



BOSTON CONNECTICUT FLORIDA NEW JERSEY NEW YORK PROVIDENCE WASHINGTON, DC

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April 9, 2024

**VIA E-FILING**

The Hon. Kevin M. Shanahan, A.J.S.C.  
Somerset County Superior Courthouse  
20 North Bridge Street  
Somerville, New Jersey 08876

Re: In the Matter of the Application of the Borough of Far Hills, County of Somerset  
Docket No.: SOM-L-903-15

Dear Judge Shanahan:

This firm represents proposed intervenor/interested party Pulte.<sup>1</sup> Please accept this letter brief in further support of Pulte's motion to intervene and enforce litigant's rights and in opposition to the Borough's cross-motion to enforce litigant's rights. Despite the Borough's overkill submission of a 40-page brief, seven certifications (including a certification from a purported planning expert), along with over 400-pages of exhibits, the Borough still cannot dispute the central facts that compel the Court to grant Pulte's motion, including:

1. The AJOR is a Court Order that codifies the Borough's affordable housing obligations pursuant to the FSHC Settlement Agreement, AHA, and Developers Agreement, and Pulte has protectable interests in all of those documents;
2. The Board expressly approved Pulte's Plans for the Development, which included construction of hundreds of feet of retaining walls with heights ranging from 7.5 feet

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<sup>1</sup> Unless otherwise indicated, capitalized terms used herein have the same meaning ascribed to them in Pulte's brief in support of its motion to intervene and enforce litigant's rights.

The Hon. Kevin M. Shanahan, A.J.S.C.

April 9, 2024

Page 2

- to 22.4 feet without first requiring Pulte to obtain a design waiver or other relief for such walls;
3. As is customary, the Board delegated authority to its engineer, Paul W. Ferriero, P.E., P.P., C.M.E. (the “Engineer”), to oversee certain aspects of Pulte’s compliance with the Board’s Resolution, which included conditions relating to stormwater management that necessitated Pulte to make grading changes and construct the subject Retaining Walls, all of which are consistent in height with the retaining walls already approved by the Board in the Resolution;
  4. The Engineer admits that he exhaustively reviewed and approved Gladstone’s proposed stormwater management design plans, which he also admits depicted the subject Retaining Walls and grading adjustments at issue here;
  5. In March 2023, the Engineer, Board Chairman, and Secretary all signed off on the proposed stormwater design, which, again, included the grading adjustments and Retaining Walls; and
  6. Most significantly, the Borough zoning and building departments issued zoning and building permits to Pulte in July and August 2023 to perform the approved grading changes and construct the Retaining Walls, which Pulte relied upon in good faith to its significant financial detriment.

Notwithstanding the foregoing, the Borough argues that Pulte somehow misled it in connection with the aforementioned grading adjustments and Retaining Walls, which allegedly justifies its issuance of the Notice of Violation and Notice of Default *months after* construction was completed.

It is all too clear that the Borough’s true motivation behind the Notice of Violation and Notice of Default is to thwart and delay Pulte’s construction of over one third of the affordable housing it committed to provide in connection with this DJ Action. Contrary to the Borough’s arguments, it has utterly failed to comply with its affordable housing obligations by continuing to delay and place obstacles in connection with the town’s first major affordable housing development in over 30-years. The Borough’s latest tactics are a continuation of its efforts to

The Hon. Kevin M. Shanahan, A.J.S.C.

April 9, 2024

Page 3

impede the Development. Just last year, Pulte's predecessor, Melillo, was forced to file a similar motion in this DJ Action after the Borough unreasonably delayed its execution of the Developers Agreement, approval easements *for the Borough's benefit*, and signing of the final subdivision plat. *See* Trans ID: LCV2023664586 of the E-Docket in this matter. That the Borough opposes Pulte's motion to allow it to finally provide much needed affordable housing in Far Hills while simultaneously taking no position on the motion to intervene filed by Sohail Khan ("Khan") to protect his private property interests (*i.e.* relief that has no bearing on affordable housing at all) exposes the Borough's true motivation: to impede construction of affordable housing by any and all means necessary.

Indeed, the Borough's insistence that Pulte obtain additional Board approval and/or file an action in lieu of prerogative writs is a clear attempt to entangle Pulte, the Development, and, as a result, the Borough's affordable housing commitments in litigation for the foreseeable future. Pulte's motivation, on the other hand, is to finally provide long overdue affordable housing in the Borough, which is at the heart of this DJ Action. While Pulte appreciates that FSHC does not oppose its motion to intervene, it expressly states that it "leaves Pulte to the arguments set forth in its motion papers" to the extent it seeks to enforce litigant's rights. *See* Trans ID: LCV2024868170. FSHC's letter makes clear that it will not adequately represent Pulte's interests in this action, necessitating intervention under *R. 4:33-1*. It is well past time that this Court put a stop to the Borough's bad faith delay tactics and enforce the affordable housing obligations it committed to provide in connection with this DJ Action.

The Hon. Kevin M. Shanahan, A.J.S.C.  
April 9, 2024  
Page 4

## ARGUMENT

### I. PULTE SHOULD BE GRANTED INTERVENTION.

#### A. Pulte's Motion is Not Untimely Because It was Filed Promptly After the Borough Refused to Rescind the Notice of Violation and Declared Default under the Developers Agreement.

It is difficult to square the Borough's argument that Pulte's motion is untimely when Pulte filed the motion: (1) less than three months after the Borough issued the Notice of Violation on January 18, 2024 (to which Pulte responded on February 14, 2024); (2) two weeks after the Borough refused to rescind the Notice of Violation in a February 27, 2024 letter; and (3) 10-days after the Borough issued the Notice of Default. That the Borough filed this DJ Action in July 2015 is irrelevant considering that it still has not fulfilled and continues to frustrate the affordable housing commitments it agreed to in this DJ Action pursuant to the October 15, 2018 (amended July 6, 2020) FSHC Settlement Agreement; December 9, 2019 AHA; March 16, 2022 AJOR; and March 17, 2023 Developers Agreement.

The Borough does not address the authority cited in Pulte's brief that intervention can be granted even in cases that have already been adjudicated or settled. *Meehan v. K.D. Partners, L.P.*, 317 N.J. Super. 563, 565, 571-72 (App. Div. 1998) (granting intervention subsequent to settlement); *Chesterbrooke Ltd. P'ship v. Planning Bd. of Chester*, 237 N.J. Super. 118, 125-26 (App. Div. 1989) (permitting intervention to allow intervenors to pursue post-judgment appeal); *Warner Co. v. Sutton*, 270 N.J. Super. 658, 662, 664-68 (App. Div.) (permitting intervention after entry of consent order to allow intervenors to pursue a post-judgment appeal and rejecting argument that intervenors were required to file an action in lieu of prerogative writs), *appeal*

The Hon. Kevin M. Shanahan, A.J.S.C.  
April 9, 2024  
Page 5

*decided by* 274 N.J. Super. 464 (App. Div. 1994). The Borough also does not address that courts should be flexible where a party is seeking to enforce its rights pursuant to a judgment or order, *i.e.* the exact relief Pulte seeks here. *In re. N.J.A.C. 5:96 and 5:97*, 221 N.J. 1, 17 (2015).

Pulte acted promptly in response to the Borough’s bad faith Notice of Violation and Notice of Default, and the Borough does not dispute that the Notice of Violation and attendant threat to withhold permits will delay the construction of affordable housing based on the Affordable Phasing Schedule set forth in the Developers Agreement.<sup>2</sup> Indeed, the Borough seems to agree that Pulte should at least be permitted to intervene to pursue its claims that the Borough’s “contractual violations constitute a failure to comply with its affordable housing obligations.” Borough Brief at 25. It also is telling that the Borough takes no position on Khan’s motion to intervene, which was filed more than two weeks after Pulte’s motion. The Borough’s arguments regarding the timeliness of Pulte’s motion should be rejected.

Pulte also briefly addresses the Borough’s argument that it will suffer “extreme prejudice” if Pulte is permitted to intervene. It argues that it has enjoyed immunity from *Mount Laurel* litigation since August 25, 2015, which was recognized again in the FSHC Settlement Agreement, AJOR, and Final JOR. Borough Brief at 23-24. However, any potential prejudice the Borough will suffer is a result of its own bad faith conduct in opposing the construction of the very affordable housing it agreed to provide in connection with this DJ Action. Indeed, the affordable

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<sup>2</sup> The Borough’s argument that it agreed to issue permits for the affordable housing component of the Development is a red herring given that construction of such units is dependent on construction of the market rate units pursuant to the Affordable Phasing Schedule in the Developers Agreement.



The Hon. Kevin M. Shanahan, A.J.S.C.  
April 9, 2024  
Page 6

units in the Development are the only new family affordable units proposed as part of the Borough's Third Round affordable housing compliance, yet those units still have not been constructed almost six years after the Borough settled with FSHC. Without court intervention, the Borough's misconduct will continue to send the message to other developers that any attempt to construct affordable housing in Far Hills will be met with fierce opposition by the Borough and will result in a bumpy road.

**B. FSHC Has Confirmed That it Will not Adequately Represent Pulte's Interests.**

The Borough further argues that Pulte should be denied intervention because an existing party to the DJ Action, FSHC, adequately protects Pulte's interests. This argument fails because FSHC has expressly stated that it will leave "Pulte to the arguments set forth in its motion papers" to the extent it seeks to enforce the Borough's affordable housing obligations in this DJ Action. *See* Trans ID: LCV2024868170. The Borough does not mention FSHC's letter, which confirms that Pulte's interests are not adequately protected unless the Court grants its motion to intervene under *R.* 4:33-1.

**II. THE COURT SHOULD GRANT PULTE'S MOTION TO ENFORCE LITIGANT'S RIGHTS PURSUANT TO DOCTRINES.**

The Borough incorrectly argues that Pulte's motion should be denied because it is seeking to enforce the Borough's contractual obligations under the FSHC Settlement Agreement and AHA to cooperate with and not frustrate Pulte's construction of affordable housing. The Borough conveniently ignores that the AJOR codifies those obligations in a Court Order entered in this DJ

The Hon. Kevin M. Shanahan, A.J.S.C.  
April 9, 2024  
Page 7

Action. Recognizing the frivolousness of this argument,<sup>3</sup> the Borough argues that Pulte's motion should be denied because Pulte "materially modified its site plan without obtaining a design waiver or proper review and approval from the Board," which allegedly justifies the Notice of Violation and Notice of Default. This argument, and all others advanced by the Borough, are meritless.

**A. The Borough Delegated to its Engineer Authority to Oversee and Approve Pulte's Compliance with the Resolution's Stormwater Management Provisions.**

After passing the Resolution, the Borough does not dispute that the Board delegated authority to the Board Engineer to oversee certain aspects of Resolution compliance, including Pulte's design of the stormwater management system to address the Resolution conditions and NJDEP comments. This is a common practice given that planning boards are typically comprised of laypeople with no civil engineering training or experience with reviewing the technical aspects of stormwater management design. It is clear that the Borough now has buyer's remorse over that decision. In one sense the Borough is arguing that the changes to the plans, particularly the increased grade and addition of the Retaining Walls, are so "significant and substantial" that they require further approval from the Board, but in the other sense they were not significant or substantial enough for the Board Engineer to notice them. Pulte should not suffer the consequences of the Borough regretting its decision to rely on the Board Engineer during Resolution compliance.

The Borough does not dispute that Gladstone provided the Board Engineer with stormwater design proposals that specifically showed the proposed grading changes and Retaining Walls that

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<sup>3</sup> Hypocritically, the Borough relies on the AHA in support of its cross-motion to enforce litigant's rights based on Pulte's purported failure to comply with conditions in the Resolution. Borough Brief at 40.

The Hon. Kevin M. Shanahan, A.J.S.C.  
April 9, 2024  
Page 8

are the subject of the Notice of Violation. Ferriero Cert., ¶¶ 15, 20-22, 24. If these changes were as significant and substantial as the Borough now contends, how could the Engineer have possibly overlooked them? The Borough and Board Engineer attempt to argue that Pulte and Gladstone “snuck in” the Retaining Walls and grade changes because the Board Engineer was more focused on the stormwater flows and drainage when he reviewed the proposals provided to him in March 2022. *Id.*, ¶ 22. That simply is not credible, especially given that Gladstone met with the Board Engineer to review construction relating to the stormwater management design system and retaining wall structural design set forth in the revised Plans. Gladstone Cert., ¶ 14.

In addition, Gladstone sent a detailed response letter to the Board dated March 15, 2022 addressing the extensive stormwater management comments from the Board Engineer, including response Items 36 and 54 on pgs. 20 and 22, respectively, which discuss changes and grading in the area of the subject Retaining Wall. Ferriero Cert., Ex. J. In addition, Gladstone’s December 20, 2022 resolution compliance letter to the Board also highlighted grade changes in the subject area. *See* Supplemental Certification of Craig Gianetti, Esq. dated April 8, 2024, Ex. N, at pg. 10 Items 10 and 13. It is hard to believe the Board Engineer was unaware of the grade changes and addition of the Retaining Wall when Gladstone specifically referenced grading changes to the relevant location in its March 15, 2022 and December 20, 2022 letters, and which were reviewed by the Board Engineer on at least six occasions as evidenced by the number of revisions Gladstone was required to make to satisfy the Board Engineer before the Plans were finally approved. Further undercutting this argument is that on July 28, 2023, the Borough’s construction department issued Pulte a permit with a description of work described as “RETAINING WALL” and a subsequent



The Hon. Kevin M. Shanahan, A.J.S.C.  
April 9, 2024  
Page 9

permit on August 21, 2023 with a description of work described as “Retaining Wall Package # 2.” Mullen Cert., Exs. D-E. The Borough and its professionals knew that the stormwater design system called for the Retaining Walls.<sup>4</sup>

Even assuming *arguendo* that the Board Engineer could possibly have overlooked such allegedly “significant and substantial” changes, Pulte should not be held accountable. The reality is that the Retaining Walls were consistent in height with the walls previously approved by the Board. Indeed, the subject Retaining Wall that is adjacent to Fox Hunt Court is actually over five feet *lower in height* than the highest wall already approved by the Board. Accordingly, the addition of the Retaining Walls constitutes a change that was not “significant and material” and did not require further Board approval. The Borough argues that the addition of the Retaining Walls was a “material change” to the approved Plans, and then defines “material change” as a change “[o]f such a nature that knowledge of the item would affect a person’s decision making” as compared to a *de minimis* change that is “[t]rifling; minimal or of a fact or thing so insignificant that a [tribunal] may overlook it in deciding an issue or case.” Borough Brief., at 28-29. Given that the Board, its professionals, and even the objector’s professional were well aware that there were hundreds of feet of retaining walls in excess of 6-feet, some as high as 22.4 feet, on the Site Plans (and part of the Plans reviewed by the Board), it is hard to comprehend the Borough’s

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<sup>4</sup> The Borough’s issuance of permits for construction of the Retaining Walls rebuts its argument that it first became aware of the Retaining Walls in October 2023. Borough Brief at 14.

The Hon. Kevin M. Shanahan, A.J.S.C.  
 April 9, 2024  
 Page 10

argument that Pulte adding a 17-foot retaining wall by Basin 2A is all of a sudden significant and substantial.<sup>5</sup>

As to the grading changes, the Borough disingenuously argues that Pulte altered the roadway network without obtaining Board approval in violation of Condition 33. Indicative of its bad faith, the Borough provides an altered quote of Condition 33 that conveniently omits that only changes to the *layout* of the roadway network require further Board approval:

Borough's Brief at Page 28	Full Text of Condition 33 (Gianetti Cert., Ex. I)
Condition 33 required "changes to the . . . roadway network . . . be brought back to the Board for review as an amendment to the current approval."	"Any adjustments to the site plan to address stormwater management comments of the Board Engineer or comments from the NJDEP shall not result in any changes to the <i>layout</i> of the buildings or roadway network. Any such material change must be brought back to the Board for review as an amendment to the current approval." (emphasis added).

Relying on nothing more than the *ipse dixit* of a planning expert (who had no involvement with Pulte's Planning Board application), the Borough argues that changes to the height of a roadway network somehow alters the layout of the roadway. The Court should disregard such a transparent, unsupported, and self-serving argument.

Finally, Pulte does not understand the basis for the Borough's argument that the heights of the buildings are somehow non-compliant with the Land Management Ordinance ("LMO"). The

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<sup>5</sup> The Borough also appears to argue that the Retaining Walls and grading modifications create an "eye sore," particularly with regard to the wall adjacent to Khan's property. The Borough fails to provide any authority to support that a property owner is somehow entitled to a view. *See Bubis v. Kassin*, 184 N.J. 612, 630 (2005) (neighboring land owners have no right to a view). Nevertheless, the wall adjacent to Khan's property is shielded by woods filled with invasive species and Pulte is willing to further screen the wall with additional landscaping.



The Hon. Kevin M. Shanahan, A.J.S.C.  
April 9, 2024  
Page 11

Borough does not even argue that the building heights have changed based on how building height is calculated under the ordinance: “the vertical distance measured to the highest point of the building from the average elevation of the finished grade six (6) feet from the foundation.” Gianetti Cert., Ex. M at “Building Height” definition (emphasis added). The grade changes that occurred after the conclusion of the Board hearings do not impact the calculation of building height or the variance relief previously granted by the Board for said building height. Therefore, there is no need for an amended application to the Board because the grade changes had no impact on the calculation of building height based on what the Board already approved.

Accordingly, the changes to the Plans made to address stormwater management were not substantial or material in any way, and therefore did not require further Board approval. In any event, the changes were reviewed and approved by the Board Engineer and signed off on by the Board Chairman and Secretary, resulting in the Borough issuing construction permits to Pulte.<sup>6</sup> As set forth below, equity compels that Pulte’s good faith reliance on those permits excuse any requirement that it seek further Board approval for already completed construction.

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<sup>6</sup> Pulte also disputes the Borough’s allegation that the stormwater design system has resulted in increased stormwater flow onto Khan’s property. *See* Certification of Ronald Kennedy, P.E. dated April 4, 2024 submitted in opposition to Khan Motion to Intervene (Trans. ID: LCV2024867676). It is worth noting that on this point the Borough is relying on a layperson’s (Khan’s) opinion as opposed to the opinion of its own Board Engineer (Borough Brief at 12), who apparently reviewed Pulte’s stormwater design proposal with a focus on stormwater flow and drainage. Ferriero Cert., ¶ 22.

The Hon. Kevin M. Shanahan, A.J.S.C.  
April 9, 2024  
Page 12

**B. Equitable Doctrines Preclude the Borough From Enforcing the Wall Height Limitation in the LMO or Otherwise Requiring Pulte to Seek Further Approval for Construction Completed Pursuant to Permits Issued by the Borough.**

The authority cited by the Borough in support of its argument that the Engineer's approvals of the stormwater management design and Borough's issuance of permits in reliance on same does not withstand application of equitable doctrines such as estoppel, laches, and relative hardship. As set forth at length in Pulte's moving brief, it has established all of the necessary elements to apply these doctrines against the Borough. Pulte Brief at 22-28. Significantly, the Borough does not address, and therefore waives opposition to, Pulte's arguments that laches and the doctrine of relative hardship preclude the Borough's enforcement of Section 905 of the LMO. *Id.* at 26.

The Borough relies on *Grasso v. Borough of Spring Lake Heights*, 375 N.J. Super. 41 (App Div. 2004) in opposition to Pulte's equitable estoppel arguments, but that case is distinguishable. In *Grasso*, the Court found that plaintiffs provided misleading information regarding the height of a structure that violated municipality's land use ordinance, and that their failure to read the subject ordinance precluded a finding of good faith. *Id.* at 47-48. Unlike *Grasso*, here the Board had already approved several hundred feet of retaining walls apparently in violation of the LMO without requiring a design waiver, and Pulte provided accurate information regarding the subject Retaining Walls to the Board Engineer during Resolution compliance. This is not a case where the applicant failed to review the subject land management ordinance. The Borough casts blame on Pulte and its professionals for not knowing there was a wall height requirement, but ignores that the Board members, the Board professionals, the Borough building department, and even an objector's planner also did not know there was a height requirement for walls. Given the uniquely



The Hon. Kevin M. Shanahan, A.J.S.C.  
April 9, 2024  
Page 13

inaccessible and convoluted nature of the Borough's LMO, that is understandable. Pulte Brief at 15. While the wall height provision in the LMO may be clearly written, it is extremely difficult to find in the LMO based on the Borough placing unjustifiable limitations on the public's (and apparently the Board's) ability to access, meaningfully review, and apply it. *Id.*

The Borough's argument that Pulte did not follow appropriate default procedures in the AHA overlooks Pulte's February 14, 2024 letter in response to the Notice of Violation. Gianetti Cert., Ex. K. That letter specifically states that Pulte requests that the Notice of Violation be rescinded "to allow the Borough to *remain in compliance* with the [FSHC] Settlement Agreement and Affordable Housing Agreement," and that should the Borough fail to do so, Pulte would file legal action with "the Court having jurisdiction over the Borough's Affordable Housing Compliance." *Id.* (emphasis added). That letter is in substance, if not name, a notice of default. Pulte then filed its motion only after the Borough sent a letter refusing to rescind the Notice of Violation and issued the Notice of Default, both of which clearly indicated the Borough's intention to not cure its default under the AHA. Under these circumstances, Pulte should be excused from waiting the balance of the cure period pursuant to the AHA. *See Sebring Associates v. Coyle*, 347 N.J. Super. 414, 430 (App. Div. 2002) (rejecting argument that plaintiff failed to comply with one year "cure period" in contract due to defendant's "defiant stance"). In any event, the Borough has not been prejudiced because the cure period lapsed on March 30, 2024 and the Borough has not changed its position on the Notice of Violation and Notice of Default.

The Borough would obviously prefer to require Pulte to apply to the Zoning Board to appeal the Zoning Officer's decision, and then file a separate prerogative writ action. That would

The Hon. Kevin M. Shanahan, A.J.S.C.  
April 9, 2024  
Page 14

just play into their hands of endless delay in the construction of the Development and affordable housing it will bring. Given the Borough's constitutional obligation covered by the Orders entered by this Court and the significance of the Development to the Borough's compliance with that obligation, the Court is well within its authority to grant relief as part of this DJ Action.<sup>7</sup>

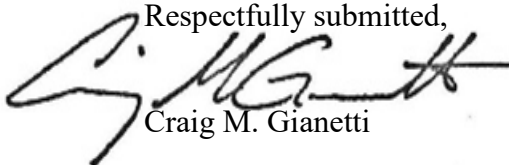
**C. In Response to FSHC's Letter, Pulte has Already Exhausted Efforts to Mediate the Dispute with the Special Master.**

In its letter, FSHC suggests that the issues in Pulte's motion and the Borough's cross-motion could benefit from mediation. It is worth noting that the court-appointed special master, James Kyle, P.P., was copied on Pulte's February 14, 2024 letter responding to the Notice of Violation (Gianetti Cert., Ex. K), and that Pulte's counsel communicated directly with the special master on this issue. It is my understanding that the special master also communicated with the Borough as well. Based on Pulte's discussions, it is clear that mediation through the special master will not result in a resolution.

**CONCLUSION**

For the foregoing reasons, Pulte respectfully requests that the Court grant its motion to intervene and enforce litigant's rights, and deny the Borough's cross-motion.

Respectfully submitted,



Craig M. Gianetti

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<sup>7</sup> For all of the reasons set forth above, the Borough's cross-motion to enforce litigant's rights to compel Pulte to return to the Board for review and approval of the Retaining Wall and grade changes should be denied.

**DAY PITNEY LLP**

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Attorneys for Movant/Interested Party

Pulte Homes of NJ, Limited Partnership

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IN THE MATTER OF THE APPLICATION OF THE BOROUGH OF FAR HILLS, COUNTY OF SOMERSET	: SUPERIOR COURT OF NEW JERSEY LAW DIVISION: SOMERSET COUNTY : DOCKET NO.: SOM-L-903-15 : : (CIVIL ACTION- <i>MOUNT LAUREL</i> ) : : <b>SUPPLEMENTAL CERTIFICATION OF</b> : <b>CRAIG M. GIANETTI IN OPPOSITION</b> : <b>TO THE BOROUGH OF FAR HILLS’</b> : <b>MOTION TO ENFORCE LITIGANT’S</b> : <b>RIGHTS</b> : :
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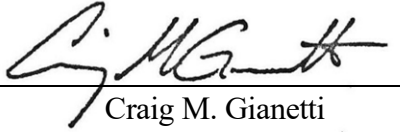
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I, Craig M. Gianetti, of full age, hereby certifies as follows:

1. I am an attorney-at-law of the State of New Jersey and am a member of the law firm of Day Pitney LLP, attorneys for Movant/Interested Party Pulte Homes of NJ, Limited Partnership (“*Pulte*”) in connection with the above-referenced matter. As such, I am fully familiar with the facts and circumstances set forth herein. I make this Certification in opposition to the motion to enforce litigant’s rights filed by the Borough of Far Hills (the “*Borough*”).

2. A true copy of the December 20, 2022 letter from Gladstone Design, Inc. to the Borough’s Planning Board Secretary, Ms. Shana Goodchild, is attached here to as **Exhibit N**. I was a “cc” to Gladstone’s December 20, 2022 letter, as was the Borough’s Planning Board Engineer, Planner, and attorney.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

  
\_\_\_\_\_  
Craig M. Gianetti

DATED: April 9, 2024



# GLADSTONE DESIGN, Inc.

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Robert C. Moschello, P.E.

December 20, 2022  
683-17

Ms. Shana Goodchild  
Far Hills Borough Planning Board Secretary  
6 Prospect Street  
Far Hills, New Jersey 07931

Re: Resolution Compliance  
Pulte Homes – Far Hills  
Preliminary and Final Major Site and Subdivision Plans  
Block 5, Lot 4, US Highway Route 202  
Borough of Far Hills, Somerset County, New Jersey  
Resolution No.: 2022-10

Dear Ms. Goodchild,

On behalf of the applicant, Pulte Homes, please find attached the following plans and documentation in support of Resolution Compliance for the above referenced application:

1. Five (5) sets of plans entitled “Pulte Homes – Far Hills, Preliminary and Final Major Site Development and Subdivision Plans”, dated March 19, 2021, revised through December 20, 2022, prepared by Gladstone Design, Inc.
2. Five (5) sets of plats entitled “Pulte Homes – Far Hills, Preliminary and Final Major Subdivision Plat”, dated March 19, 2021, revised through December 20, 2022, prepared by Gladstone Design, Inc.
3. Five (5) sets of architectural drawings entitled “Pulte Homes – Far Hills”, dated April 9, 2021, revised through December 16, 2022, prepared by Minno & Wasko Architects.
4. Five (5) sets of plans entitled “New Jersey American Water, Watermain Extension Plans” dated July 30, 2021, revised through December 20, 2022, prepared by Gladstone Design, Inc.
5. Five (5) copies of the Engineers Construction Cost Estimate for Inspection Fees dated March 15, 2022, revised December 20, 2022, prepared by Gladstone Design, Inc.
6. Five (5) copies of deed descriptions and lot closure calculations for the townhouse lots and proposed easements, prepared by Gladstone Design, Inc., and draft easement language for the proposed easements, prepared by the Applicant.

Ms. Shana Goodchild  
December 20, 2022  
Page 2 of 15

7. Five (5) copies of the Borough Tax Assessor correspondence confirming the block and lot numbers (Under Separate Cover).
8. Five (5) copies of the Borough Fire Official correspondence confirming the fire hydrant locations.
9. Five (5) copies of the Borough of Far Hills Resolution No. 22-150 authorizing and approving the proposed street names.
10. Five (5) copies of the following project approvals:
  - a. NJDEP Wastewater Management Plan Amendment
  - b. NJDEP NJPDES Permit
  - c. NJDEP Land Use Permit for Freshwater Wetlands and Stormwater Management
  - d. NJDOT Permits
  - e. Somerset County "Conditional Approval" Letter
11. Five (5) copies of the draft Declaration of Restrictive and Protective Covenants
12. Five (5) copies of the draft Developer's Agreement
13. One (1) hard copy and four (4) digital copies of the Stormwater Management Report for the project
14. One (1) hard copy and four (4) digital copies of the Stormwater Operations and Maintenance Manual for the project.

Below is a compliance narrative as it relates to the Resolution of Approval, Memorialized on February 7, 2022. The narrative has been revised to reflect the status of compliance list outlined in the Ferriero Engineering review letter dated October 26, 2022.

1. Comment is a statement of fact; a narrative of compliance with the various Board Engineer review letters is outlined below.
2. Comment is a statement of fact; a narrative of compliance with the various Board Planner review letters is outlined below.
3. Comment is a statement of fact; a narrative of compliance with the various Board Traffic Engineer review letters is outlined below.
4. This is a continuing condition of approval, as-built plans will be furnished at the appropriate time.
5. The Borough Tax Assessor has reviewed and confirmed the block and lot numbers of the property. A copy of the Tax Assessor's correspondence will be provided under separate cover.
6. The Applicant has obtained approval from the governing body of the street names. A copy of the Borough Resolution is included with this package.

Ms. Shana Goodchild  
December 20, 2022  
Page 3 of 15

7. Copies of the following easements, including deed descriptions, are included in this package:
- a. Scenic Corridor
  - b. Stream Corridor
  - c. Conservation Easement
  - d. Driveway Sight Easements

The following easements are included as blanket easements within the Homeowner's Association documents, no deed descriptions have been prepared for these easements.

- a. Utilities including sanitary, water, electric/telephone/cable
- b. Drainage
- c. Stormwater Maintenance
- d. Cross Agreements between Lots 4.01 and 4.02

8. The Applicant has obtained the following regulatory approvals, copies of the approvals are included with this package:
- a. New Jersey Department of Environmental Protection (NJDEP) Sewer Service Amendment
  - b. NJDEP Pollution Discharge Elimination (NJPDES) Permit
  - c. NJDEP Freshwater Wetlands and Stormwater Land Use Permit
  - d. New Jersey Department of Transportation Permits

Somerset County Planning Board has issued a review letter stating that all technical components of the application have been satisfied, the remaining open items will be addressed upon receipt of Borough approval on the plat.

Revised material was submitted to Somerset-Union Soil Conservation District concurrently with this package to address their outstanding comments, a copy of the certification will be provided upon receipt.

An application has been submitted to the NJDEP for the Treatment Works Approval, the permit is pending, and a copy will be provided upon receipt.

9. Comment is a statement of fact, once the plat is approved by the Borough, two paper copies and a mylar copy will be provide for signature in addition to the two paper copies required by Somerset County.
10. An engineering cost estimate is included with this package for inspection fee purposes for review and approval by the Borough Engineer and Borough Attorney. The estimate has been revised to address revisions to the Site Plans.
11. Comment is a statement of fact; the Applicant will enter into a Developer Agreement with the Borough. A draft copy of the Developer's Agreement is included with this package for review.
12. This is a continuing condition of approval; the applicant will keep all taxes, municipal charges, escrows and other fees current naccordance with the MLUL.

Ms. Shana Goodchild  
December 20, 2022  
Page 4 of 15

13. The architectural plans have been revised to address further comments from the Borough Planner in his December 4, 2022 review letter.
14. Comment is a statement of fact; a deed restriction will be placed over the meadow areas, as shown on the Landscape Plans, for maintenance purposes. The deed restriction will be included in the Homeowners Association declaration of covenants. The deed restriction is included in the HOA for review and approval by the Borough Engineer and Attorney.
15. This is a continuing condition of approval.
16. Comment is a statement of fact; the additional comments from the Borough Engineer and Planner have been addressed and are outlined below.
17. The Site Plans have been revised to clearly show the required nine (9) electrical vehicle charging stations for the apartment building.
18. This is a continuing condition of approval. A draft of the Homeowner's Association documents is included with this package.
19. This is a continuing condition of approval and is outlined in the Homeowner's Association documents.
20. A copy of the Reserve Schedule for the sewer treatment facility is set forth in the HOA Annual Budget regarding continuing operations, proper maintenance and protection against the results of catastrophic failures.
21. This is a continuing condition of approval; the HOA is responsible for the maintenance of the EV charging stations in common areas.
22. This is a continuing condition of approval; the Applicant will hold a pre-construction meeting with the Borough prior to the start of construction.
23. The Water Main Extension Plans have been revised to address the comments related to the paving and restoration details.
24. The Applicant is working with the United States Postal Service and local postal office on approval for the mailbox locations, this will be addressed prior to the issuance of the first certificate of occupancy.
25. This is a continuing condition of approval.
26. This is a continuing condition of approval. The details have been revised to address comments from the Borough Planner.
27. This is a continuing condition of approval.
28. The Landscape Plan has been revised to add notes regarding maintenance and retention of the general wooded area along the front portion of the property. The Borough Planner found this condition to be satisfied in his December 4, 2022, review letter.

Ms. Shana Goodchild  
December 20, 2022  
Page 5 of 15

29. No replacement tree species substitutions have been identified. The Applicant agrees to accommodate any reasonable tree species replacements or substitutions that may be recommended by the Borough's professionals consistent with the NJDEP-approved list of tree species for reforestation."
30. The Borough Planner confirmed in his December 4, 2022 review letter that the sewer treatment plant building will be constructed of the same materials and compatible design to the townhouses and affordable housing buildings.
31. The note on the Landscape Plan has been revised to state that prior to any clearing of the sight easement, such clearing and trimming activities shall be subject to approval by the Borough Engineer and Planner.
32. The note regarding the means and methods for removing the invasive species in accordance with NJDEP requirements has been added to Sheet 23 along US 202.
33. This is a continuing condition of approval. NJDEP Land Use approval for the project has been received and a copy of the permit is included with this package.
34. This is a continuing condition of approval. The COAH unit phasing plan have been included in the Developer's Agreement.
35. This is a continuing condition of approval. The Sales Trailer and Model Home Plot Plan has been revised to include a note regarding the hours for displaying and location of the feather flags shall be addressed as part of the Developer's Agreement.
36. This is a continuing condition of approval.
37. This is a continuing condition of approval.
38. The Architectural Plans have been revised to add a note stating, "Prior to any change, and in the event the Applicant may propose any material change to the structure(s) on the property, including any variation from the architectural details on these plans, the applicant shall first seek approval by the Planning Board for review, approval and/or determination as may be the case."
39. This is a continuing condition of approval.
40. This is a continuing condition of approval.
41. This is a continuing condition of approval.
42. This is a continuing condition of approval; the Applicant will comply with all applicable affordable housing requirements as required by the Borough ordinances which have been adopted to implement UHAC regulations, including but not limited to income distribution, phasing in the affordable units (except as may be modified by the Borough), heating source, accessibility and adaptability, amenities, size of units and bedrooms.

Ms. Shana Goodchild  
December 20, 2022  
Page 6 of 15

43. This is a continuing condition of approval. As recommended by the Borough Planner, a note has been added to the Cover Sheet of the Site Plans and the Architectural Plans stating, "No Certificate of Occupancy shall issue for the affordable apartment building until the applicant has executed and submitted the contract for affordable housing administration services to the Borough Clerk, Attorney and Planner for review and approval."
44. This is a continuing condition of approval; the Applicant will submit deed restrictions in accordance with UHAC regarding the affordability control period. At the end of the affordability control period, nothing shall preclude the Borough from electing to release the affordability controls in accordance with applicable law.
45. A Vehicle Turning Movement Plan for school buses had previously been prepared and provided to the Board's Traffic Engineer for approval. At the time of this submission, the Traffic Engineer has not provided comments relative to the four (4) items addressed from the previous review letter.
46. A detail of the emergency generator for the wastewater treatment plant has also been added to the Construction Detail Sheet (Sheet 42).
47. This is a continuing condition of approval. No hot box for water connection is required for the project. Should a water connection hot box be needed at some point in the future, design and installation will require amended site plan approval from the Board.
48. The note on the Architectural Plans regarding backup power source for the affordable housing building has been expanded to include the emergency lighting.
49. This is a continuing condition of approval.
50. This is a continuing condition of approval.
51. This is a continuing condition of approval.
52. The Memorializing Resolution will be recorded with the Somerset County Clerk's office. A copy of the recorded instrument will be filed with the Borough Attorney, Borough Clerk and Planning Board Secretary.
53. This is a continuing condition of approval.
54. This is a continuing condition of approval.
55. This is a continuing condition of approval.

Below is a compliance narrative as it relates to the open items from the Ferriero Engineering review letter dated May 19, 2021.

1. Once the plat is approved by the Borough, two paper copies and a mylar copy will be provide for signature in addition to the two paper copies required by Somerset County.

Ms. Shana Goodchild  
December 20, 2022  
Page 7 of 15

Below is a compliance narrative as it relates to the open items from the Ferriero Engineering review letter dated July 2, 2021.

1. Note 9 on Sheet 22 has been revised to reference screening of the electric meters. The note has also been added to Sheet 28.
2. The gravity sewer lateral from the affordable building to the gravity sewer system has been revised to a 6" diameter gravity line with cleanouts.

Below is a compliance narrative as it relates to the Ferriero Engineering review letter dated November 5, 2021:

I. Site Plan

A. Sheet 1 – Project Data/Vicinity Plan

1. The Vehicle Turning Movement Plans, including fire truck, garbage truck, and school bus turning movements, had previously been prepared and provided to the Board's Traffic Engineer for approval. At the time of this submission, the Traffic Engineer has not provided comments relative to the four (4) items addressed from the previous review letter.

B. Sheet 2 – Environmental Constraints Map – No comments

C. Sheet 3 – Site Removals Plan – No comments

D. Sheets 4 through 10 – Site Dimension Plans

1. Vehicle Turning Movement Plans, including fire truck, garbage truck, and school bus turning movements, had previously been prepared and provided to the Board's Traffic Engineer for approval. At the time of this submission, the Traffic Engineer has not provided comments relative to the four (4) items addressed from the previous review letter.

E. Sheets 11 through 15 – Grading Plan

1. The spot grade has been revised to accurately reflect the grading in this area. Additional spot grades have been added to demonstrate how the drainage area boundary depicted is being achieved. The round-about grading has been revised to reflect the assumptions made in the stormwater design. Additional spot grades have been added confirming the drainage boundaries as depicted on the proposed drainage area map.
2. Comment is a statement of fact. A note has been added to the Grading Plan and retaining wall construction detail stating that site specific designs and construction permits are required for all walls in excess of 48".
3. The grading at the rear of units 4.91 through 4.94 has been revised to drain water away from the building and directs runoff to the inlets located in the rear yards.
4. The grading plan has been revised to provide for sufficient slope to drain away

from all building foundations.

F. Sheets 17 through 22 – Utility Plan

1. The Borough Fire Official has reviewed and approved the locations of the fire hydrants on-site and off-site for the project. Correspondence from the Borough Fire Official has been included with this package.

G. Sheets 22 through 18 – Landscape Plan

1. The meadow areas depicted on Figure 5 “Proposed Land Cover Map” are accurate and there have been no changes since the map was issued. The Land Cover Map is included in the Stormwater Management Operations and Maintenance Manual. A deed restriction will also be placed over the meadow areas to maintain them as meadows in perpetuity. The Operations & Maintenance Manual has been prepared and submitted with this package for review and approval by the Borough Engineer.
2. The wooded area along the westerly property line has been revised to depict the wooded shade mix groundcover, consistent with the note.
3. The planting schedule for the bioretention basins includes the plantings for all seven (7) bio-retention basins. A note has been added to the planting schedule indicating the same.
4. The landscaping has been revised to be consistent with Part 2: General Landscaping Guidance for all Stormwater BMPs of the NJDEP BMP Manual. The notes outlined in the letter have also been added to the Landscaping Plan.

H. Sheets 29 and 20 – Soil Erosion and Sediment Control Plan

1. This plan will need to be certified by the Somerset-Union Soil Conservation District.
2. Conduit outlet protection and stability calculations are subject to review and approval of the Somerset-Union Soil Conservation District.

I. Sheets 31 and 32 – Lighting Plan

1. The Lighting Plan has been revised to include the note on the building mounted light detail regarding the lights remaining on from dusk to dawn.

J. Sheets 33 through 37 – Profiles – No Comments

K. Sheets 38 through 42 – Construction Details

1. The restoration details for the proposed watermain extension has been revised to include the notes outlined in the review letter related to pavement restoration and trench backfill.
2. A detail for the laid-back block curb utilized at the entrance had been added to the Detail Sheet (Sheet 38).



- Utility meters are typically not placed in the front of the units. A note has been added to the Landscape Plan stating that the meters will be screened if they are in front of the townhouse unit.

## II. Stormwater Management Report

### A. Stormwater comments:

- Additional Hydraulic grade line (HGL) calculations have been provided for the inflow to Basin #3E from Basin #3F, #3G, #3H and Inlet #3E-11D. The HGL profiles for the pipe runs mentioned above have been provided within Appendix "D" of the stormwater report.
- The outlet pipes for each basin have been analyzed and adjusted to prevent tailwater effects within the discharge pipes. HGL profiles have been provided under Appendix "D" demonstrating that the 100-year storm will not overtop inlets #3E-12A and #3E-12B. The discharge pipe for Basin #3M has been adjusted so that the rating table for Basin #3M is not affected for the higher storm events from the outlet pipe and the tailwater associated with Basin #3E.
- The grading associated with the drainage boundary at the area next to sewerage treatment plant and at the northwesterly shoulder of the intersection of Lance Court and Baldwin Avenue has been revised to be consistent with the proposed drainage boundary. A curb has also been proposed along the driveway to confirm that the stormwater would be directed to its intended basin.
- The swale area at the cul-de-sac shoulder above Basin #3A will direct flow towards inlet #3B-2 located above the discharge pipe from Basin #3B. This will eliminate the need for slope stabilization on the embankment. Spot shots have also been provided to direct runoff away from the townhouse.
- The grades behind units 4.91 through 4.94 have been revised to show positive drainage towards the inlets located at each end of the units. The high points depicted have also been revised to be below the patio. Inlets #3C-13 and #3B-17 have been reset to be lower than the patios.
- Adjustments to the grading have been made at the end of Lance Court to be consistent with the drainage boundary for PDA #3B and PDA #3C. Additionally, adjustments to the grading along the drainage boundary for PDA #3C and PDA #3 have been made to clearly show the drainage divide. The drainage area for PDA #3C will not change per the additional grading and therefore it will still comply with the green infrastructure requirements of a maximum allowable contributory drainage area of 2.50 acres. (2.49 acres proposed)
- The grading at the sewerage treatment plant has been revised to be consistent with the proposed drainage boundary.
- An inlet has been proposed at the shoulder area between unit 4.32 and Baldwin Avenue to direct stormwater towards Basin #3F. The sidewalk grades for the site have been revised to clearly demarcate where the sidewalk pitches, to be

consistent with the drainage boundaries. Additionally, the sidewalk grades along Baldwin Avenue, near unit 4.82, have been adjusted to show the sidewalk draining away from the road and towards inlet #3E-11.

9. The grading between unit 4.62 and Baldwin Avenue has been adjusted so that the sidewalk and grass area drain towards inlet #3E-13.
10. Additional grading and an inlet have been provided to confirm positive drainage away from the building and drainage boundary limits. Similarly, additional spot grades and inlets have been provided along the sidewalk at Errico Lane and units 4.56 and 4.47 to demonstrate the sidewalk is tributary to Basin #3F.
11. An inlet and additional grading information have been provided to confirm that the courtyard will drain towards Basin #3L. Additionally, the proposed swale along unit 4.75 will drain to an inlet, that will discharge stormwater into Basin #3L.
12. The proposed grade for the inlet at the rear corner of unit 4.83 (#3E-12A) has been adjusted to be below the adjacent patio. Additional spot grades have been provided to confirm positive drainage away from the townhouse units.
13. Additional spot grades have been provided to confirm the drainage boundary for Basin #3H between lot 4.31 and Basin #3I.
14. Spot grades have been provided at the end of Vorhees Court to confirm the drainage boundary.
15. Additional grading information and spot elevations have been provided at the entrance drive circle at the intersection with Ayers Street, to confirm the drainage boundary for PDA #3H and PDA #3L. Additionally, the sidewalk grading along Ayers Street and Dillion Avenue has been revised to direct stormwater consistent with the proposed drainage boundaries. Additional spot grades and contour information has been provided to confirm the drainage boundary between the northerly corner of unit 4.06 and Dillion Avenue.
16. Roof leaders have been sized in accordance with the National Standard Plumbing Code. The roof leader sizing chart has been provided within the stormwater report under Appendix "H".
17. An Operations and Maintenance Manual has been prepared and provided for the Borough Engineer to review. Street sweeping and maintenance procedures for the meadow and wooded areas will be included in the Operations and Maintenance Manual. The meadow and wooded areas will be deed noticed for maintenance and to prevent removal.
18. The walking path around the perimeter of the project will be comprised of the natural ground cover in the area. A note has been added to the Landscape Plan stating that the path is to remain natural ground cover and be mowed periodically to a width of 4 ft. There is no alteration to the grade proposed for the walking path.

19. After researching information for losses in readily available Engineering publication, the weir, riser and trash racks effective area losses are minor/negligible for the model and stormwater design.
20. The total mounding depth of 8.63 ft. was determined by summing the mounding depths of Basin #3H and #3I, as per the BMP manual. Since, a clay barrier is being proposed between both basins, the mounding depths for the basins mentioned above will not need to be added together and the individual mounding depths will comply with the individual basins and soil testing performed within each basin. See Appendix "C-4".
21. The bioretention basin with underdrain detail has been revised to include the additional information for the pipe network needing to be perforated, excluding the manifolds and cleanouts, as well as to state that the pipes shall have a conveyance rate of at least twice as fast as the design flow rate of the soil.
22. The user defined rating table provided in the stormwater report under Appendix "C-2" demonstrates the flow through the soil media. The detail for the bioretention basin with underdrains has been revised to state that the basin sand layer must have a permeability rate at least twice the design permeability rate of the soil bed and the permeability rate of the gravel must be at least twice the design rate of the sand layer. A chart summarizing the permeability rates of the soil layers within each underdrained basin has been provided as well.
23. Based upon the basin draw down chart, the small-scale bioretention basins and small-scale infiltration basins located near areas subject to pedestrian traffic will drain within 24 hours. The drain time analysis for basin #3D has also been provided for your review. Please note that basin #3D acts as a water quality forebay only and the larger storm events will be analyzed within basin #3E. Basins #3F, #3G, #3H & #3I are not believed to be near pedestrian traffic areas.
24. The Landscape Plan has been revised to update the areas requiring a wooded/shade seed mixture to stabilize the soil as an initial groundcover. The seeding is consistent with the proposed land cover map.
25. Additional spot shots have been provided along the northwestern area of basin #3H between units 4.31 and basin #3I to show a berm.
26. Outlet pipes have been adjusted to remove any tailwater impact to the underdrains from downstream basins. The stormwater discharging from the basin via the underdrain will slowly move through the soil bed, until it reaches the perforated underdrain and discharges through the outlet structure.
27. The discharge pipes for each basin have been analyzed and the pipes have been lowered in elevation and/or upsized where applicable to decrease hydraulic grade lines. HGL profiles have been provided for the pipe leading to the discharge at headwall #3E-10 and provided in Appendix "D".
28. If the patios are selected as an option instead of the sunroom, a stone trench with a perforated pipe will be installed at the end of the patio and connected to the roof

drain system to maintain the drainage patterns assumed in the stormwater management design. The detail for the stone trench can be found on Sheet 41.

29. Basin #3D is only utilized for water quality and the greater storm events will be analyzed as part of the routings for basin #3E.
30. A note has been provided on the bioretention basin with underdrain detail specifying the sand layer having a permeability rate at least twice the rate of the basin soil bed and the gravel layer having a permeability rate at least twice the rate of the sand layer.
31. The emergency spillway storm event has been routed for basin #3B without the low flow orifice in the control structure. The routing utilizes the riser of the outlet structure only assuming the rest of the controls are not functioning.
32. The detail for outlet structure #3F has been revised to list the elevation of 267.75 to match the site plan and the stormwater routings.
33. The spot shot on the berm of basin #3F has been revised to read 269.00.
34. The low flow orifice for basin #3H has been revised to 6" diameter on the site plans and detail sheets to be consistent with the stormwater routings.
35. The emergency spillway has been routed through the dual outlet structure risers provided in basin #3H. The discharge from basin #3H and the downstream pipes have been designed with enough capacity to pass the emergency spillway storm.
36. The grass weir invert for basin #3D has been revised to 233.90 on the site plans to be consistent with the stormwater routings.
37. Basin #3D is only utilized in the analysis for water quality control. Once the larger storm events start to fill up basin #3D, the stormwater will flow over the grass weir and into basin #3E and eventually the stormwater will occupy the area for basin #3D. Therefore, the basin area for #3D is added to the basin area for Basin #3E and basin #3D isn't analyzed under the larger stormwater events.
38. A soil replacement detail has been provided on Sheet 40.
39. A clay core has been proposed around the discharge area of basin #3G as well as watertight piping. Filter diaphragms have also been provided to intercept water from flowing through potential cracks that may occur in compacted fill around the stormwater pipes.
40. The E-inlet detail specifies a flow grate #3440, this is an acceptable flow grate as the E-inlets will be located in grass areas. The detail has been revised to be consistent with the correct grate number.
41. The spot shots have been revised on the berm of basin #3E to read 238.00.
42. The Infiltration basin details have been revised to be consistent with the NJDEP BMP Manual. Any reference to detention has been removed.

43. Trash rack details have been provided in accordance with RSIS and NJDEP BMP Manual.

44. Access to stormwater basins have been provided in order to facilitate monitoring and maintenance.

III. Preliminary and Final Subdivision Plan

- A. The Borough Tax Assessor has reviewed and confirmed the block and lot numbers of the property. A copy of the Tax Assessor's correspondence will be provided under separate cover.
- B. Comment is a statement of fact, all required signatures will be obtained prior to submission to the Borough for signature.
- C. The easement descriptions for the 200 Foot Scenic Corridor Easement, the 50 Foot Perimeter Easement and the 100 Foot Common Area/Open Lands Easement has been revised to provide descriptions for each of the proposed lots, Lot 4.01 and 4.02.
- D. The easement and easement descriptions for the NJDEP Conservation Restriction/Easements for Tract I and Tract II are included with this package.
- E. The easement language for the 200 Foot Scenic Corridor Easement and the 100 Foot Common Area/Open Lands Easement is included with this package for review y the Board Attorney and Planner.
- F. Lot closure calculations for each of the proposed townhouse lots are included with this package for review by the Borough Engineer.

Below is a compliance narrative as it relates to the Banisch Associates review letter dated December 4, 2022:

- 1. Condition #2 – The Site Plans have been revised to address the three (3) open items from the January 3, 2022 review memo, these revisions include:
  - a. The name of the development has been identified in the Developer's Agreement with the Borough. The name of the development has been added to the Cover Sheet of the Site Plans.
  - b. The construction delivery days and time of day for construction deliveries has been added to Cover Sheet of the Site Plans in Note #27.
  - c. The procedures for deer protection, maintenance and survival of the reforestation trees and landscaping has been added to the Landscape Plans (Sheet 28). The note regarding 2-year replacement obligations under the MLUL has also been added to the Landscape Plans.

2. Condition #7 – Copies of the easements and descriptions have been included with this package for review and approval by the Borough Planner.
3. Condition #11 – The Applicant is working with the Borough to finalize the Developer's Agreement. A copy of the Developer's Agreement is included with this package.
4. Condition #13 - The following revisions have been made to the Architectural Plans:
  - a. The "High Visibility" Side Elevations graphic has been revised to include lots 4.47, 4.56, and 4.57.
  - b. A list has been added to the Architectural Plans identifying the High Visibility Side and High Visibility Rear Elevations lots with the enhanced architectural treatments.
5. Condition #16 – Comment is a statement of fact, any open plan revision comments on prior plan submissions are addressed in the current memorandum.
6. Condition #25 – The note on Sheet 28 has been deemed acceptable.
7. Condition #26 – A note has been added to the tree protection detail stating the detail is to be installed wherever trees to remain are located in potential conflict with site disturbance and construction activities.
8. Condition #28 – This condition has been satisfied.
9. Condition #29 - No replacement tree species substitutions have been identified. The Applicant agrees to accommodate any reasonable tree species replacements or substitutions that may be recommended by the Borough's professionals consistent with the NJDEP-approved list of tree species for reforestation.
10. Condition #30 – This condition has been satisfied.
11. Condition #31 – A note has been added to the Landscape Plans stating that prior to any clearing of the sight easement, such clearing and trimming activities shall be subject to approval by the Borough Engineer and Planner.
12. Condition #32 – The note on Sheet 25 regarding the removal of invasive exotic species has been replicated on Sheet 24.
13. Condition #34 - This is a continuing condition of approval. The COAH unit phasing plan will be included in the Developer's Agreement.
14. Condition #35 - This is a continuing condition of approval. The Sales Trailer and Model Home Plot Plan has been revised to include a note regarding the hours for displaying and location of the feather flags shall be addressed as part of the Developer's Agreement.
15. Condition #38 - The Architectural Plans have been revised to add a note stating, "Prior to any change, and in the event the Applicant may propose any material change to the structure(s) on the property, including any variation from the architectural details on these plans, the applicant shall first seek approval by the Planning Board for review, approval and/or determination as may be the case.

Ms. Shana Goodchild  
December 20, 2022  
Page 15 of 15

16. Condition #39 – This is a continuing condition of approval.
17. Condition #40 – This is a continuing condition of approval.
18. Condition #41 – This condition has been satisfied.
19. Condition #42 – This is a continuing condition of approval; the Applicant will comply with all applicable affordable housing requirements as required by the Borough ordinances which have been adopted to implement UHAC regulations, including but not limited to income distribution, phasing in the affordable units (except as may be modified by the Borough), heating source, accessibility and adaptability, amenities, size of units and bedrooms.
20. Condition #43 - This is a continuing condition of approval. As recommended by the Borough Planner, a note has been added to the Cover Sheet of the Site Plans and the Architectural Plans stating, “No Certificate of Occupancy shall issue for the affordable apartment building until the applicant has executed and submitted the contract for affordable housing administration services to the Borough Clerk, Attorney and Planner for review and approval.”
21. Condition #44 - This is a continuing condition of approval; the Applicant will submit deed restrictions in accordance with UHAC regarding the affordability control period. At the end of the affordability control period, nothing shall preclude the Borough from electing to release the affordability controls in accordance with applicable law.
22. *Condition #46* - A detail of the emergency generator for the wastewater treatment plant has also been added to the Construction Detail Sheet (Sheet 42).

We trust the above information is satisfactory for Resolution Compliance review. Should you have any questions or require additional information, please do not hesitate to contact this office.

Sincerely,

GLADSTONE DESIGN, INC.



Matt Draheim, L.L.A.

Cc: Craig Gianetti, Esq., Project Attorney  
Pulte Homes of NJ, LLP., Applicant  
Melillo Equities, Applicant  
Paul Ferriero, P.E., Ferriero Engineering, Board Engineer  
David Banisch, P.P., Banisch Associates, Board Planner  
Frank Linnus, Esq., Board Attorney

Enclosures

