioned in paragraph 11 or other necessary deposits have been made.

57. Notices. Any notices required to be served upon any of the parties to this Agreement shall be served at the addresses previously set forth in the top of this Agreement unless a party serves a written change of address on the remaining parties. All notices given hereunder shall be in writing, shall be sent certified mail, return receipt requested, and shall be deemed given when mailed.

58. Severability. The provisions of this Agreement are severable. If any one provision shall be determined to be unenforceable, such determination shall have no effect upon the balance of the provisions, which remain in full force and effect.

59. Affordable Housing Units. The Developer shall provide not less than 2 on-site affordable housing units in connection with the proposed development. The Developer shall be required to comply with all legal requirements necessary to render the aforescribed affordable housing units as affordable housing units to low and moderate income families as those terms are defined pursuant to the regulations established by the Council on Affordable Housing (COAH) or its successor and the Housing Affordability Controls regulations (N.J.A.C. 5:80-26 et seq.). The Applicant shall be required to take all actions necessary to insure that the unit is deemed to be an affordable housing unit acceptable to COAH, and shall be affirmatively marketed in compliance with the requirements of the Fair Housing Act. The units shall also be deed restricted in accordance with COAH regulations and only be rented or sold to an income qualified individual.

In accordance with the Housing Affordability Control regulations (N.J.A.C. 5:80-26 et seq.) and the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) at least 50 percent of the affordable housing units will be reserved for occupancy by low-income households, as that term is defined pursuant to section 4 of P.L.1985, c.222 (C.52:27D-304).

In accordance with N.J.A.C. 5:80-26.11, restricted rental units shall be subject to the following:

- (a) Each restricted rental unit shall remain subject to the affordability controls until the Township elects to release the unit from such requirements pursuant to action taken in compliance with (e) below. Prior to such a municipal election, a restricted rental unit must remain subject to the requirements of this subchapter for a period of at least 30 years
- (b) The affordability control period for the restricted rental units in a development shall commence on the first date that a certified household occupies a unit and shall terminate only at such time that Teaneck opts to release the unit from the requirements of this subchapter in accordance with (e) below, except that the affordability controls set forth in this subchapter shall remain in effect until the date on which a rental unit shall become vacant, provided that the occupant household continues to earn a gross annual income of less than 80 percent of the applicable median income. If, at that time, a rental household's income is found to exceed 80 percent of the regional median income, the rental rate restriction shall expire at the later of either the next scheduled lease renewal or 60 days.
- (c) Deeds of all real property that include restricted rental units shall contain deed restriction language substantially in the form set forth in Exhibit C, incorporated herein by reference. The deed restriction shall have priority over all mortgages on the property.

The deed restriction shall be filed by the developer or seller with the records office of the county in which the unit is located, and a copy of the filed document shall be provided to the administrative agent within 30 days of the receipt of a certificate of occupancy. The preparer of the foregoing instrument shall certify to the administrative agent that the deed restriction language in **Exhibit C** has been included therein.

(d) A restricted rental unit shall remain subject to the affordability controls of this subchapter despite the occurrence of any of the following events:

1. A sublease or assignment of the lease of the unit;
2. A sale or other voluntary transfer of the ownership of the unit; or
3. The entry and enforcement of any judgment of foreclosure.

(e) Any municipality may elect to release any or all of the restricted rental units in a development from the requirements of this subchapter at a time to be set forth in the municipal ordinance required below, but after the expiration of the minimum control period specified under (a) above, provided that:

1. The municipal election to release the unit from the requirements of this subchapter is made pursuant to a municipal ordinance authorizing such elections with respect to units located either in areas specifically identified in the Housing Element of the municipal Master Plan or throughout the entire municipality; and
2. The administrative agent shall, within 60 days of the municipal election shall, execute a release, in the form set forth in Appendix F to this subchapter, incorporated herein by reference, of all restriction instruments with respect to the unit(s). The owner of the restricted unit(s) is responsible for recording the release instruments and returning the recorded originals promptly to the administrative

agent. Upon the expiration of the control period for a restricted rental unit established in this section, the owner of the unit shall be entitled to lease it to any tenant at the fair market rent.

Affordability controls for ownership units, if applicable, shall be governed by the provisions of N.J.A.C 5:80-26.5

The Developer shall prepare a Deed creating the required Deed restriction, with said Deed provided to the Township Attorney for review and approval prior to recording same. Once approval is provided, the Applicant shall record the Deed and provide the Township Attorney with a copy of the recorded Deed. The Developer will be required to assist in the marketing of the affordable housing unit in accordance with the requirements of Township of Teaneck Ordinance 3-2017 and N.J.A.C. 5:80-26.15. The marketing program will commence at least 120 days before the issuance of either a temporary or permanent Certificate of Occupancy for the newly constructed building and will continue until all the unit are initially occupied and for as long as the affordable units are deed restricted and the occupancy or re-occupancy of the units becomes necessary. No Certificate of Occupancy for the newly constructed building shall be issued until such time as the on-site affordable housing units are ready for occupancy by a qualified affordable housing tenant.

Pursuant to N.J.S.A. 40:55D-8.4 and Section 33-35 of Article VI of Chapter 33 of the Code of the Township of Teaneck, with respect to the non-residential portion of the proposed development, the Developer shall pay to the Township of Teaneck a non-residential development fee equal to:

(1) two and one-half percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots; or

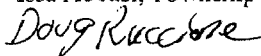
(2) two and one-half percent of the increase in equalized assessed value, of the additions to existing structures to be used for non-residential purposes.

The payment of non-residential development fees required hereunder shall be made prior to the issuance of a certificate of occupancy for such development. A final certificate of occupancy shall not be issued for any non-residential development until such time as the fee imposed pursuant to this section has been paid by the developer.


IN WITNESS WHEREOF, the parties have caused these presents to be duly executed as a scaled instrument the day and year first above written.

ATTEST:

By 
Issa Abbasi, Township Clerk


Doug Ruccione

TOWNSHIP OF TEAMUICK

By 
Mohammed Hanfeeduddin, Mayor

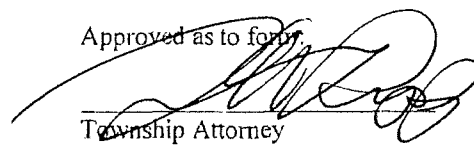
ATTEST:

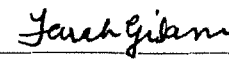
By _____

RED REAL ESTATE ASSOCIATES, LLC

By 

Approved as to form



Township Attorney


Township Engineer

STATE OF NEW JERSEY, COUNTY OF BERGEN SS:

I CERTIFY that on December 20, 2018, Gil Rivera personally came before me and stated to my satisfaction that he

- (a) was the maker of the attached instrument;
- (b) was authorized to and did execute this instrument as Managing Member of Red Real Estate Associates, LLC, the entity named in this instrument; and,
- (c) executed this instrument as the act of the entity named in this instrument.



Mary P. Porcelli
Notary Public of New Jersey

MARY P. PORCELLI
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES SEPT. 19, 2023

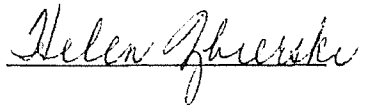
STATE OF NEW JERSEY)
)
 COUNT OF BERGEN)

SS:

BE IT REMEMBERED that on this 5 of Nov. 2019 before personally appeared _____ who, being duly sworn, on her oath deposed and made proof to my satisfaction that he/she is the Municipal Clerk of the Township of Teaneck in the County of Bergen, State of New Jersey, that Mohammed Hameeduddin is the Mayor of said Township; that the execution as well as the making of this instrument has been duly authorized by a proper Resolution of the Township of Teaneck and the signatures affixed as and for their voluntary act and deed, and as and for the voluntary act and deed of said Township, in the presence of deponent, who thereupon subscribed his name thereto as witness.


 _____, Township Clerk

Sworn to and subscribed
 before me this 5th day of
November, 2019



HELEN ZBIERSKI
 NOTARY PUBLIC OF NEW JERSEY
 Commission ID # 2329590
 My Commission Expires June, 1 2020

EXHIBIT A – RESOLUTION dated May 5, 2016 (see attached) with attached engineering comments from Schwanewede/Hals Engineering dated February 8, 2016 and Planning comments from Richard Preiss of Phillips Preiss Grygiel, LLC dated February 22, 2016

EXHIBIT A – RESOLUTION dated May 5, 2016 (see attached) with attached engineering comments from Schwanewede/Hals Engineering dated February 8, 2016 and Planning comments from Richard Preiss of Phillips Preiss Grygiel, LLC dated February 22, 2016

FILE

RESOLUTION

BOARD OF ADJUSTMENT OF THE TOWNSHIP OF TEANECK

ZB-2015-61

IN THE MATTER OF THE APPLICATION OF:

RED REAL ESTATE ASSOCIATES, LLC
764 NEW BRIDGE ROAD (BLOCK 1001; LOT 6.01)

WHEREAS, Red Real Estate Associates, LLC (hereinafter, the "Applicant" or "Owner") maintaining offices at 270 Sylvan Avenue, Englewood Cliffs, New Jersey, is the Owner of 764 New Bridge Road (the Property"). The Property is more specifically designated as Block 1001 Lot 6.01, is located in the R-TH Residential Townhouse District of the Township, and contains 2.29 acres (99,752 square feet); and

WHEREAS, the Applicant has submitted an Application for Preliminary and Final Site Plan Approval, a Use Variance, and related variance relief for the construction and operation of mixed use development consisting of nineteen (19) residential units of which eighteen (18) are one (1) bedroom units and one is a two bedroom unit as well as 10,931 square feet of ground floor retail space; and

WHEREAS, the Property is located at the intersection of New Bridge Road (C.R. 49) and River Road (C.R. 41) and is currently improved with various commercial and residential structures all of which would be considered to be in aged and dilapidated condition; and

WHEREAS, the Applicant previously obtained several previous approvals, the latest of which was for a retail branch bank building with a drive-thru pursuant to an application for Preliminary and Final Site Plan Approval with Variances and Waivers which was granted approval by the Township of Teaneck Zoning Board of Adjustment on March 6, 2014 as Appeal

ZB-2013-52 (hereinafter "Prior Approval"); and

WHEREAS, in order to undertake the Development, the Applicant sought various permits and approvals from the Board. The initial relief sought, and relevant ordinance sections, can be summarized as follows:

- 1) §33-17 - Site plan approval required;
- 2) §33-24(p)(1)(b) - Townhouses & Apartments are permitted, but only for inclusionary affordable housing purposes; Retail and Apartments (not inclusionary) are not permitted uses in the zone;
- 3) §33-24(p)(4)(a)(3)[i] -- permitted front setback of building to a public street setback is 35 feet; proposed front setback of building to a public street curblane setback is 10 feet (1 foot to the right of way);
- 4) §33-24(p)(4)(a)(4)[i] - permitted front setback of building to property line is 35 feet; proposed front setback of building to property line is 10 feet. (1 foot to the right of way);
- 5) §33-24(p)(4)(a)(8)[ii] -- required buffer shall be a minimum of 5 feet adjacent to other property lines, including the public street; proposed distance to the right of way is 1 foot;
- 6) §33-24(p)(4)(a)(10) -- 94 parking spaces are required; 75 parking spaces are proposed;
- 7) §33-24(p)(4)(b)(1) -- Permitted number of residential units per acreage is 17 units; 19 residential units are proposed;
- 8) §33-24(p)(4)(b)(2) [ii] - Maximum permitted lot coverage is 42,732.36 sq. ft (45%); proposed lot coverage is 55,172.22 sq. ft (58.1%);
- 9) §33-24(p)(4)(b)(3) - Maximum permitted height is 35 feet or three stories, whichever is lesser, measured from the lowest grade to the midpoint of any sloping roof with a pitch of at least 6 on 12, or to the top of the roof in all other cases; proposed height of the building is 45 feet;
- 10) §33-24(p)(4)(b)(4) - 6 residential units permitted per structure; 19 residential units proposed per structure;
- 11) §33-24(p)(4)(b)(5) - maximum allowed length of building is 170 feet; proposed length of building is 195 feet;
- 12) §33-24(p)(4)(b)(6) - no building shall contain more than two dwelling units in a straight unbroken row, and the exterior wall of each such building shall include a setback or break with a depth of not less than four feet after every two dwelling units; proposed

building contains 10 units in a row on each side of the building with a proposed façade setback of 1.6 feet;

13) §33-28(b)(6)(c) - Not more than two driveways, each of not more than 30 feet nor less than 20 feet in width, shall be permitted for each 300 feet of frontage on a public street; proposed driveway entrances on New Bridge Road are 15 and 18 feet wide;

14) §33-29(b)(2) - maximum permitted wall and fence height combination is 6 feet; proposed combined wall and fence height is 16 feet (12 foot wall and 4 foot fence);

15) §33-18(c)(5)(i)(2) – required minimum setback to property is 20'; minimum setback to property line mark proposed is 5'

16) §33-18(c)(5)(i)(2) – required minimum setback to parking area is 20'; minimum setback to property line mark proposed is 5'

17) §33-18(c)(5)(e)(2) – maximum total front wall sign area permitted is 1 ½ per linear foot of building frontage (292.5 sf); total proposed front wall sign area is 266.65 sf;

18) §33-18(c)(5)(e)(2)(i) – maximum total side wall sign area permitted is 50% of the permitted signage on the front façade; proposed total side wall sign area is 64 sf; and

19) §33-18(c)(5)(e)(2)(iii) – maximum total sign area permitted for directional sign is 2.5 sf; a total of six (6) directional signs are proposed totaling 4 sf each;

20) §33-18(c)(5)(i)(2) – minimum setback from property line and parking area required for freestanding sign is 20'; proposed setback for freestanding sign is 5'.

WHEREAS, during the course of the hearings several amendments to the Application were made by counsel on behalf of the Applicant and were testified to by Applicant's professionals. The plans were revised accordingly to reflect certain required revisions. To that end, certain of the requests for relief were also modified and amended during the hearing and were reflected on revised plans and exhibits prepared for the hearings all as herein described; and

WHEREAS, the Applicant has filed for said approvals and public hearings were held on February 25, 2016, April 7, 2016, and May 5, 2016 (the "Hearing", "Public Hearing" or "Hearing Dates") wherein sworn testimony was heard and considered on behalf of the Applicant and other interested parties; and

WHEREAS, at said public hearings, the Applicant was represented by counsel, Louis L. D'Arminio, Esq. or Jennifer Knarich, Esq., of the Law Firm of Price Meese Shulman & D'Arminio, PC, (collectively, "LD/JK") who adduced the testimony of the following individuals:

1. Gil Rivera, Vice President of Development, Kamson Corporation ("Rivera");
2. John M. Montoro, A.I.A., The Montoro Architectural Group ("Montoro");
3. Andrew L. French, PE, French & Parrello Associates ("French");
4. Justin Taylor, PE, PTOE, LEED AP, Principal, Dynamic Traffic ("Taylor");
5. Joseph Burgis PP, AICP, , Professional Planners, Burgis Associates ("Burgis");

WHEREAS, at said public hearings the Applicant presented the following Exhibits:

- A-1 Aerial Photograph, Subject Property;
- A-2 Sheet 8 of 16 of Site Plan Colorized, prepared by French;
- A-3 Architectural Rendering prepared by Montoro;
- A-4 Full Site Plan set with two colorized pages;
- A-5 Handout regarding structure height;
- A-6 Board demonstrating materials utilized on Property;
- A-7 Site Plan, dated November 2, 2015, revised January 27, 2016;
- A-8 Traffic report, prepared by Taylor and dated October 15, 2015;
- A-9 Parking analysis chart;
- A-10 Blade sign design prepared by Montoro;
- A-11 Revised Engineering Plans, dated March 23, 2016;
- A-12 County Planning Board Review, dated February 24, 2016;
- A-13 County Planning Board Review, dated April 14, 2016.

WHEREAS, witnesses for the Board presented the following Exhibits:

- B-1 Refusal of Permit, dated October 13, 2015;
- B-2 Refusal of Permit, dated April 6, 2016;
- B-3 Health Department Review, dated February 22, 2016;
- B-4 Teaneck Fire Department Review, dated February 23, 2016;
- B-5 Traffic Review by Stonefield Engineering and Design, dated April 5, 2016;
- B-6 Planning Review by Phillips Preiss Grygiel, LLC, dated February 22, 2016;
- B-7 Engineering Review Letter(s) by Board Engineer, various dates.

WHEREAS, the legal standard to be applied in this matter are as follows:

USE VARIANCE

To obtain a use variance, an applicant must demonstrate that there are "special reasons" for the grant of the variance and that there will not be substantial negative impact if the variance is granted. N.J.S.A. 40-55D-70d. The "special reasons" are often referred to as the "positive criteria" and can be demonstrated if the use carries out purposes of zoning or the refusal to allow the project would impose an undue hardship upon the applicant. In addition, "special reasons" exist if the proposed site is particularly suited for the proposed use. Medici v. BPR Co., 107 N.J. 1, 4 (1987).

BULK VARIANCE RELIEF

Under the Municipal Land Use Law (MLUL) bulk variances may be granted by a demonstration of the positive and negative criteria:

(c)(1) Where: (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to . . . this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property . . . [or] (2) where in an application or appeal relating to a specific piece of property the purposes of this act . . . would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

No variance or other relief may be granted under the terms of this section . . . without a showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

NOW, THEREFORE BE IT RESOLVED, by the Board that it does hereby make the following findings of fact and conclusions based thereon: .

1. That all of the recitals hereinabove set forth are incorporated by reference. That all of the exhibits and documents produced by the Applicant, Members of the Public, or the Board are herein incorporated whether specified herein or not.

2. The within Resolution is not intended to reiterate the entire record before the Board which is incorporated herein and made a part hereof. It is intended to provide an overview of the record and testimony as well as the decision of the Board and the reasons therefore. The entire record made before the Board is incorporated here and made a part hereof.

EVIDENCE ADDUCED IN THE APPLICATION

3. LD/JK provided an overview of the Application and an overview of the history of prior Applications regarding the Property as well as an overview of the Property and the various conditions. LD/JK made the Board aware of a prior, recent, appeal regarding the Property, including the Prior Approval. It was proffered by the Applicant that variances that were previously granted under the terms of the Prior Approval were still in effect despite the alterations in the Site Plan and the different Application. The Board rejected this contention and requested that the Applicant provide proofs as to all requested variances without reference to the Prior Approval. The statements of LD/JK were not testimony but they did provide a valuable context for the Application and factual statements made by LD/JK were confirmed by other witnesses during the course of the public hearings.

4. Rivera provided an overview of the existing conditions of the Property and the Application. He testified that he was an employee of Kamson Corporation ("Kamson") and that the Applicant was a subsidiary of Kamson. He gave the board the benefit of his knowledge about the

history of prior applications and approvals upon the Property. He identified the Property on Exhibit A-1 and described the existing structures on the Property and the Property configuration. He testified as to the unique topographic conditions which impact the design of the development and "drive" some of the design and use choices.

5. Rivera testified that the Application consisted of nearly 11,000 square feet of retail and 19 "loft-style" residential units. Parking is located to the east and west side of the building and circulation is created between these two parking areas. Ingress and egress is provided by River Road and New Bridge Road as depicted on the various Exhibits, as amended. All units are one bedroom except for one, which is a two bedroom.

6. Montoro testified to the architectural elements and design of the Project, and its specific layout to meet the intent of the ordinance. He testified as to the design of the building and the "covered sidewalk" in front of the retail facing New Bridge Road with façade breaks and offset materials to complement the frontage and bring a "streetscape feel" to the facade. He testified as to the design and layout of the building and each of the units in the Building and how the roof was designed to be a gable to tie in with the adjacent residential buildings/be aesthetic in nature, verses a conforming flat roof; thereby causing the height variance requested. Integral cross gables were "designed in" with the various complementary finishes and façade steps to add interest and break up the frontage which meets the intent of the ordinance. He testified as to the materials proposed for use in the building and referred to material samples that were marked into evidence. He testified that the layout and presentation was designed to minimize the impact on adjoining property owners and that the elevations further assure that limited portions of the building are visible to the neighbors on Cottage Place; noting that the rear elevation topmost floor was at the same elevation of those properties. Building mechanicals were also screened from Cottage Place due to the roof design.

He testified as to the signage and the required signage variances and that the building would be fully sprinklered. Specifically regarding signage, there is one sign proposed on each side of the building for the residential portions of the development while there are "blade" signs proposed for each of the retail tenants to provide the location with an almost "turn of the century" aesthetic.

7. Montoro testified that the Applicant would comply with the Township's Affordable Housing Requirements. In dialogue with the Board Planner, Richard Preiss, PP, Montoro testified about the Township's affordable housing needs. Preiss testified that the Property is required to generate 2 affordable housing units and that he would be satisfied with 2, one-bedroom, units included on the Property. As an alternative, Preiss indicated that he would accept the Applicant providing 2 units elsewhere in the Township. He rejects the idea of a contribution in lieu of the inclusion or construction of affordable units.

8. French testified as to matters of engineering concern. He also described the existing conditions on the Property and the surrounding uses. He testified that there were 37 parking spaces on the west side of the structure and 38 parking spaces on the east side of the structure for a total of 75 parking spaces. A calculation pursuant to zoning ordinance requires 94 parking spaces. Parking is "mixed" and there is no reserved parking for either the residential or retail uses. Landscaping will be provided in accordance with the Landscape Plan, including landscaping and sidewalks along New Bridge Road.

9. French testified to the height variance required and explained that the proposed height is 36.5' to the midpoint, which is nearly conforming, however, variance relief is necessary due to the pitched roof which will provide a true residential feel with nesting gables. Further, the HVAC units will be screen and hidden from view.

10. French testified that the French Brook is contained in an existing culvert under New

Bridge Road. A landscape retaining wall of 4' or less is located on the east side of the building, north of the parking area. Landscaping will be provided between the wall and parking area. The rear (south) property line will have a significant retaining wall that will run the length of the Property at a maximum height of 12'. This rear retaining wall will also contain a 6' stockade fence along the southern property line as specified by the applicant.

11. French testified as to lighting, trash removal and drainage on the Property. Deliveries would be made in the drive aisle to the rear of the structure and a sidewalk would be installed to assure that people using doors that face the drive aisle do not open the doors into parked vehicles.

12. French testified that he would comply with the requirements of the Board Engineer.

13. Taylor testified as to traffic flow and traffic patterns in the area. The Applicant proposed, in discussion with the County, a "right turn in/right turn out" traffic configuration with regard to the westernmost driveway on New Bridge Road and a "right turn out only" traffic configuration with regard to the easternmost driveway on New Bridge Road. A two way driveway provided access to the site at River Road. However, left turns out of this driveway were limited during peak traffic hours. Overall, Taylor testified there is safe and controlled access via County road ingress and egress.

14. Taylor made various traffic recommendations based on studies of existing and proposed conditions. Present traffic was measured during morning and afternoon peak hours to create a baseline. Once a baseline was established, trip generation manuals were consulted as to the additional traffic from the 19 proposed units and the retail space. Based on these factors, it was determined that the traffic generated from the site did not lessen the existing level of service.

15. Taylor testified that a parking variance was required. The ordinance requires 5

spaces per thousand for retail and 2 spaces per one bedroom unit and 3 spaces per two bedroom unit. This equates to a total parking requirement of 94 parking spaces. He testified that this was a mixed use development and required a different analysis and he relied on a publication that focused on "shared parking". Based on this, 67 spaces were required for the Property and 75 were provided. A chart reflecting this analysis was marked as A-9.

16. Taylor also testified as to site layout and traffic circulation, aisle width and loading areas. He indicated that certain parking spaces on the western parking areas adjacent to the New Bridge Road entrance would be better utilized if they were designated for employee parking. Ultimately, he testified that there was sufficient parking and adequate traffic circulation for the proposed development.

17. Burgis testified as to all matters of planning concern. He testified that there are numerous notable features of the Property that impact the manner in which the Property can be developed and how the design is implemented. The site dimensions are unusual as a long, narrow lot with over 750 feet of road frontage and an average depth of only 87 feet. This dramatically impacts the ability to place a building on the Property and provide for parking. Another significant issue is the topography. The rear, or southern, portion of the site is significantly raised from the New Bridge Road elevation and is approximately 14' higher than the developable, front, portion of the Property. This creates a slope (or "drop") of approximately 60%. This also impacts the locations of the structures and parking on the Property and creates the need for fences at the top of the slope.

18. Burgis testified that the Property and the structures were in poor condition and the site was in need of redevelopment and the Project would benefit the condition of the Property. Burgis testified that one of the other challenges on the Property was traffic circulation. Existing circulation was undefined and had numerous driveways and curb cuts.

19. Burgis testified that the design proposed several significant improvements to the use of the Property. The first is the elimination of the poor, random building configuration with a singular, uniform aesthetically pleasing design. The second is improving traffic circulation and parking. The third is providing landscaping (407 plantings – which includes 82 shade ornamented trees, 94 evergreen trees and 231 shrubs).

20. Burgis testified as to the development of the area and the Projects impacts. . He noted that the R-TH Zone permitted townhouses and apartments only when associated with affordable housing and that the Master Plan seeks to balance redevelopment in a manner that does not adversely impact traffic circulation, population density, safety, environmental concerns and similar matter. He testified that the occupancy of the Project would have a minimal impact on the community and that traffic safety and the aesthetics of the Property were enhanced. The requisite affordable housing is being provided in accordance with the Township Planner's direction. The development bolstered retail offerings in the community.

21. Variances were required as to *N.J.S.A.* 40:55D-70d(1) and d(5) as well as Bulk Variances specified herein. Burgis testified that "special reasons" existed for the granting of the "d" variances in that the Property is particularly well suited for the proposed development, and advance numerous purposes of zoning, most notably the increased aesthetics of this gateway project Bulk Variances are governed by *N.J.S.A.* 40:55D-70(c)(1) or (c)(2) which requires a demonstration of hardship due to the Property or that the benefits of the granting of the variances outweigh any detriments. Burgis testified as to all of the standards with specificity and applied the standards to all elements of the proposed development, noting that many of the variances become subsumed with the use itself (see below).

22. The foregoing is not intended to be a complete record of all testimony presented

during the Application and the full record is incorporated herein and made a part hereof.

NOW THEREFORE, be it resolved that the Board hereby grants the requested Site Plan Approval, "D" Variances, Bulk Variances and waivers based on the following findings:

- A. The Applicant has satisfied the requirements of the Site Plan Ordinance.
- B. The Applicant has demonstrated entitlement to the requested "D" Variances. The Applicant has demonstrated that the proposed development is particularly well suited for the Property and that there is no negative impact for the granting of these variances. In particular, this location is the gateway to the Township which would greatly benefit by the aesthetic improvement. The proposed mixed use development with retail tenants on the first floor complements the housing and provides the economic engine to construct the project. As a result, the project as proposed will create a "Main Street" feel with a full streetscape that will be supported by the housing above as well as service the passing motorists and surrounding neighborhood.

- C. At the conclusion of the Application, after various amendments during the course of the Application, the Applicant was seeking the following variances and design waivers:

- 1. Use Variances

- a. §33-24(p)(1)(b) – Retail & Apartments are not permitted, Townhouses and Apartments permitted but only for inclusionary affordable housing purposes; Retail and non inclusionary apartments are not permitted uses in the zone (*N.J.S.A. 40:55D-d(1)*);
- b. §33-24(p)(4)(b)(1) – Permitted number of residential units per acreage is 17 units; 19 residential units are proposed (*N.J.S.A. 40:55D-d(5)*);

2. Incorporated Relief:

- a. §33-24(p)(4)(b)(3) - Maximum permitted height is 35 feet or three stories, whichever is lesser, measured from the lowest grade to the midpoint of any sloping roof with a pitch of at least 6 on 12, or to the top of the roof in all other cases; proposed height of the building is 36.5 feet ((N.J.S.A. 40:55D-d(6)).
- b. §33-24(p)(4)(b)(4) - 6 residential units permitted per structure; 19 residential units proposed per structure;
- c. §33-24(p)(4)(b)(5) - maximum allowed length of building is 170 feet; proposed length of building is 195 feet;
- d. §33-24(p)(4)(b)(6) - no building shall contain more than two dwelling units in a straight unbroken row, and the exterior wall of each such building shall include a setback or break with a depth of not less than four feet after every two dwelling units; proposed building contains 10 units in a row on each side of the building with a proposed façade setback of 1.0 feet;

3. Setback Relief:

- a. §33-24(p)(4)(a)(3)[i] – permitted front setback of building to a public street setback is 35 feet; proposed front setback of building to a public street curbline setback is 10 feet (1 foot to the right of way);
- b. §33-24(p)(4)(a)(4)[i] - permitted front setback of building to property line is 35 feet; proposed front setback of building to property line is 10 feet. (1 foot to the right of way);
- c. §33-24(p)(4)(a)(8)[ii] – required buffer shall be a minimum of 5 feet adjacent to other property lines, including the public street; proposed distance to the right of way is 1 foot;

- 4. Parking : §33-24(p)(4)(a)(10) – 94 parking spaces are required; 75 parking spaces are proposed;
- 5. Lot coverage: §33-24(p)(4)(b)(2) [ii] - Maximum permitted lot coverage is 42,732.36 sq. ft (45%.); proposed lot coverage is 55,172.22 sq. ft (58.1%);

6. Site Plan Variances

- a. §33-28(b)(6)(c) - Not more than two driveways, each of not more than 30 feet nor less than 20 feet in width, shall be permitted for each 300 feet of frontage on a public street; proposed driveway entrances on New Bridge Road are 15 and 18 feet wide
- b. §33-29(b)(2) - maximum permitted wall and fence height combination is 6 feet; proposed combined wall and fence height is 18 feet (12 foot wall and 6 foot fence);

7. Sign relief.

- a. §33-18(c)(5)(i)(2) – required minimum setback of sign to property line and parking area is 20'; minimum setback to property line mark proposed is 5'
- b. §33-18(c)(5)(e)(2)(iii) – maximum total sign area permitted for directional sign is 2.5 sf; a total of six (6) directional blade signs are proposed totaling 4 sf each.

D. The Board finds that all variances are warranted and are granted under the terms of *N.J.S.A. 40:55D-70(c)(1)* and (c)(2) and (d). Use relief was discussed above. As for the bulk relief, there is no question that the Property is challenged by significant topographic hardship and hardship as to configuration and the Applicant has satisfied the requirements of (c)(1). Additionally, the Applicant has demonstrated entitlement to the Ordinance based on (c)(2) as a result of the topographical constraints due to the rear slope, the shape of the property in terms of its narrowness, and the location of the property at a major intersection.. There is no negative impact to the zoning ordinance, the zone plan or the Master Plan.

E. Affordable Housing. The Applicant shall be required to provide 2 affordable housing units either within the development. Or in the alternative, the Applicant may provide 2 units elsewhere in the Township. A contribution to a fund will not be

considered an option or be permitted.

F. In granting the above approvals, the Board finds that the following conditions are appropriate:

1. The within Approval is conditioned upon the Applicant obtaining all necessary approvals from all Local, County and State agencies of applicable jurisdiction.
2. The Applicant shall comply with all comments contained in all reports of the Township professionals.
3. The within Approval is conditioned upon the Applicant entering into a Developer's Agreement with the Township. The Developer's Agreement shall contain the applicable conditions of this resolution.
4. Construction shall be in accordance with the survey and plans submitted.
5. Any HVAC and generators must be in compliance with Township Code and manufacturer's instructions as to placement and testing.
6. A sufficient and proper refuse removal area and recycling program must be provided pursuant to Township Code;
7. Installation of sidewalks, curbs and driveway aprons in accordance with Township regulations and building codes to the Township Engineer's satisfaction.
8. Applicant will ensure all rear exit doors from retail units will have unrestricted clearance to open fully, specifically a three-foot wide area with curb and sidewalk.
9. Applicant agrees to enter into a Maintenance Agreement with a third-party

vendor as to removal of snow to be taken off-site during the applicable winter season.

10. Compliance with all the codes of the Township and particularly the fire sub-code, as well as compliance with all ordinances and regulations of the Township of Teaneck and any and all other requirements of governmental authorities having jurisdiction over same including the engineer's recommendations above set forth, all unless otherwise revised and continuing review by the Zoning Official.
11. The applicant shall provide, upon completion, an updated or "as-built" survey to the Zoning Official.

Accordingly, a majority of the Board voted to approve the application as presented.

Motion was made by: Mulligan

Motion was seconded by: Frisch

Roll Call to Approve:

	Yes	No	Absent	Abstain	Recuse
Barta					
Frisch	x				
Green					
Honis					
Mermelstein	x				
Meyer					
Mulligan	x				
Rehman	x				
Rosen	x				
Senter	x				

Accordingly, a majority of the Board voted to approve the application as presented.

I hereby certify that the foregoing is a true copy of the Resolution adopted by the Zoning Board of Adjustment at its meeting held on May 5, 2016.

Anne Senter
Anne Senter, Chair
Date: 7/7/16

Schwanewede / Hals Engineering

9 Post Road
Suite M11
Oakland, New Jersey 07436
E-Mail: Halseng@optonline.net

Professional Engineering and Land Surveying
(201) 337-0053
Fax (201) 337-0173

February 8, 2016

Ms. Rosiland McLean, Secretary
Zoning Board of Adjustment
Municipal Building
818 Teaneck Road
Teaneck, NJ 07666

Re: Site Plan – River Commons - #ZB 2015-61
746 New Bridge Road / River Road
Block 1001 – Lots 6.01
Teaneck, NJ

Dear Ms. McLean:

I have received the following:

- A. Site Plan and variance applications
- B. Plan entitled “Amended Preliminary & Final Site Plan for River Commons” prepared by French & Parrello Associates, last revised January 27, 2016, containing 16 sheets.
- C. Architectural Plans entitled “River Commons, 764 New Bridge Road” prepared by The Montoro Architectural Group, last revised to October 28, 2015 containing 5 sheets.
- D. Survey map entitled “Boundary & Topographic Survey Map Prepared for Red Real Estate Associates, LLC”, prepared by Azzolina & Feury Engineering, Inc., dated February 15, 2013.
- E. Stormwater Management Report for River Commons, prepared by French & Parrello dated November 2, 2015.
- F. Environmental Impact Statement for River Commons, prepared by French & Parrello dated November 2, 2015.
- G. Traffic Impact Analysis prepared by Staigar & Peregoy, LLC, dated October 15, 2015.
- H. Operation and Maintenance Manual for River commons prepared by French & Parrello dated November 2, 2015.
- I. Plan entitled “Flood Hazard Area Verification Plan, for Amended Preliminary and Final Site Plan River Commons” prepared by French & Parrello Associates, dated November 10, 2015, containing 1 sheet.

My review finds the application complete. My comments are as follows:

Site Plan – River Commons
 746 New Bridge Road / River Road
 Block 1001 – Lots 6-10
 Teaneck, NJ
 February 8, 2016

1. The applicant is seeking Preliminary and Final Site Plan approval for the construction of a mixed use building containing nineteen (19) residential units over 10,931 s.f. of retail space, along with parking for 75 vehicles.
2. The existing property is located in the Residential Townhouse Zone District (R-TH). It is on the southerly side of New Bridge Road at the southwest corner of the intersection with River Road. The site is irregularly shaped and is approximately 730' long, 120' deep and is 99,918 s.f. or 2.294 acres. The property contains two existing residences and a commercial building. The proposal will remove the existing buildings and site improvements.
3. The proposed mixed use building is not a permitted use in the R-TH zone district. A "d(1)" use variance is required.

The proposed building height is 45' where 35' maximum is permitted. The proposed building height exceeds the maximum permitted building height by more than 10%. A "d(6)" variance is required.

4. The proposed building has 10,931 s.f. of retail space on the first floor and nineteen (19) residential units on the second floor. The residential units are two-story units. Entrance to the residential units is from the second floor and each of the units has lofts on the third floor.

All of the residential units are market rate units. None of residential units are designated as affordable units.

5. The proposed building is centrally located on the site facing New Bridge Road. The building is 195' long x 71' wide and is located 1' from the proposed right-of-way of New Bridge Road. There is a proposed separation of 11' from the proposed curblane of New Bridge Road to the proposed building. The 11' separation will contain a 5' sidewalk and grass strip between the curb and sidewalk.

6. The parking required for the proposed uses are calculated as follows:

Retail parking: $10,931 \text{ s.f.} / 1 \text{ space}/200 \text{ s.f.} = 54.6 \text{ spaces}$

Residential:

(18) 1-bedroom x 1.8 spaces/unit = 32.4 spaces

(1) 2-bedroom x 2.0 spaces/unit = 2.0 spaces

Total required = 89 spaces

75 parking spaces are proposed which include 4 handicapped spaces.

Site Plan – River Commons
746 New Bridge Road / River Road
Block 1001 – Lots 6-10
Teaneck, NJ
February 8, 2016

7. Access to the site is provided by three driveways, two driveways on New Bridge Road and one on River Road. All of the driveways have restricted turning movements. The westerly New Bridge Road driveway has “no left” turning movements into and out of the driveway. The easterly driveway on New Bridge Road has “no left” turning movements into the driveway. The River Road driveway has “no left” turns out of the driveway during restricted hours.
8. Seventy-five (75) parking spaces are proposed on-site for the development. Thirty-seven (37) spaces are located west of the building and thirty-eight (38) east of the building. An entrance/exist driveway to New Bridge Road is located west of the building opposite Rosse Avenue. An entrance only driveway from New Bridge Road is located about 40’ east of the building. An entrance/exist driveway to River Road is located on the east side of the site. A two-way driveway is located behind the building and connects the easterly and westerly parking areas.
9. Loading areas are not provided on the site. Truck deliveries must use the drive aisles for loading and unloading. The truck deliveries for the retail uses will restrict the traffic movements in the rear driveway to one lane. The residential deliveries on either the east or west entrance to the building will restrict the traffic movements to one lane.
10. There are no internal sidewalks or designated walking areas within the parking areas. Pedestrians must walk in the drive aisles to access the building. Pedestrians in the easterly parking area must cross the entrance driveway from New Bridge Road, watch for the traffic that is circulating from the west behind the building, and walk through the handicapped parking spaces to reach the building sidewalk.
11. Two trash enclosures are proposed for the site. The enclosures are located on each end of the building accessed from the rear driveway near the corners of the building.
12. The French Brook is piped in an existing culvert under New Bridge Road. Approximately two thirds of the property is located within the flood hazard area of the French Brook. The proposed building is located within the proposed flood limits of the brook. The first floor of the proposed building and the easterly parking area are elevated above the flood.
 - The Site Plan must show the limits of the flood hazard area and the floodway of the French Brook.
13. Testimony must be provided on the impacts the proposed project will have on the flooding of the French Brook. The testimony should include the proposed grading of the site and the areas subject to flooding following the development of the project.

Site Plan – River Commons
 746 New Bridge Road / River Road
 Block 1001 – Lots 6-10
 Teaneck, NJ
 February 8, 2016

14. NJDEP requires residential parking areas to be elevated above the flood. The easterly parking spaces are proposed to be elevated above the flood, while the westerly spaces are subject to flooding.
 - Are the easterly parking spaces to be designated for residential parking only?
15. The Architectural Plans indicates that the area below the front building walkway is subject to flooding while the Site Plan does not.
 - Is the area beneath the front walkway proposed to be subject to flooding?
 - If yes does it include the entire building?
 - The Site Plan must show the proposed flood limits.
 - The Site Plan must show the location and detail of any proposed flood vents.
16. Portions of the second floor of the proposed building encroach into the new right-of-way of New Bridge Road. The proposed encroachments must be eliminated.
17. A retaining wall is proposed along the southerly side of the parking areas and driveway. The wall is varying heights with the tallest sections at about 12' high and the mean height 10' high.

Landscaping is proposed in front and on top of the wall to reduce the visual impact of the wall.
18. The lighting of the parking areas is to be provided with 25' high pole mounted lights and the driveway entrances with 17' high decorative pole mounted lights.
19. Proposed landscaping provides screening for the residential properties adjoining the proposed development.

A six foot high stockade fence should be provided along the southerly property line in addition to the landscaping.
20. Street trees are provided along the New Bridge Road and River Road frontages.
21. Depressed curbing should be provided across the openings of the three proposed driveways.
22. Detectable warning surfaces must be provided at the sidewalk crossings with the proposed driveways.
23. A guide rail needs to be provided at the top of the proposed landscape retaining wall to protect the 15 parking spaces in the east parking area.

Site Plan – River Commons
746 New Bridge Road / River Road
Block 1001 – Lots 6-10
Teaneck, NJ
February 8, 2016

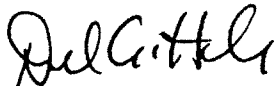
24. The curb radii for the proposed curbing must be labeled on the Site Plan.
25. A minimum 24' wide drive aisle must be provided at the transitions from the rear driveway behind the building to the east and west parking areas.
26. Additional proposed spot grades must be provided at the various curb returns throughout the parking areas.
27. The proposed curb line at the southeast corner of the building must connect to the building corner.
28. A storm drain line from Cottage Place to River Road crosses the site on the west side of the property. The storm drain line needs to be located in a 20' wide storm drainage easement. The easement must be dedicated to the Township of Teaneck.
29. The sewage from the building is proposed to connect to the sanitary sewer main in River Road.
30. The proposed project is considered a major development in accordance with the Stormwater Management Ordinance. Stormwater from the site is to be controlled by an underground pipe detention system located under the parking area to the west of the building. The drainage calculations have been reviewed and the following must be addressed:
 - a. The drainage calculations must account for the area of the site not collected by the detention system. The individual drainage area maps show that approximately 0.2 acres will flow off-site and not be collected by the drainage system.
 - b. The calculations must include the routing of a 60 minute storm through the detention system.
 - c. Provide the individual pipe sizing calculations for the on-site drainage system .
31. The drainage system details must be revised as follows:
 - a. Provide access manholes at the corners of the detention pipe system for maintenance.
 - b. Diversion inlets #A-1 and A-11 must be redesigned. Stormwater dropping into the inlets will by-pass the diversion walls.
 - c. Provide a detail of inlet #A-1.
 - d. Outlet structure #OS-1 must be increased in size to provide adequate access to each side of the control wall.
 - e. The trash rack on #OS-1 needs to be reconfigured to be angled away from the face of the wall.

Site Plan – River Commons
746 New Bridge Road / River Road
Block 1001 – Lots 6-10
Teaneck, NJ
February 8, 2016

32. Water quality is provided by a two pre-manufacture treatment tanks. The stormwater from smaller storms is diverted to tanks for treatment.
33. A Stormwater Maintenance Manual must include the list of the components of the stormwater system and the details of each component.
34. Any approval of this application should be conditioned upon the execution of a Developer's Agreement.
35. A deed of consolidation must be filed for the property.
36. Approvals are required from but not limited to:
 - a. Bergen County Soil Conservation District (Approved Jan. 13, 2016)
 - b. Bergen County Planning Board
 - c. Bergen County Utility Authority Connection Permit
 - d. NJDEP Sewer Extension Permit
 - e. NJDEP Flood Hazard Area Permit

Very truly yours,

SCHWANEWEDE/HALS ENGINEERING
Professional Engineers and Land Surveyors



David A. Hals, P.E., L.S., P.P. & C.M.E.
Zoning Board Engineer



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February 22, 2016

Anne Sentner, Chairperson
Township of Teaneck Zoning Board of Adjustment
Municipal Building
818 Teaneck Road
Teaneck, New Jersey 07666

RE: **#ZB 2015-61**
Amended Preliminary and Final Site Plan Approval
Red Real Estate Associates, LLC - River Commons
746 New Bridge Road and River Road
Block 1001, Lot 6.02
R-TH Residential Townhouse Zone

Dear Chairperson Sentner and Members of the Board:

We have reviewed the above-referenced development application, including the following documents:

- Amended Preliminary and Final Site Plan for River Commons, Block 1001, Lot 6.01, Township of Teaneck, Bergen County, NJ, prepared by Andrew L. French, P.E., of French & Parrello Associates, dated 11/2/2015 and revised through 1/27/2016
- Boundary and Topographic Survey Map, Red Real Estate Associates LLC, 764 New Bridge Road, Block 1001, Lot 6.01, Township of Teaneck, Bergen County, NJ, prepared by Michael L. Ritchie, LS, of Azzolina & Feury Engineering Inc., dated 2/15/2013
- Floor Plans and Building Elevations, River Commons, 764 New Bridge Road, Teaneck, NJ, Block 1001, Lot 6.01, prepared by John M. Montoro, AIA, of The Montoro Architecture Group, dated 6/15/2015 and revised through 10/28/2015
- Environmental Impact Statement for River Commons, Lot 6.01, Block 1001, Township of Teaneck, Bergen County, NJ, prepared by Andrew L. French, P.E., of French & Parrello Associates, dated 11/2/2015
- Traffic Impact Study for Proposed Mixed Use Building, New Bridge Road, Block 1001, Lot 6.01, Township of Teaneck, Bergen County, NJ, prepared by Joseph J. Staigar, P.E., P.P., and Craig W. Peregoy, P.E., of Dynamic Traffic, dated 10/15/2015



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Project Description

The applicant is seeking preliminary and final site plan, "d(1)" use, "d(5)" density, "d(6)" height variances, and "c" bulk variance approval in order to construct a new mixed use development consisting of 19 residential units and 10,931 square feet of retail space. Retail uses and apartments that are not for inclusionary affordable housing purposes are not permitted in the R-TH Residential Townhouse district, and, as such, "d" variance relief is necessary.

The applicant previously received preliminary and final site plan approval and associated variances and waivers for a retail bank branch building with drive-thru from the Zoning Board of Adjustment (Appeal ZB-2013-52) on March 6, 2014. As per the applicant, the proposed plan preserves all buffers and provides similar landscaping, parking, loading, lighting, drainage, and other related site improvements consistent with the previously approved commercial project.

The subject property measures 2.29 acres (2.18 acres after proposed right-of-way dedication to Bergen County along New Bridge Road) and is located to the southwest of the intersection of New Bridge and River Road. The subject property is currently developed with two residences and a commercial building. Surrounding uses include single-family residences across New Bridge Road to the north and along Cottage Place to the south; a gas station at the northwestern corner of the intersection of New Bridge and River Roads; a funeral home at the northeastern corner of the intersection of New Bridge and River Road; and what appears to be undeveloped traffic islands, beyond which is the Matthew Feldman Nature Preserve at the southeastern corner of the intersection of New Bridge and River Road.

The subject property would be cleared of all existing building and site improvements. The new mixed use building would be oriented towards New Bridge Road and would have retail units on the first floor and loft-style apartments on the second and third floor levels. The retail area on the first floor would measure 10,931 square feet and the residential lobby (inclusive of trash room, mechanical room, stairs, and elevator) would measure 796 square feet, for a total area of 11,727 square feet. Plans depict five retail units ranging in size from 1,622 square feet to 2,370 square feet. The retail units would open to an on-site walkway with railings along New Bridge Road. Nineteen (19) two-story apartments would occupy the second and third floor levels, consisting of 18 one bedroom units and one two bedroom unit. The second floor area would measure 12,816 square feet, and the third floor area would measure 10,677 square feet. The second floor level would extend over the first floor level by approximately 8 feet along New Bridge Road and 3 feet to the rear.

Each unit would be comprised of a kitchen, dining area, living area, full bathroom, and closets on the first floor level. The third floor loft area would be comprised of a



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bedroom, sitting area, bathroom with shower, laundry facilities and hot water/utility area. The two bedroom unit would have an additional bedroom at the third floor level. Each unit would have a balcony at the second floor level. The one bedroom units would range in size from 1,048 square feet to 1,177 square feet and the two bedroom unit would measure 1,572 square feet. All of the apartments appear to be market rate units.

Vehicular access into the subject property would be provided via: 1) entrance/exit driveway with "no left" movements both into and out of the driveway in the western portion of the subject property along New Bridge Road; 2) entrance driveway with "no left" movements into the driveway in the eastern portion of the subject property along New Bridge Road; and 3) entrance/exit driveway with left turn restrictions during peak hours along River Road. Seventy-five (75) parking spaces, four of which would be ADA spaces, would be provided to the east and west of the building. There would be a circulation driveway to the rear of the building. No loading spaces would be provided.

Two dumpster enclosures (12 and 15 feet in width) would be provided at the east and west ends of the building, to be accessed via the rear driveway. Chain link fencing (4 feet in height) and a modular block retaining wall would be provided at the rear of the subject property; the overall height of the wall is variable and would measure a maximum of approximately 12 feet. Chain link fencing (4 feet in height) and a landscape retaining wall would be provided along a portion of the northeastern corner of the subject property adjacent to the parking area. A drainage basin would be provided in the westernmost portion of the subject property, as well as along New Bridge Road between the road right-of-way and the parking area.

French Brook is piped in an existing culvert under New Bridge Road. As per the Environmental Impact Statement, the subject property is located in a flood zone and a Flood Hazard Permit would be submitted to the NJDEP for the approval of this project. There are sloped areas of up to 26% in the southern portion on the southern portion of the subject property; the remainder of the subject property is relatively flat (i.e., 5% slopes or less).

The proposed landscaping provides screening to the south for the existing single-family residences along Cottage Place (e.g., arborvitae, red maple, sugar maple). Street trees would be provided along New Bridge and River Road. Drainage basins would be seeded and planted (e.g., deciduous and evergreen trees, swamp foxtail grass, etc.), and parking lot landscaping would be provided mainly around the perimeter (e.g., deciduous/ornamental trees, shrubs, perennials, etc.).

The base of the front façade of the building would be clad with brick. The first floor level would be clad with "Arriscraft" (a manmade sandstone product), storefront panels and brick pilasters. The second and third floor levels would be clad with brick



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and what appears to be vinyl siding or similar (label not provided on plans). The roof would have asphalt shingles. The other sides would be similarly clad. The side façades would be clad primarily in vinyl siding or similar. The first floor level of the rear and side façades would be clad with Arriscraft.

Signage

Three monument signs ("River Commons") are proposed; two would be located along New Bridge Road and one would be located along River Road. All signs would have a setback of 5 feet. The sign face would measure 25 square feet per side (6 feet by 4 feet-2 inches) and would be comprised of beige stucco. Signs would have a cultured stone base with cap measuring 10 inches in height by 7 feet-4 inches in width, with a planted berm at the base. The sign would have a stucco cornice and would measure a total of 5 feet-6 inches in height.

On the front façade, each retail unit would have a wall sign measuring 4 feet by 16 feet-9 inches (67 square feet). Each of the side façades would have a wall sign measuring 2 feet by 16 feet (32 square feet).

Zoning Compliance

The subject property is located within the Township's R-TH zone, which does not permit retail uses or apartments that are not inclusionary. As such, "d(1)" use variance approval is being sought in connection with the application.

The maximum permitted density is 8 units/acre, where 8.72 units/acre is proposed (i.e., 19 units on 2.18 acres). As such, "d(5)" density variance approval is required.

A maximum height of 35 feet/3 stories is permitted, where a building height of 45 feet is proposed. As such, "d(6)" height variance approval is required as the proposed height exceeds the maximum permitted height by 10% or 10 feet.

There are also a number of bulk variance conditions associated with this application:

- Lot coverage: a maximum of 45% is permitted where 58.10% proposed
- Front of building to a public street: a minimum 35 feet is required where 1 foot to right-of-way/10 feet to property line is proposed
- Front building setback: a minimum of 35 feet is required where 1 foot to right-of-way/10 feet to property line is proposed
- Number of dwelling units per structure: a maximum of 6 units are permitted where 19 units are proposed
- Parking: 94 spaces are required where 75 parking spaces are proposed



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- Buffer: a minimum of 5 feet is required adjacent to property lines (including the public street), where 1 foot is proposed to the public right-of-way
- No building shall contain more than two dwelling units in a straight, unbroken row and the exterior wall of such building shall include a setback or break with a depth of not less than four feet after every two dwelling units, where the proposed building would contain 10 units in a row on each side of the building with a proposed setback of 1.6 feet
- A maximum building length of 170 feet is permitted where the proposed building length is 195 feet
- Not more than two driveways, each of not more than 30 feet in width, nor less than 20 feet in width, shall be permitted for each 300 feet of frontage on a public street, where proposed driveway entrances on New Bridge Road are 15 feet and 18 feet in width
- Maximum permitted wall and fence height combination is 6 feet where proposed combined wall and fence height is 16 feet (i.e., 4 foot fence, 12 foot wall)

Signage

- For business signs, permanent wall signs are limited to a maximum size of 1 ½ square feet for each 1 foot of the width of the frontage of the building occupied by the business maintaining the sign. The total gross area of signage per frontage shall not exceed 200 square feet, where 266.65 square feet of signage is proposed

The applicant has proposed three freestanding signs along New Bridge and River Road. As per Section 33-18(c)(5)(i)(2) of the zoning ordinance, for business establishments, freestanding signs are permitted in the L-1 and B-2 districts in lieu of business signs affixed to the building façade. Not more than one freestanding sign is permitted for each 100 feet of frontage on a public street. In addition, no freestanding sign shall be located within 20 feet of the boundary line of the property where it adjoins a public street or within 20 feet of a public or private off-street parking area or interior driveway, where the proposed minimum setback to the property line and parking area is 5 feet. As the subject property is located in the R-TH district, freestanding signs would not be permitted under this section of the zoning ordinance. Variance relief is required.

Planning Comments

1. The MLUL at N.J.S.A. 40:55D-70d(1) permits a board of adjustment to grant a variance to allow "a use or principal structure in a district restricted against such use or principal structure." Per the MLUL, a "d" variance may be granted only "in particular cases for special reasons." These "special reasons" for a use variance may include that the use is inherently beneficial, that the property



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owner would suffer undue hardship if compelled to use the property in conformity with the permitted uses in the zone, or that the site is particularly suited for the use so as to promote the general welfare.

In addition, a variance applicant must address the "negative criteria," and affirmatively demonstrate that the variance can be granted "without substantial detriment to the public good" and "without substantial impairment to the intent and purpose of the zone plan and zoning ordinance" of the municipality. A "d(1)" variance applicant for a use that is not inherently beneficial is further required to address the "enhanced quality of proof" per Medici v. BPR Co. (107 NJ 1 [1987]): "the grant of a use variance is not inconsistent with the intent and purpose of the master plan and zoning ordinance."

2. The New Jersey MLUL at N.J.S.A 40:55D-70d(5) permits a board of adjustment to grant a variance to allow "an increase in the permitted density." Per the MLUL, a "d" variance may be granted only "in particular cases for special reasons." Pursuant to the Grubbs v. Slothower court case, the applicant must demonstrate that "the site will accommodate the problems associated with a proposed use with a greater density than permitted by the ordinance" and that the increased intensity serves one or more of the purposes of zoning.

In addition, a variance applicant must address the "negative criteria," and affirmatively demonstrate that the variance can be granted "without substantial detriment to the public good" and "without substantial impairment to the intent and purpose of the zone plan and zoning ordinance" of the municipality.

3. The MLUL at N.J.S.A. 40:55D-70d(6) permits a board of adjustment to grant a variance to allow "a height of a principal structure which exceeds by 10 feet or 10% the maximum permitted height in the district for a principal structure." Per the MLUL, a "d" variance may be granted only "in particular cases for special reasons." Per the Grasso v. Spring Lake Heights case, an applicant for a "d(6)" variance must demonstrate how the proposal relates to the purposes of height limitations and would be consistent with character of area. A "d(6)" variance applicant also could make a case of how a height restriction prohibits the use of a property for a conforming structure. The negative criteria also must be addressed as described above. The applicant's experts must provide testimony as to how the above proofs are addressed and whether there would be adverse impacts due to the requested structure heights.
4. As per Section 33-24(p)(5)b of the zoning ordinance, for each eight market-rate units provided, one affordable housing unit, as said term is defined under FHA or COAH rules, shall be provided within the development and, from the exterior, shall be no different in appearance than a market-rate unit. The applicant



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should provide two affordable housing units in the proposed development, as set forth in the above-cited section of the zoning ordinance.

5. The applicant should provide testimony regarding site operations, including trash removal and loading/deliveries. The applicant should discuss how it is anticipated that deliveries would occur on the subject property, as there are no designated loading areas, as well as frequency and timing of said deliveries. In addition, how often is trash removal anticipated to occur?
6. The applicant should provide testimony regarding how is it anticipated that parking would operate on the subject property, particularly in light of the requested parking variance. Would any parking spaces be designated and/or reserved for residents?
7. It should be noted that the proposed residential balconies extend past the easement line along New Bridge Road. The applicant should provide evidence of approval from Bergen County for the proposed building encroachments into the right-of-way.
8. The applicant should provide testimony regarding any directional signs proposed as part of this application, as well as compliance with all applicable standards set forth for such signage in the zoning ordinance. The application materials indicate that six directional signs are proposed, while the Signage Table (Sheet PB-4) indicates that no directional signs are proposed.
9. The applicant should discuss and the Board should consider the adequacy of proposed screening along the southern portion of the subject property where it abuts single-family residences along Cottage Place, particularly with regard to lighting and noise.
10. As the subject property is located in a flood hazard area, the applicant should provide testimony regarding any impacts of the proposed development on drainage and flooding in and around the subject property, as well as any anticipated impacts on the flooding of French Brook, which is piped in an existing culvert under New Bridge Road.
11. As "c" bulk variance(s) are required in connection with the application, the Board must find that there is either undue hardship or practical difficulty associated with the strict application of the requirements of the zoning ordinance in connection with this specific piece of property; or that one or more purposes of zoning would be advanced by the deviation and the benefits of granting the variance(s) for this specific piece of property would substantially outweigh any detriment. In addition, the Board must be satisfied that the granting of the variance(s) would not cause substantial detriment to the public good or substantially impair the intent and purpose of the zone plan and zoning ordinance.



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We trust that the above information is responsive to your needs.

Respectfully submitted,

Richard Preiss, P.P.

cc: Rosiland McLean
David Hals, P.E.
Chuck Olivo, P.E.
Dan Melfi, Zoning Officer

16038

EXHIBIT B – SITE PLAN IMPROVEMENT SCHEDULE (see attached)



540 Hudson Street, 1st Floor, Hackensack NJ 07666 Tel:(201) 345-4647 Fax:(201) 591-7974

**764 New Bridge Road - Cost Estimate
Township of Teaneck**

May 21, 2018

No.	Item Description	Unit	Quant.	Unit Price	cost
1	Traffic Protection	LS	1	\$5,000.00	\$5,000.00
2	Utilities Connection	LS	1	\$5,000.00	\$5,000.00
3	Signs & striping	LS	1	\$2,000.00	\$2,000.00
4	Landscaping	LS	1	\$10,000.00	\$10,000.00
5	6" DGA	SY	200	\$12.00	\$2,400.00
6	HMA 9.5M64 Surface course, 2" Thick	Ton	30	\$100.00	\$3,000.00
7	HMA 19M64 Base Course, 4" Thick	Ton	60	\$100.00	\$6,000.00
8	Unclassified Excavation	CY	100	\$30.00	\$3,000.00
9	Concrete curb	LF	1,000	\$25.00	\$25,000.00
10	Concrete Sidewalk, 4" Thick	SY	400	\$70.00	\$28,000.00
11	Detectable Warning Surface	Unit	6	\$400.00	\$2,400.00
	Subtotal				\$86,800.00
	10% Contingency				\$8,680.00
	Safety and Stabilization Guarantee				\$5,000.00
	Performance Bonding Required				\$100,480.00
	5% Engineering Escrow				\$5,024.00

David Garval, PE
Senior Engineer



May 21, 2018

Ms. Farah Gilani P.E, C.M.E, P.P
Township Engineer
Municipal Building
818 Teaneck Road
Teaneck, NJ 07666

RE: Site Plan – Red Real Estate Associates, Block 1001 Lot 6.01
746 New Bridge Road
Teaneck, NJ 07666

Dear Ms. Gilani,

I have reviewed the following for compliance with the Planning Board resolution approval:

1. Plan Titled: Amended Preliminary & Final Site Plan for River Commons, Block 1001 Lot 6.01 Township of Teaneck, Bergen County, New Jersey. Prepared by French & Parrello Associates, last revised 4/12/18.

I find the revisions to the site plan to be acceptable to the engineering department.

An executed developer's agreement is required. The engineer's estimate of the construction costs to install the site improvements is \$100,480.00. A performance bond must be posted for the cost of the site improvements, of which 10% or \$10,048.00 must be made in cash. The remainder totaling \$ 90,432.00 can be posted as a performance bond or letter of credit. A Safety and Stabilization Guarantee in the amount of \$5,000.00 is included. The engineering escrow for this project has been estimated at \$5,024.00. An attorney's escrow must also be posted for this project. Prior to the start of this construction a preconstruction meeting will be required.

Sincerely,

A handwritten signature in black ink, appearing to be "DG" or similar initials, written over a horizontal line.

David Garval P.E.
FASTECH CONSULTING ENGINEERS

cc: Mark Bocchino, Construction Official
Dan Melfi, Zoning Official
Rosiland V. McLean, Technical assistant/Land Use

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EXHIBIT C - MANDATORY DEED RESTRICTION FOR RENTAL PROJECTS

Deed Restriction

**DEED-RESTRICTED AFFORDABLE HOUSING PROPERTY
WITH RESTRICTIONS ON RESALE AND REFINANCING**

To Rental Property
With Covenants Restricting Rentals, Conveyance and Improvements
And Requiring Notice of Foreclosure and Bankruptcy

THIS DEED RESTRICTION, entered into as of this the ____ day of _____, 20____, by and between the [Administrative Agent] ("Administrative Agent"), or its successor, acting on behalf of _____ [Municipality], with offices at _____, and _____ a New Jersey [Corporation / Partnership / Limited Partnership] having offices at _____ the developer/sponsor (the "Owner") of a residential low- or moderate-income rental project (the "Project"):

WITNESSETH

Article 1. Consideration

In consideration of benefits and/or right to develop received by the Owner from the Municipality regarding this rental Project, the Owner hereby agrees to abide by the covenants, terms and conditions set forth in this Deed restriction, with respect to the land and improvements more specifically described in Article 2, hereof (the Property).

Article 2. Description of Property

[If the project is a 100 percent affordable development, use the following:]

The Property consists of all of the land, and improvements thereon, that is located in the municipality of _____, County of _____, State of New Jersey, and described more specifically as Block No. _____ Lot No. _____, and known by the street address:

[Where restrictions are limited to specific units within the project, use the following:]

The Property consists of all of the land, and a portion of the improvements thereon, that is located in the municipality of _____, County of _____, State of New Jersey, and described more specifically as Block No. _____ Lot No. _____, and known by the street address:

More specifically designated as:

(List specific affordable units by address or apartment number.)

Article 3. Affordable Housing Covenants

The following covenants (the "Covenants") shall run with the land for the period of time (the "Control Period"), determined separately with respect for each dwelling unit, commencing upon the earlier of the date hereof or the date on which the first certified household occupies the unit, and shall and expire as determined under the Uniform Controls, as defined below.

In accordance with N.J.A.C. 5:80-26.11, each restricted unit shall remain subject to the requirements of this subchapter, the "Control Period," until the municipality in which the unit is located elects to release the unit from such requirements. Prior to such a municipal election, a restricted unit must remain subject to the requirements of this subchapter for a period of at least 30 years; provided, however, that:

1. Units located in high-poverty census tracts shall remain subject to these affordability requirements for a period of at least 10 years; and
 2. Any unit that, prior to December 20, 2004, received substantive certification from COAH, was part of a judgment of compliance from a court of competent jurisdiction or became subject to a grant agreement or other contract with either the State or a political subdivision thereof, shall have its control period governed by said grant of substantive certification, judgment or grant or contract.
-
- A. Sale and use of the Property is governed by regulations known as the Uniform Housing Affordability Controls, which are found in New Jersey Administrative Code at Title 5, chapter 80, subchapter 26 (N.J.A.C. 5:80-26.1, *et seq.*, the "Uniform Controls").
 - B. The Property shall be used solely for the purpose of providing rental dwelling units for low- or moderate-income households, and no commitment for any such dwelling unit shall be given or implied, without exception, to any person who has not been certified for that unit in writing by the Administrative Agent. So long as any dwelling unit remains within its Control Period, sale of the Property must be expressly subject to these Deed Restrictions, deeds of conveyance must have these Deed Restrictions appended thereto, and no sale of the Property shall be lawful, unless approved in advance and in writing by the Administrative Agent.
 - C. No improvements may be made to the Property that would affect the bedroom configuration of any of its dwelling units, and any improvements to the Property must be approved in advance and in writing by the Administrative Agent.

- D. The Owner shall notify the Administrative Agent and the Municipality of any foreclosure actions filed with respect to the Property within five (5) business days of service upon Owner.
- E. The Owner shall notify the Administrative Agent and the Municipality within three (3) business days of the filing of any petition for protection from creditors or reorganization filed by or on behalf of the Owner.

Article 4. Remedies for Breach of Affordable Housing Covenants

A breach of the Covenants will cause irreparable harm to the Administrative Agent, to the Municipality and to the public, in light of the public policies set forth in the New Jersey Fair Housing Act, the Uniform Housing Affordability Control rules found at N.J.A.C. 5:80-26, and the obligation for the provision of low and moderate-income housing.

- A. In the event of a threatened breach of any of the Covenants by the Owner, or any successor in interest of the Property, the Administrative Agent and the Municipality shall have all remedies provided at law or equity, including the right to seek injunctive relief or specific performance.
- B. Upon the occurrence of a breach of any Covenants by the Grantee, or any successor in interest or other owner of the Property, the Administrative Agent and the Municipality shall have all remedies provided at law or equity including but not limited to forfeiture, foreclosure, acceleration of all sums due under any mortgage, recouping of any funds from a sale in violation of the Covenants, diverting of rent proceeds from illegal rentals, injunctive relief to prevent further violation of said Covenants, entry on the premises, those provided under Title 5, Chapter 80, Subchapter 26 of the New Jersey Administrative Code and specific performance.

IN WITNESS WHEREOF, the Administrative Agent and the Owner have executed this Deed Restriction in triplicate as of the date first above written.

[THE ADMINISTRATIVE AGENT]

BY: _____
XXXXXXXXXXXXX
Title

[THE OWNER]

BY: _____
XXXXXXXXXXXXX
Title

APPROVED BY _____ [Municipality]

BY: _____
XXXXXXXXXXXXX
Title

ACKNOWLEDGEMENTS

On this the day of , 20 before me came _____, to me known and known to me to be the Administrative Agent for _____ [Municipality], who states that (s)he has signed said Agreement on behalf of said Municipality for the purposes stated therein.

NOTARY PUBLIC

On this the day of , 20 before me came _____, to me known and known to me to be _____, the Owner of the Property, who states that (s)he has signed said Agreement for the purposes stated therein.

NOTARY PUBLIC

On this the day of , 20 before me came _____ known and known to me to be _____ of _____, the Municipality identified as such in the foregoing Agreement, who states that (s)he is duly authorized to execute said Agreement on behalf of said Municipality, and that (s)he has so executed the foregoing Agreement for the purposes stated therein

NOTARY PUBLIC

EXHIBIT D – DRAINAGE EASEMENT

Prepared

By: WILLIAM F. RUPP, ESQ.

DEED OF EASEMENT

THIS DEED is made on _____, 2018

BETWEEN

RED REAL ESTATE ASSOCIATES, LLC,

whose address is c/o Kamsam Corp., 270 Sylvan Avenue, Englewood Cliffs, New jersey 07632 (hereinafter referred to as the Grantor)

AND

the TOWNSHIP OF TEANECK, a Municipal Corporation of the State of New Jersey, having offices located at 818 Teaneck Road, Teaneck, New Jersey 07666 (hereinafter referred to as the Grantee)

The words "Grantor" and "Grantee" shall mean all Grantors and all Grantees listed above.

WITNESSETH

Grant of Easement. For and in consideration of the sum of ONE (\$1.00) Dollar and other good and valuable consideration paid by the Grantee to the Grantor, the receipt of which is hereby acknowledged by the Grantor, the Grantor hereby grants and conveys to the Grantee, its successors and assigns, in perpetuity, a storm water drainage easement for the construction, reconstruction, improvement, operation and maintenance of a sign and appurtenances therefor, over, under, upon and across the property described below:

Tax Map Reference. (N.J.S.A. 46:15-1.1) Municipality of Teaneck
Block No. 1001 Lot No. 6.01 Account No.

____ No property tax identification number is available on the date of this Deed (check if applicable).

Property. The property consists of the following land in the Township of Teaneck, County of Bergen, and State of New Jersey. The legal description is annexed hereto and made part hereof, prepared by John A. Loch, P.L.S., N.J. License No. 35853 of Azzolina & Feury Engineering, Inc., 30 Madison Avenue, Paramus, N.J. 07652, dated March 28, 2018.

Grantor, for Grantor and its successors and assigns, covenants with Grantee and Grantee's successors and assigns that Grantor, and its successors and assigns, shall not construct any building, structure or other improvements upon said easement area which shall impede or obstruct access to and upon such easement granted herein.

Grantor shall be responsible for the maintenance of this easement and the drainage facilities contained therein

To have and to hold the said easement unto the Grantee for storm water drainage purposes and such other purposes generally associated therewith.

Promises by Grantor. The Grantor promises that the Grantor has done no act to encumber the property. This promise is called a "covenant as to grantor's acts"

(N.J.S.A. 46:4-6). This promise means that the grantor has not allowed anyone else to obtain any legal rights which affect the property (such as by making a mortgage or allowing a judgment to be entered against the Grantor).

Signatures. The Grantors signs this Deed as of the date at the top of the first page.

Witnessed by:

RED REAL ESTATE ASSOCIATES, LLC

_____(Seal)

STATE OF NEW JERSEY)
) SS.:
COUNTY OF BERGEN)

I CERTIFY that on _____, 2018, _____, personally came before me and acknowledged under oath, to my satisfaction, that:

- a) this person is the _____ of Red Real Estate Associates, LLC, the Grantor named in this Deed of Easement;
- b) this person is the attesting witness to the signing of this Deed of Easement by the proper officer who is _____, the _____ of Red Real Estate Associates, LLC;
- c) this Deed of Easement was signed, sealed and delivered by Red Real Estate Associates, LLC as its voluntary act duly authorized by a proper resolution; and
- d) this person knows the proper seal Red Real Estate Associates, LLC which was affixed to this Deed of Easement;
- e) this person signed this proof to attest to the truth of these facts; and
- f) the full and actual consideration paid or to be paid for the transfer of title is \$1.00 (Such consideration is defined in N.J.S.A. 46:15-5).

Sworn to and subscribed before me
This _____ day of _____, 2018

Notary Public

DEED OF EASEMENT

Dated:

RED REAL ESTATE ASSOCIATES, LLC

Grantor,

Record and Return to:

TO

**CHASAN LAMPARELLO MALLON
& CAPPUZZO PC
300 Lighting Way, Suite 200
Secaucus, NJ 07094
Attn.: William F. Rupp, Esq.**

TOWNSHIP OF TEANECK

Grantee



AZZOLINA & FEURY ENGINEERING, INC.

Professional Engineers and Land Surveyors

30 Madison Avenue, Paramus, NJ 07652 • (201) 845-8500 • Fax (201) 845-3825
110 Stage Road, Monroe, NY 10950 • (845) 782-8681 • Fax (845) 782-4212

Job No. 9210
March 28, 2018

Description of a Proposed Drainage Easement

Prepared For

Red Real Estate Associates, LLC

Over a Portion of Block 1001 – Lot 6.01

764 New Bridge Road

Township of Teaneck

Bergen County, New Jersey

All that certain lot, piece or parcel of land with improvements thereon erected, situate, lying and being in the Township of Teaneck, County of Bergen, State of New Jersey:

Beginning at a point in the Southerly line of New Bridge Road (variable width) said point being situated the following courses from the intersection formed by the aforesaid Southerly line of New Bridge Road produced Easterly and the Westerly line of River Road (variable width) produced Northerly, thence;

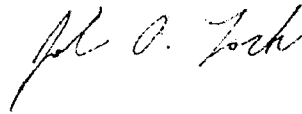
- a. North 84 degrees 15 minutes 33 seconds West, 17.67 feet along the aforementioned Southerly line of New Bridge Road to a point of curvature; thence,
- b. Westerly along the same on a curve to the left having a radius of 490.00 feet, an arc length of 106.05 feet, a delta angle of 12 degrees 24 minutes 02 seconds to a point of compound curvature; thence,
- c. Westerly along the same on a curve to the right having a radius of 105.98 feet, an arc length of 34.49 feet, a delta angle of 18 degrees 38 minutes 46 seconds to a point of reverse curvature; thence,
- d. Westerly along the same on a curve to the left having a radius of 85.98 feet, an arc length of 31.60 feet, a delta angle of 21 degrees 03 minutes 34 seconds to a point; thence,
- e. North 07 degrees 44 minutes 00 seconds West, 8.40 feet along the same to a point; thence,
- f. South 78 degrees 53 minutes 30 seconds West, 282.83 feet along the same to a point of curvature; thence,
- g. Westerly along the same on a curve to the left having a radius of 330.00 feet, an arc length of 21.34 feet, a delta angle of 03 degrees 42 minutes 17 seconds to a point of tangency; thence
- h. South 75 degrees 11 minutes 13 seconds West, 79.74 feet along the same and to the point or place of beginning of the herein described parcel and running thence,

1) South 16 degrees 33 minutes 29 seconds East, 74.79 feet to a point; thence,

2) South 10 degrees 28 minutes 27 seconds West, 54.28 feet to a point on a curve; thence,

- 3) Westerly and Southwesterly on a curve to the left having a radius of 89.96 feet, an arc length of 48.68 feet, a delta angle of 31 degrees 00 minutes 16 seconds to a point; thence,
- 4) North 16 degrees 35 minutes 00 seconds East, 35.08 feet to a point; thence,
- 5) South 51 degrees 16 minutes 20 seconds West, 9.22 feet to a point; thence,
- 6) North 10 degrees 28 minutes 27 seconds East, 66.27 feet to a point; thence,
- 7) North 16 degrees 33 minutes 29 seconds West, 70.59 feet to a point in the aforementioned Southerly line of New Bridge Road; thence,
- 8) North 75 degrees 11 minutes 13 seconds East, 20.01 feet along the same and to the Point or Place of Beginning.

Said Drainage Easement contains 2,760 Sq. Ft. or 0.0634 acres.



JOHN A. LOCH, P.L.S.
N.J. LICENSE No. 35853