**BOROUGH OF NEPTUNE CITY**
**LAND USE BOARD**
**RESOLUTION OF MEMORIALIZATION**
**MONMOUTH COUNTY, NEW JERSEY**
**PRELIMINARY AND FINAL SUBDIVISION**
**PRELIMINARY AND FINAL SITE PLAN**
**WITH ANCILLARY BULK VARIANCE RELIEF**

**Approved: May 20, 2025**
**Memorialized: June 17, 2025**

**MATTER OF: GENESIS REDEVELOPMENT LLC**

**APPLICATION NO.: 25-02**

**WHEREAS,** Genesis Redevelopment LLC (the "Applicant") has applied to the Borough of Neptune City Land Use Board (the "Board") for preliminary and final subdivision, preliminary and final site plan approval with ancillary bulk variance relief pursuant to N.J.S.A. 40:55D-70c for lands designated as Block 18 Lot 1 on the official tax map of the Borough of Neptune City, more commonly known as 96 Laird Avenue, Neptune City, NJ 07753 (the "Property"); and

**WHEREAS**, a complete application has been filed, the fees as required by Borough ordinance have been paid, proof of service and publication of notice as required by law has been furnished and determined to be in proper order and it otherwise appears that the jurisdiction and powers for the Board have been properly invoked and exercised; and

**WHEREAS**, a public hearing was held on May 20, 2025, in the Municipal Building, at which time testimony and exhibits were presented on behalf of the Applicant and all interested parties were provided an opportunity to be heard; and

**WHEREAS**, the Applicant was represented by Robert J. McGowan, Esq.

**NOW, THEREFORE**, the Board makes the following findings of fact based on evidence presented at its public hearing at which a record was made:

1. The Applicant is proposing to redevelop the site by constructing seven (7) three-bedroom townhouses that extend into the Field Street R.O.W. in exchange for improvements to the Laird Avenue Park.

2. The subject Property and Field Street R.O.W. consists of 23,924 square feet (0.54 acres) with frontages on Laird Avenue, and Memorial Drive is located within the R-1 Single Family Residential Zone and East Coast Ice Redevelopment Plan Area. The Property is currently undeveloped with a driveway and an abandoned structure.

3. The proposed bulk conditions for the site are outlined in the following:

East Coast Ice House Redevelopment Zone Bulk Standards for Block 18, Lot 1

| | **Required** | **Proposed** |
|---|---|---|
| Minimum Front Yard Setback (Liard Avenue) | 25 feet | 25 feet |
| Minimum Front Yard Setback (Memorial Drive) | 30 feet | 31 feet |
| Minimum Side Yard Setback | 20 feet | 24 feet |
| Maximum Building Height | 35 feet / 2 Stories | 35 feet / 2 Stories |
| Maximum Building Coverage | 35% | 31.2% |
| Maximum Impervious Coverage | 65% | 51.9% |

4. The Ordinance 139-49 permits a maximum three (3) foot high fence in the front yard. The Applicant is proposing a six (6) foot high fence on Memorial Drive front yard. A variance is required.

5. The project disturbance is less than one (1) acre of land disturbance and the amount of impervious coverage is less than 0.25 acres, therefore this application is not considered a major development and does not have to meet New Jersey Department of Environmental Protection (NJDEP) and Borough Stormwater Ordinances.

6. The Applicant is proposing an underground infiltration basin consisting of a 24 inch perforated pipe system with filter fabric and clean stone to reduce the peak flow rates as per water quality requirements of N.J.A.C. 7-8.

7. A Stormwater O&M Manual will be recorded as per NJDEP requirements.

8. Counsel for the Applicant, Robert McGowan, Esq., provided an overview of the application. He represented that the proposal was the second phase of a Redevelopment Agreement to construct seven (7) townhouse units on Laird Avenue and other improvements in the area.

9. The Applicant's Engineer, Kevin Shelly, P.E., introduced a Color Site Plan Rendering as Exhibit A-1. Mr. Shelly identified the subject Property as Block 18 Lot 1 with the address of 96 Laird Avenue, Neptune City, NJ 07753. He testified that the subject Property contained 0.55 acres and was located within the R-1 Zone and the Redevelopment Area. He described the current conditions of the site as undeveloped with a driveway and an abandoned structure. He described the surrounding properties as residential to the south and west, with a playground located to the north, and Memorial Drive to the east. He stated that a warehouse was also located to the west of the site.

10. Mr. Shelly next testified that the Applicant was proposing seven (7) townhouse units, each to be two-story and contain three (3) bedrooms. He stated that parking was provided by a single-car garage and a single-car driveway. He testified that the site complied with all bulk standards of the Redevelopment Plan. He stated that the Applicant was seeking variance relief from installing a six-foot fence within a front yard. He explained that the fence would be installed along the Memorial Drive,

which a maximum of three-foot fences were permitted within front yards, however, the frontage of Memorial Drive would function as a backyard of the townhouses.

11. Mr. Shelly next testified that new utilities would be connected within Laird Avenue, which the Applicant would mill and repave the full width of Laird Avenue along the frontage of the subject Property. He stated that underground stormwater basins would be located at the rear of the site and would be maintained by the HOA. Mr. McGowan clarified that the townhouses would be sold as condominiums.

12. Mr. Shelly further testified that the Borough would vacate the Field Street right-of-way adjacent to the subject Property and convey as such to the Applicant. He further stated that as part of the Redevelopment Agreement, that the Applicant would reconstruct the amenities located in the playground to the north of the site.

13. In response to questions from the Board, Mr. Shelly testified that the Applicant would comply with trash pick up regulations of the Borough. He testified that there would not be any light spillage. He stated that street trees and foundation plantings were proposed, as well as evergreen trees to provide screening to the adjacent residential lot to the south. He stated thar there were no common amenities. He stated that the Applicant would comply with the building code for EV-chargers.

14. In response to further questions from the Board, Mr. Shelly testified that the dimensions of the fenced in back yard were 16' x 26' and no deck or concrete patios were proposed, but rather would be grass surface. He also stated that an environmental report and traffic report were included in the record. Mr. McGowan confirmed that an LSRP was responsible for the environmental cleanup of the phase I of the Redevelopment Plan. He confirmed that the Applicant would pave the full width of Laird Avenue and provide curbing and sidewalk. He confirmed that the details of the playground improvements were subject to review by the Governing Body. He also testified that the stormwater management was compliant and detailed within the Redevelopment Plan. He stated that a maintenance

manual would be filed. He stated that the Applicant could examine providing sound attenuating windows to mitigate the impact of the nearby railroad on the residents.

15. In response to further questions from the Board, Mr. Shelly stated that the portion of the subject Property that was behind the adjacent lot to the south would be maintained. He stated that it would be awkward to fence in that area and it would be difficult to access the area for maintenance.

16. In response to further questions from the Board, Mr. Shelly confirmed that each unit would have two (2) parking spaces and that there were an additional two (2) on-street parking spaces on either end of the development. He also confirmed that there was no parking along the frontage but there was no prohibition against parking on the western side of Laird Avenue.

17. In response to further questions from the Board, Mr. Shelly testified that the maximum height of the townhouses was thirty-five (35) feet and that there were four (4) steps from the door to grade.

18. In response to further questions from the Board, testimony was taken from Steve Wilcox, representative of the Applicant. Mr. Wilcox testified that the water table prevented the ability to provide a basement, therefore the townhouse foundation would be crawl space. Mr. Shelly testified that the water table would not impact the stormwater basin. The Board expressed its concern that the garages would be used as storage instead of parking, which the Board Attorney advised that restrictions on using garages for parking only could be incorporated into the HOA documents.

19. The hearing was then opened to the public, at which time Corlies Chong, 104 Midwood Street asked for some clarification on the number of bedrooms and parking spaces. He also asked if there was any storage in the units. In response, Mr. Shelly testified that there was attic space. In response to further questions from Mr. Chong, Mr. Shelly testified that the parking and street width were compliant with RSIS. Mr. Chong expressed his concern of insufficient parking and the density of the development.

20. Christina Boyce, 88 Laird Avenue, expressed her concerns with parking in the area, sewer odor, street flooding in the area, and noise from traffic and the railroad.

21. Maura Fitzsimmons, 9 Holly Street, asked questions about the schedule of construction between the Phase I and Phase II of the Redevelopment Plan. Mr. McGowan explained the schedule and the process before obtaining building permits. Ms. Fitzsimmons also expressed her concern with traffic and parking in the area and opined that the vacated right-of-way could have been better used for parking.

22. Kathy Chong, 104 Midwood Street, agreed with Ms. Fitzsimmons about the phasing of the project. Ms. McGown then provided an more detailed explanation of the schedule included as part of the Redevelopment Agreement. Ms. Chong also asked if any soil testing had been performed on the subject Property, which Mr. Shelly stated that the LSRP was responsible for any soil testing.

23. Joyce Allow, 7 Holly Street, expressed her concern with contamination of the site and concern with the narrow streets and parking.

24. Gerald Fields, 8 Bradley Street, expressed concern with the lack of on-street parking along the frontage. He opined that townhouses would not fit with the character of the neighborhood. He also expressed concern with contamination and flooding.

25. Nancy Bachman, 9 Laird Avenue, expressed concern with traffic and noise generated by the residents of the townhouses. She asked about the total timeline of construction.

26. Anthony Suslino, 79 Steiner Avenue, asked if the white vinyl fence proposed would be changed to a different type of fence. Mr. McGowan responded by stating that the type of fence would be a subject of a condition of approval.

27. Allen Boyce, 88 Laird Avenue, asked for the buffer on the portion of the subject Property at the rear of his property to be maintained. Mr. Shelly confirmed that the Applicant would maintain the portion and provide new fencing.

28. There were no other members of the public expressing interest.

29. The Board asked if the Applicant could reduce the number of townhouse units from seven (7) to six (6) units. The Board also asked if the Applicant would consider providing a double width driveway. Mr. Shelly responded by stating that a double width driveway would not fit architecturally and it would reduce the amount of grass in the front yard.

**NOW, THEREFORE,** the Board makes the following conclusions of law based upon the foregoing findings of fact:

1. The Applicant has requested bulk variance relief pursuant to N.J.S.A. 40:55D-70(c) permitting the construction of a seven (7) two-story condominium units, each with three-bedrooms. Bulk variances are need as recited above.

2. The Municipal Land Use Law (MLUL), at N.J.S.A. 40:55D-70c, provides Boards with the power to grant variances from strict bulk and other non-use related issues when an applicant satisfies certain specific proofs which are enunciated in the statute. Specifically, under the "c(1)" criteria, an applicant may be entitled to relief if the specific parcel is limited by exceptional narrowness, shallowness or shape. An applicant may show that exceptional topographic conditions or physical features exist which uniquely affect a specific piece of property. Further, an applicant may also supply evidence that exceptional or extraordinary circumstances exists which uniquely affect a specific piece of property or any structure lawfully existing thereon and the strict application of any regulation contained in the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that property. Additionally, under the "c(2)" criteria, an applicant has the option of showing that in a particular instance relating to a specific piece of property, the purpose of the MLUL would be advanced by allowing a deviation from the Zoning Ordinance requirements and the benefits of any deviation will substantially outweigh any detriment. In those instances, a variance may be granted to allow departure from regulations adopted pursuant to the Zoning Ordinance.

3. Those categories specifically enumerated above constitute the affirmative proofs necessary in order to obtain "bulk" or "(c)" variance relief. Finally, an applicant must also show that the proposed variance relief sought will not have a substantial detriment to the public good and, further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. It is only in those instances when an applicant has satisfied both these tests that a Board, acting pursuant to the MLUL and case law, can grant relief. The burden of proof is upon an applicant to establish these criteria.

4. The Board finds that the Applicant has satisfied the positive criteria to permit flexible bulk variance relief pursuant to N.J.S.A. 40:55D-70c(2).

5. The Board specifically finds that the proposed townhouse dwellings would be aesthetically preferable and create a visually desirable environment. The Board also finds that the proposed townhouses would provide adequate light, air, and open space. This would benefit the community. The Board also found that the proposed townhouses promote the establishment of appropriate population density. The goals of planning as enumerated in N.J.S.A. 40:55D-2 have therefore been advanced. The Board concludes that the Applicant has satisfied the c(2) positive criteria.

6. Turning to the negative criteria, the Board finds that the proposed subdivision and variance relief will not result in increased traffic, noise or permitted population density not contemplated by the zone or master plan or redevelopment agreement. The Board, therefore, concludes that granting the requested bulk variance relief would not substantially impair the purpose and intent of the Zoning Ordinance or Zone Plan or be substantially detrimental to the public good. The Board concludes, therefore, that the Applicant has satisfied the negative criteria.

7. The Board concludes that the positive criteria substantially outweighs the negative criteria and bulk variance relief pursuant to N.J.S.A. 40:55D-70c(2) may be granted.

**NOW, THEREFORE, BE IT RESOLVED** on this 17th day of June 2025, by the Borough of Neptune City Land Use Board, that the Board memorializes the action taken by it on May 20, 2025,

approving the bulk variance relief sought by the Applicant, Genesis Redevelopment, LLC in application no. 25-02, subject to the following conditions:

1. Applicant shall comply with standard Board conditions as set forth in attached Schedule A.

2. The development of this site shall take place in strict conformance with the testimony, plans and drawings which have been submitted to the Board with this Application, as revised by the terms herein, and consistent with any relevant obligations in the Redevelopment Agreement.

3. Except where specifically modified by the terms of this Resolution, the Applicant shall comply with the recommendations contained in the Reports of the Board's Professionals.

4. All grading, drainage and landscaping on the Property shall comply with all Municipal Ordinances and regulations and will be subject to the approval of the Board Engineer.

**BE IT FURTHER RESOLVED** that the Board secretary is hereby authorized and directed to cause a notice of this decision to be published in the official newspaper at the Applicant's expense and to send a certified copy of this Resolution to the Applicants and to the City Clerk, Engineer, Attorney, Planner, and Tax Assessor, and shall make same available to all other interested parties.

ON MOTION OF: Randy Reynolds

SECONDED BY: Robert Reynolds, Jr

ROLL CALL:

YES: Randy Reynolds, Robert Reynolds, Jr., Craig Morcom

NO: Pamela Renee

DATED: June 17, 2025

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Neptune City Land Use Board, Monmouth County, New Jersey, at a public meeting held on June 17, 2025.

Susan Y. Hewitson, Secretary
Neptune City Land Use Board

5343481.1 NCLUB-006E - Genesis Redevelopment LLC Resolution For Preliminary And Final Site Plan And Subdivisi(5343481.1)