

Shelbourne at Hunterdon  
53 Frontage Road Suite 110  
Hampton, New Jersey 08827

Main: 877 627 3772



September 14, 2021

Ms. Geraldine Entrup  
Administrative Officer, Planning Board  
Township of Mahwah  
475 Corporate Drive  
Mahwah, NJ 07430

**Re: Review Letter #6**

Monarch Communities, LLC  
Bounded by East Ramapo Avenue, Franklin Turnpike, King Street, and Siding Place  
Preliminary and Final Major Site Plan  
Block 82, Lots 1 and 3 through 30  
Docket No. 1478-20  
Colliers Engineering & Design Project No. MWZ-040

Dear Ms. Entrup,

We are in receipt of the above-referenced Application to develop a 175-unit multi-level senior housing facility with 7,240 square feet of commercial space. The Application requires a D(1) use variance, a D(5) density variance, multiple "C" variances, and several waivers/exceptions, which are detailed in Section D.

We have received the following new documentation in support of this Application:

1. Plans entitled "Monarch", prepared by Erik Duane Anderson, RA of JAL Architecture and Engineering, P.C., dated July 21, 2021, consisting of 6 sheets.
2. Plans entitled "Existing Drainage Area Map", prepared by B.A. Bohler, PE of Bohler, dated June 4, 2021, consisting of 3 sheets.
3. Additional Development Application Signature Pages, including Affidavits of Owner, signed by Maureen S. Postolowski, dated July 12, 2021.
4. Stormwater Management Report, prepared by B.A. Bohler, PE of Bohler, dated June 2021.
5. Letter entitled "Monarch Communities, LLC", prepared by Antimo A. Del Vecchio of Beattie Padovano, LLC, dated August 27, 2021, consisting of 1 page.
6. Document entitled "Table of Exhibits", unknown author, no date, consisting of 5 pages.

We have reviewed the following documents submitted previously by the Applicant:

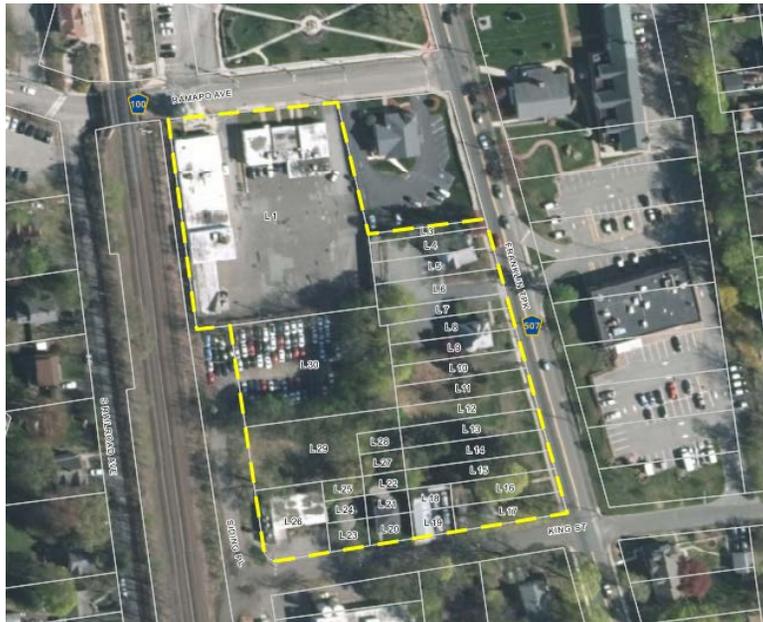
1. Plans entitled "Preliminary / Final Land Development Plans for Monarch Proposed Multi-Level Senior Housing Facility", prepared by B.A. Bohler, PE, of Bohler, dated June 4, 2021, consisting of 27 sheets.
2. Plans entitled "Monarch", prepared by Erik Duane Anderson, RA of JAL Architecture and Engineering, P.C., dated June 1, 2021, consisting of 9 sheets.
3. Survey entitled "ALTA/NSPS Land Title Survey", prepared by Craig Black, PE, PLS of Dynamic Survey, LLC, dated February 21, 2020, consisting of 1 sheet.
4. Plans entitled "Preliminary and Final Site Plan for Monarch Communities Proposed Multi-Family Senior Housing Facility", prepared by Stephen L. Schwartz, P.E. and Brett W. Skapinetz, P.E. of Dynamic Engineering Consultants, PC, dated July 17, 2020, revised through December 21, 2020, consisting of 22 sheets. It should be noted that Sheet 12 was prepared by Stephen L. Schwartz, P.E. and Marla A. Roller, L.L.A. of Dynamic Engineering, LLC.
5. Plans entitled "Typical Unit Monarch", prepared by Procon, dated August 14, 2020, consisting of 3 sheets.
6. Board of Adjustment Application, dated July 29, 2020.
7. Board of Adjustment Submission Checklist, dated August 21, 2020, revised September 11, 2020.
8. Development Application, dated July 28, 2020.
9. Planning Board Application Submission Checklist, dated July 28, 2020.
10. Site Plan Determination of Completeness Checklist, no date.
11. Historic Preservation Commission Application, dated July 29, 2020.
12. Soil Movement Permit Application, dated July 20, 2020.
13. Letter entitled "Application #SP 8633 Monarch Communities", prepared by Michael Varner, P.P. of the County of Bergen Department of Planning & Engineering, dated September 5, 2020, consisting of 5 pages.
14. Environmental Impact Statement, prepared by Steve L. Schwartz, P.E., C.M.E. of Dynamic Engineering, dated July 2020, revised through December 2020.
15. Traffic Impact Study, prepared by Corey M. Chase, P.E. and Craig W. Peregoy, P.E. of Dynamic Engineering, dated July 23, 2020.
16. Stormwater Management Summary, prepared by Steve L. Schwartz, P.E., C.M.E. of Dynamic Engineering, dated July 2020.

17. Stormwater Management Facilities Operation and Maintenance Manual, prepared by Steve L. Schwartz, P.E., C.M.E. of Dynamic Engineering, dated July 2020.
18. Community Needs Analysis, prepared by HTG Consultants, LLC, dated December 23, 2020.
19. Valuation Report, prepared by Appraisal Consultants Corporation, dated January 4, 2021.
20. Packet of photographs, prepared by Dynamic Engineering, no date, consisting of 8 pages.
21. Document entitled "Monarch Program", author unknown, dated December 6, 2020, consisting of 1 page.
22. Letter entitled "Consistency Determination # HC-CD-20-002", prepared by Lisa J. Plevin, Executive Director of the Highlands Water Protection and Planning Council, dated October 14, 2020, consisting of 8 pages with attachments.
23. Letter entitled "Consistency Determination # HC-CD-20-002", prepared by Lisa J. Plevin, Executive Director of the Highlands Water Protection and Planning Council, dated October 14, 2020 and noted as revised, consisting of 5 pages with attachments.
24. Email correspondence from Richard Preiss of Phillips Preiss Grygiel Leheny Hughes, LLC, on December 7, 2020.
25. Documents entitled "Fire Hydrant Flow Test Results", prepared by P. Kimball of Allstate Fire Technologies, Inc., dated April 20, 2020, consisting of 2 pages.
26. Document entitled "Soil Movement Calculations", unknown author, no date, consisting of 2 pages.
27. Document entitled "Sanitary Sewer & Water Flow Analysis", prepared by Dynamic Engineering, dated December 16, 2020, consisting of 1 page.
28. Letter entitled "Parking Assessment", prepared by Corey Chase, P.E. of Dynamic Traffic, LLC, dated December 21, 2020, consisting of 3 pages.
29. Letter entitled "Application #1478-20 Monarch Communities", prepared by Steve L. Schwartz, P.E., C.M.E. and Joshua Wirry, P.E. of Dynamic Engineering Consultants, PC, dated December 21, 2020, consisting of 5 pages.
30. Letter entitled "Preliminary & Final Site Plan Proposed Multi-Level Senior Housing Facility", prepared by Timothy M. Aguilar, PE and Bradford A. Bohler, PE of Bohler, dated June 4, 2021, consisting of 39 pages.

**A. Site Description**

The subject site contains 3.786 acres and consists of several lots located in the Township's "downtown". It should be noted that the site originally contained 3.46 acres. However, since the initial submission, the Applicant has incorporated Lots 18 through 25, 27, and 28 into the site. The

property is bounded by East Ramapo Avenue to the north, Franklin Turnpike to the east, King Street to the south, and Siding Place to the west. Surrounding uses include commercial uses and the Veteran's Memorial Park to the north and the Mahwah Fire Department Company 1, Police Station, and Township-run museum to the east, across Franklin Turnpike. There are residential dwellings and a manufacturing plant to the south and the NJ Transit railroad lies to the west, which are shown on the aerial below.



The Board should note that the entirety of Block 82 was included in the Township's 2018 affordable housing settlement agreement with Fair Share Housing Center as a mechanism to address Unmet Need. A total of ten affordable units were anticipated to be generated by the area. As a result of the settlement agreement, Mahwah adopted the Mixed-Use Development-1 (MUD-1) Overlay Zone in June of 2019.

**B. Prior Approvals**

The Applicant has not provided any Resolutions demonstrating previous site plan and/or subdivision approvals.

**C. Proposed Project**

The Applicant proposes to construct a 175-unit multi-level senior housing facility containing 97 congregate apartment units, 52 assisted living units, and 26 memory care units. Additionally, 7,240 square feet of retail space is proposed. A 48-space parking garage is proposed under a portion of the building and a second 116-space parking garage is proposed under a portion of the building, for a total of 164 structured parking spaces. Other site improvements include off-street parking and circulation, loading area, sidewalks, retaining walls, signage, landscaping, and lighting. All existing improvements are proposed to be removed. The lots will be consolidated into one.

## **D. Variances & Waivers**

Based on a review of the Application, we have identified the following “D” variances:

1. Section 24-4.1.1a. – D(1) variance for use. The MUD-1 Overlay Zone requires ground floor uses with frontage on Ramapo Avenue to be non-residential. Various uses within the B-10 Zone are permitted, excluding places of worship, clubs and social recreational buildings, professional and business offices, public facilities, and undertakers and funeral parlors. Multi-family housing is permitted. A mixture or combination of the above uses is also permitted.

The Applicant proposes a multi-level senior housing facility and three retail spaces on the ground floor of the building with frontage on Ramapo Avenue. The multi-level senior housing facility provides different levels of service for residents and will contain 97 congregate apartments, 52 assisted living units, and 26 memory care units. Please refer to Comment #7 for specific information on the unit types. **(The Site Plan does not list this variance.)**

2. Section 24-4.1.1d.10. – D(5) variance for density. The Ordinance limits density in the MUD-1 Overlay Zone to 14 units per acre.

The Applicant proposes 175 units on the 3.786-acre site, which equates to a density of 46.2 units per acre. (This was previously 50.6 units per acre.)

Additionally, the following “C” variances are required:

1. Section 24-4.1.1b.1. – Variance for off-street parking compliance. The Ordinance permits off-street parking as an accessory use subject to Section 22-6.2 and Section 24-3.7.

The Applicant proposes off-street parking that does not comply with Sections 22-6.2d.3. and 22-6.2d.6.(c), Table 4. **(The Applicant has not requested this variance.)**

2. Section 24-4.1.1b.3. – Variance for off-street loading compliance. The Ordinance permits off-street loading as an accessory use subject to Section 22-6.3 and Section 24-3.7.

The Applicant proposes off-street loading that does not comply with Section 22-6.3a. **(The Applicant has not requested this variance.)**

3. Section 24-4.1.1b.6. – Variance for fences and walls. The Ordinance permits fences and walls as an accessory use subject to Section 24-6.11b.

The Applicant proposes retaining walls that do not comply with Section 24-6.11b. **(The Applicant has not requested this variance.)**

4. Section 24-4.1.1d.9. – Variance for building height. The Ordinance limits building height to 38 feet and three stories.

The Applicant proposes a four-story, 37.11-foot tall building.

5. Section 24-4.1.1f.1. – Variance for off-street parking compliance. The Ordinance requires off-street parking to comply with Section 24-7.

The Applicant proposes off-street parking that does not comply with Section 24-7.2. **(The Applicant has not requested this variance.)**

6. Section 24-4.1.1f.3. – Variance for number of parking spaces. The Ordinance requires off-street residential parking to be provided in accordance with RSIS and non-residential parking to be provided in accordance with Section 22-6.2a. RSIS requires 0.5 parking spaces per assisted living unit. RSIS does not contain a congregate apartment housing category, so we relied upon the garden apartment category, which requires 1.8 spaces per one-bedroom unit, two parking spaces per two-bedroom unit, and while there is no requirement for a four-bedroom apartment unit, the 2.1 space per three-bedroom unit requirement was utilized. Section 22-6.2a requires one parking space for every 150 square feet of retail up to 2,000 square and one space for every 175 square feet of floor area where the floor area exceeds 2,000 square feet.

The Applicant proposes 52 assisted living units and 26 memory care units, which require 39 parking spaces. The 69 one-bedroom apartments require 124.2 parking spaces. The 24 two-bedroom apartments require 48 parking spaces. The four four-bedroom apartments require 8.4 parking spaces. Additionally, 41.37 parking spaces are required for the 7,240 square feet of retail space. Therefore, a total of 260.97 parking spaces, rounded up to 261 spaces, are required for the proposed uses.

The Applicant proposes 174 parking spaces. **(The Applicant has not requested this variance.)**

7. Section 24-4.1.1f.4. – Variance for lighting compliance. The Ordinance requires parking lot lighting to comply with Section 22-6.4.

The Applicant proposes lighting that does not comply with Section 22-6.4a.10.(b) regarding street intersection lighting. **(The Applicant has not requested this variance.)**

8. Section 24-4.1.1g.2. – Variance for building wall offset. The Ordinance requires a maximum spacing of 45 feet between building wall offsets along any street-facing facade.

The Applicant proposes the spacing between wall offsets along the western façade, which faces Siding Place, to be greater than 45 feet. **(The Applicant has not requested this variance.)**

9. Section 24-4.1.1h.3. – Variance for foundation plantings. The Ordinance requires foundation plantings to be provided around all buildings if a sidewalk is not directly adjacent to the structure. Plantings shall include species that provide seasonal interest at varying heights to complement and provide pedestrian scale to the proposed architectural design of the buildings. Evergreen shrubs and groupings of small trees are required to be provided.

A portion of the building facing Siding Place does not have the required foundation plantings.

10. Section 24-6.8a.1.(a). – Variance for accessory structure setback. The Ordinance does not permit accessory uses to be located closer to the street right-of-way line than the required front yard setback of the principal structure.

The Applicant proposes a portion of the trash enclosure within the required ten-foot Siding Place front yard setback. **(The Applicant has not requested this variance.)**

11. Section 24-6.11b.1. via Section 24-4.1.1.b.6. – Variance for fence height. Section 24-4.1.1b.6 permits fences and walls subject to Section 24-6.11b. Therefore, the height limit for fences and walls is six feet when located behind the front façade line or four feet when located within the front yard.

The retaining wall along the western property line (Siding Place) reaches a maximum height of nine feet. Additionally, the 35 linear foot retaining wall in front of the front façade facing King Street reaches a maximum height of 11.5 feet. Note that these heights do not include the height of the fence mounted on top of the wall.

12. Section 24-6.11b.5. via Section 24-5.3d.3. – Variance for screening. The Ordinance requires any use not conducted within a completely enclosed building, such as required off-street parking, to be entirely enclosed by a solid or closely woven fence or by evergreen hedges or shrubs spaced at intervals of not more than six feet within ten feet of the property line.

The Applicant does not propose evergreen hedges or shrubs within ten feet of the property line around the proposed ten space parking area.

13. Section 24-7.2 – Variance for off-street parking. The Ordinance permits off-street parking for separate uses to be provided jointly if the total number of parking spaces is not less than the sum of the separate requirements for each use.

The Applicant proposes 174 parking spaces where 261 parking spaces are required for the multi-level senior housing facility and non-residential space. **(The Applicant has not requested this variance.)**

The following waivers/exceptions are required:

1. Section 22-6.2d.3. Waiver/exception for driveway location. The Ordinance does not permit driveways to be closer than 50 feet to the intersection of two streets.

The Applicant proposes the driveway off East Ramapo Avenue approximately 27 feet from the intersection with Siding Place and the driveway off King Street approximately nine feet from the intersection with Siding Place.

2. Section 22-6.2d.6.(c), Table 4 – Waiver/exception for driveway width. The Ordinance requires the following driveway dimensions:
- 24- to 30-foot-wide two-way operation driveways (Over 10 family residence).
  - 46- to 52-foot-wide two-way operation depressed curb (Over 10 family residence).
  - 25- to 35-foot maximum curb return radius (Over 10 family residence).
  - 30- to 50-foot wide two-way operation driveways (commercial).
  - 50- to 70-foot-wide two-way operation depressed curb (commercial).
  - 35- to 45-foot maximum curb return radius (commercial).

The Applicant proposes the following driveway dimensions:

- 71.2-foot-wide two-way operation driveway on King Street for the multi-level senior housing facility.
  - 98-foot-wide two-way operation depressed curb on King Street for the multi-level senior housing facility.
  - 25.2-foot-wide (King Street), 25.5-foot-wide (East Ramapo Avenue), and 26-foot-wide (King Street) two-way operation driveways, which lead to the parking garage areas and would be used by both uses.
  - 46.5-foot-wide (King Street), 53.75 foot-wide (King Street), and 58.5-foot-wide (East Ramapo Avenue) two-way operation depressed curbs, which lead to the parking garage areas and would be used by both uses.
  - Curb return radii of 15 feet.
3. Section 22-6.3a. – Waiver/exception for off-street loading. The Ordinance requires one loading berth for 5,000 square feet of retail floor area and a second loading berth where there is 20,000 square feet of retail floor area. Additionally, for any residential development containing 30 or more units, one loading berth is required for 20,000 square feet of residential floor area, a second loading berth is required for 100,000 square feet of residential floor area, and an additional loading berth is required for each additional 80,000 square feet of floor area over 100,000 square feet.

The Applicant proposes 7,240 square feet of retail floor area, which requires one loading berth and 188,593 square feet of residential floor area, which requires three loading berths. Therefore, a total of four loading berths are required.

The Applicant proposes one loading area.

4. Section 22-6.4a.10.(b) – Waiver/exception for street intersection lighting. The Ordinance requires street intersections to have an intensity of three footcandles throughout.

The Applicant proposes the intensity of lighting at all the driveway intersections to be less than three footcandles. **(The Applicant has not requested this waiver.)**

5. Section 22-6.4a.10.(c) – Waiver/exception for lighting at the property line. The Ordinance limits lighting at the property line to one footcandle.

The Applicant proposes a lighting along Franklin Turnpike, which illuminates to a maximum of 2.9 footcandles.

6. Section 22-6.5a.14. – Waiver/exception for street trees. The Ordinance requires street trees to be planted at intervals of (a) 50 to 75 feet for large trees, (b) 40 to 50 feet for medium trees, and (c) 30 to 40 feet for small and ornamental trees.

The Applicant does not propose any street trees along East Ramapo Avenue. The Applicant proposes a greater interval between trees than permitted along Franklin Turnpike.

7. Section 28-2.4b.6. – Waiver/exception for slopes. The Ordinance does not permit proposed slopes and lateral supports on the property or to adjacent properties to be more than one foot vertical to four feet horizontal.

Sheet C-101 indicates this waiver is required for slopes of one foot vertical and three foot horizontal.

## **E. Comments**

Note that the current status of prior comments as well as new comments are provided in italics. Additionally, previously addressed comments have been removed.

1. The Applicant's professionals must provide testimony to support the grant of the variances required by the Application. Testimony must address both the negative and positive criteria requirements of the MLUL.
2. The Applicant shall list all variances and waivers/exceptions noted in Section D above on the Site Plans.

*July 1, 2021 Response: Sheet C-101 does not list all the variances and waivers our review has found. The plans shall either be amended to eliminate these deviations, or the list of variances and waivers updated.*

3. The Applicant shall note that the Township of Mahwah has opted into the Highlands Planning Area. As per Section 22-5.4b, applications for development in the Planning Area are required to submit a Consistency Determination from the Highlands Council indicating the application is either consistent or inconsistent with the Highlands Regional Master Plan.

A Consistency Determination has not been submitted. The Applicant shall provide this document.

February 2, 2021 Response: The Applicant has submitted a Consistency Determination, which deemed the proposed development to be “Consistent Subject to Specified Conditions”. The Applicant shall provide testimony and/or documents demonstrating compliance with each condition.

July 1, 2021 Response: *Bohler’s June 4, 2021 Response Letter indicates this information will be provided under a separate cover. However, testimony shall be provided if the amended Site Plans with the additional lots has been submitted to the Highlands Council for review. The expansion of the site may trigger additional conditions from the Highlands Council.*

4. Page 2 of the Community Needs Analysis indicates the proposed facility contains 175 units and 202 beds. However, the Architectural Plans’ Unit Mix table totals 213 beds. Additionally, the Community Needs Analysis indicates the 97 congregate apartment units have 113 beds and the 48 assisted living units have 59 beds, while the Architectural Plans’ Unit Mix table indicates 130 congregate apartment beds and 53 assisted living beds. These discrepancies shall be eliminated.

July 1, 2021 Response: *The Architectural Plans have been revised to indicate there are 97 congregate apartments with 133 beds, 52 assisted living units with 65 beds, and 26 memory care units with 26 beds, which totals 175 units and 224 beds. As of the date of this letter, a revised Community Needs Analysis has not been submitted.*

5. The Site Plans now include Lots 18 through 25, 27, and 28. However, we have not received an amended Application, nor have we received any paperwork indicating the property owner consents to the filing of the Application.

September 14, 2021 Response: *The Applicant has provided Affidavits of Owner for Block 82, Lots 18 and 19 and Block 82, Lots 20 through 25, 27, and 28, dated July 12, 2021. This comment has been addressed.*

6. The Site Plans were previously titled “Preliminary and Final Site Plan for Monarch Communities Proposed Multi-Family Senior Housing Facility”. The Site Plans are now titled “Preliminary / Final Land Development Plans for Monarch Proposed Multi-Level Senior Housing Facility”. Is the Applicant still seeking Preliminary and Final Site Plan approval? Testimony shall be provided.

September 14, 2021 Response: *The Applicant’s Attorney’s August 27, 2021 Letter indicates Preliminary and Final Site Plan approval is being sought. This comment has been addressed.*

## Use

7. The Applicant proposes 97 units of congregate apartment housing. It is unclear if these units are independent living units, senior apartments, etc. Additional information is needed as Section 24-2.3 of the Ordinance indicates that words and terms utilized in Chapter 24 that are also defined in NJAC 5:93-1.3 shall have the definition set forth in NJAC 5:93-1.3. NJAC 5:93-1.3 defines "multifamily unit" as "a structure containing five or more dwelling units." Therefore, depending on the description of congregate apartment housing, it may be permitted as-of-right under the MUD-1 Overlay Zone. Furthermore, this information may change the parking requirement under RSIS.

January 8, 2021 Response: Mr. Preiss, the Applicant's Planner, provided additional information regarding the proposed use of the property via email on December 7, 2020. According to this correspondence, the Applicant proposes a multi-level senior housing facility, which provides two or more levels of service. The Applicant proposes three levels of service within the multi-level senior housing facility:

- Congregate apartments – which is defined by the Department of Health Services as "specially designed multi-unit housing for independent to semi-independent people, and includes community social and dining facilities. Individual living units include, at minimum, a living room/bedroom, bathroom, and kitchenette. Developments offer at least one hot meal per day and some housekeeping services. Transportation and personal assistance services may also be available". According to Mr. Preiss these units will house independent and semi-independent seniors. Residents will have access to shared amenities including communal dining, fitness center, library lounge, and bar/pub/café. He indicates that meals and housekeeping will be provided.
- Assisted living – which is licensed by the Department of Health and offers specialized care, including 24-hour staff and security, support services, and limited healthcare services. These are apartment-style units. Residents will have access to communal dining and wellness center.
- Memory care – which is licensed by the Department of Health and offers the highest level of care. Residents will have apartment-style units, 24-hour assistance, and access to communal dining and activity rooms.

This information confirms a D(1) use variance is needed for the multi-level senior housing facility and its three levels of service and housing.

8. Based on the updated Architectural Plans we have revised the table below.

	Total Units	Market Rate Units	Market Rate Beds	Affordable Units	Affordable Beds	Total Beds
<b>Congregate Apartments</b>						
1 Bedroom	69	66	66	3	3	69
2 Bedroom	24	24	48	0	0	48
4 Bedroom	4	1	4	3	12	16
<i>Subtotal</i>	97	91	118	6	15	133
<b>Assisted Living</b>						
Companion	8	0	0	8	16	16
Studio	24	24	24	0	0	24
1 Bedroom	17	17	17	0	0	17
2 Bedroom	2	2	4	0	0	4
4 Bedroom	1	0	0	1	4	4
<i>Subtotal</i>	52	43	45	9	20	65
<b>Memory Care</b>						
Studio	24	24	24	0	0	24
1 Bedroom	2	2	2	0	0	2
<i>Subtotal</i>	26	26	26	0	0	26
<b>TOTAL</b>	<b>175</b>					<b>224</b>

9. The Applicant shall provide testimony regarding the anticipated uses within the retail spaces. It should be noted that these uses shall comply with Section 24-4.1.1a.2. of the Ordinance.

*July 1, 2021 Response: Testimony was provided at the March 2021 hearing indicating potential tenants have not been selected.*

10. The Applicant shall provide testimony regarding the maximum number of anticipated employees during the peak shift for each use.

*July 1, 2021 Response: Mr. Glynn testified at the February 3, 2021 hearing that there will be three shifts with 35 to 40 employees during the peak shift. On March 3, 2021 Mr. Glynn testified that there will be five to ten non-employees during the peak shift. However, since that time the plans have been revised to increase the size of the multi-level senior housing from 181,335 square feet to 188,593 square feet. Testimony shall be provided if the additional square footage will require more employees and/or non-employees.*

11. Testimony shall be provided regarding the schedule of deliveries to the property, including the type and size of the delivery vehicles as well as frequency.

12. Testimony shall be provided regarding medical waste generation and storage.

### Affordable Housing

13. To be licensed by the State of New Jersey, an assisted living facility is required to reserve 10% of the beds for Medicaid residents. Memory care units are licensed under the umbrella of assisted living. Therefore, of the 91 assisted living and memory care beds, 9.1 would need to be reserved for Medicaid residents.

Under the affordable housing regulations, Medicaid residents within assisted living facilities qualify for affordable housing credit if the following provisions are met:

- a. If more than one Medicaid bed is within an apartment, the beds must be allocated to two unrelated individuals.
  - b. Medicaid residents cannot be charged any upfront fees.
  - c. The affordable beds shall comply with N.J.A.C. 5:97-9 and UHAC with the following exceptions:
    - Affirmative marketing (N.J.A.C. 5:80-26.15); provided that the units are restricted to the recipients of Medicaid waivers;
    - Low/moderate-income split and affordability average (N.J.A.C. 5:80-26.3(a), (d) and (e)); only if all of the affordable units are affordable to households at a maximum of 60% of median income; and
    - Tenant income eligibility (N.J.A.C. 5:80-26.13(b)); up to 80% of an applicant's gross income may be used for rent, food and services based on occupancy type and the affordable unit must receive the same basic services as required by the Agency's underwriting guidelines and financing policies. The cost on non-housing related services shall not exceed one and two-thirds times the rent established for each unit.
14. The Architectural Plans have been revised to illustrate three one-bedroom congregate apartment units, three four-bedroom congregate apartment units, eight assisted living two-bedroom units, and one four-bedroom assisted living unit as affordable units. This totals to 15 affordable units containing 35 affordable beds. On June 30, 2021 Special Court Master, Elizabeth McManus, confirmed that the proposed units and bedroom composition are creditworthy only if units containing multiple bedrooms are occupied by unrelated individuals. Furthermore, Ms. McManus confirmed that Medicaid falls within the low-income tier, however the Board should require 13% of the Medicaid beds to be very-low income. This would translate to three very-low income beds.
15. The Applicant has not provided the income distribution of the congregate care units/beds, this information shall be provided.

16. If the Board is inclined to approve the Application, the following should be conditions of approval:
- a. The Applicant shall deed restrict 35 beds for at least 30 units in compliance with UHAC. The deed restriction shall specify the unit or apartment number, the number of beds, and income level. The deed restriction shall be submitted at least 120 days before the issuance of a Certificate of Occupancy and shall be reviewed and approved by the Township's Professionals prior to recording.
  - b. The New Jersey Department of Health license shall be provided to the Township's Municipal Housing Liaison upon receipt.
  - c. If more than one affordable bed is within an apartment, the beds must be allocated to unrelated individuals.
  - d. Affordable assisted living residents cannot be charged any upfront fees.
  - e. The Applicant/Owner shall be responsible for retaining an Administrative Agent to oversee the congregate affordable units/beds, at the Applicant/Owner's sole cost and expense.
  - f. Affirmative marketing for the congregate affordable units/beds shall commence at least 120 days before a Certificate of Occupancy is issued for any congregate apartment.
  - g. All necessary steps shall be taken to ensure the affordable units/beds provided are creditworthy pursuant to applicable law for purposes of addressing the Township's affordable housing obligation. The affordable units shall comply with UHAC, applicable COAH regulations, the Fair Housing Act, any applicable order of the Court, the Township's Affordable Housing Ordinance, and other applicable laws.
17. The Board should note that the Highlands Consistency Determination, Condition #5 requires a 20% set-aside for affordable housing.

### Site Plan

*As of September 14, 2021, revised Site Plans have not been provided to address comments #18 through #28.*

18. The Demolition Plan on Sheet 3 of the Site Plans indicates five trees are proposed to be removed. However, satellite imagery illustrates trees on existing Lot 29 and 30 and some other small pockets on the property. The Applicant shall provide a tree removal plan detailing the location and size of trees proposed to be removed in order to determine the number of required replacement trees pursuant to Chapter 14, Tree Preservation.

*July 1, 2021 Response: Bohler's June 4, 2021 Response Letter indicates the demolition plan will be provided under a separate cover. As of the date of this letter, we have not received a demolition plan.*

19. In addition to the building height comments above, we defer to the Board Engineer regarding the calculated average grade. This site features significant topography, ranging from a low of 290 to a high of 327. The Board may want confirmation of the calculated average grade from the Board Engineer.

*July 1, 2021 Response: The Grading Plan on Sheet C-401 includes a calculation of the average grade of the building, which includes 21 elevations around the building to achieve 312.39 feet. We defer to the Board Engineer regarding the calculation of the average grade.*

20. The parking space calculation, located on Sheet 7, indicates 48 spaces are needed for the retail component. Whereas this office, along with Mr. Kelly, have calculated 45.46 spaces. Sheet 7 now indicates that "alternative parking standards shall be accepted if the applicant demonstrates these standards better reflect local conditions". The Applicant contends on Sheet 7 that 147 spaces are required and proposed. Mr. Kelly has indicated that 265 spaces are required, and this office has determined that 264.46 spaces are required.

*July 1, 2021 Response: Sheet C-301 indicates 147 parking spaces are required and 174 are proposed. The footnotes indicate the 7,240 square feet of retail space requires 42 parking spaces (which we note as 41.37) and the multi-level senior housing facility requires 105 parking spaces, which is based on the Traffic Impact Study. Sheet C-301 states that alternative parking standards shall be accepted if the Applicant demonstrates these standards better reflect local conditions. As noted above, we have calculated the required parking to be 261 spaces.*

21. As the Application requires a parking variance, testimony shall be provided on snow storage. Many plow operators pile snow in parking spaces, which reduces the number of available spaces.
22. Section 22-6.9e.3 requires benches to be installed along Franklin Turnpike unless the Board believes the installation of benches is inappropriate or unnecessary. The Board should discuss if benches are appropriate along this portion of Franklin Turnpike.
23. Sheet C-301 illustrates a door on the southwest corner of the building facing Siding Place. This door discharges to a grassed area. Additionally, there is a retaining wall a few feet away from the door. This door appears to be a fire exit from a stairwell. Additionally, Sheet C-401 illustrates a grade change occurring on either side of the doorway and grading occurring as one would try to walk around the retaining wall. Testimony shall be provided if this door location is appropriate and if any changes need to be made to the grading to ensure there is a safe route to evacuate the structure.
24. The Grading Plan does not provide top and bottom wall measurements for the proposed retaining wall at the southwest corner of the building or the short retaining wall parallel to Franklin Turnpike along the side of the building. This information shall be provided.

25. Sheet C-301 labels the sidewalk to the southwest of the building as "Prop. Landscape Area". This discrepancy shall be eliminated.
26. Sheet C-101 indicates there are two loading spaces. However, we can only locate one loading space. There is an area marked as 12 feet by 50 feet on the porous concrete, which is not labeled – is this the second loading area? Testimony shall be provided.
27. Section 22-6.7c.1. states that site plan applications **may** be required to provide a sidewalk within the street right-of-way. The Applicant does not propose a sidewalk along King Street. The Board should determine if a sidewalk is needed along this street. Furthermore, the Applicant has noted this as a waiver on Sheet C-101. Unless the Board requests the sidewalk and the Applicant seeks relief from this request, the waiver is not needed.
28. Sheet C-301 indicates there is a road widening easement along Franklin Turnpike, but it is unclear how wide the easement is and if any portion of the proposed building encroaches the easement. Similarly, a ten-foot-wide easement is illustrated along East Ramapo Avenue. The building appears to encroach this easement. Testimony shall be provided.

## Architecture

29. Section 24-4.1.1g.7 requires a parapet to project vertically if a flat roof is proposed to hide any roof-mounted mechanical equipment. The parapet height appears to vary along the façade. Testimony shall be provided on the minimum parapet height and the maximum height of any roof-mounted equipment.

July 1, 2021 Response: The Architectural Plans illustrate a four-foot-tall parapet and a two-foot, six-inch-tall parapet, depending on the location along the roofline. Testimony shall be provided regarding the screening of the roof-mounted equipment and if the proposed parapets screen the equipment.

September 14, 2021 Response: *The July 21, 2021 Architectural Plans do not include any building elevations to confirm the parapet height. The Applicant shall submit a complete set of architectural plans that includes building elevations illustrating the height(s) of the parapet and the screening of roof-mounted equipment.*

30. Section 24-4.1.1g.9 requires heating, air-conditioning, and other mechanical features to be screened from public view and adjacent properties. Testimony shall be provided regarding compliance with this requirement.
31. Section 24-4.1.1g.11 prohibits packaged terminal air conditioner units within the façade. Testimony shall be provided confirming this type of unit is not proposed.

July 1, 2021 Response: *The Architectural Plans do not illustrate any packaged terminal air conditioner units within the façade. However, testimony shall be provided to confirm this.*

32. Information on the garage clearance height shall be provided.
33. The Parking Floor Plan on Sheet A1.0P does not illustrate the store entrances, which are illustrated on the Site Plans. The Applicant shall illustrate the entrances on the floor plan.
- September 14, 2021 Response: The July 21, 2021 Architectural Plans illustrate the store entrances along Ramapo Avenue. This comment has been addressed.*
34. Sheet A1.0P indicates the 48-space garage is the “retail parking garage”. Are these spaces specifically reserved for the retail employees and customers? Is access to the garage limited in any way? (Note that the retail component requires 41.37 spaces according to the Ordinance.) Testimony shall be provided.
35. The Terrace Floor Plan on Sheet A1.0T does not illustrate the door from the stairwell or the door for the deliveries. This discrepancy shall be eliminated.
- September 14, 2021 Response: The July 21, 2021 Architectural Plans illustrate the doors from the stairwell and for deliveries. This comment has been addressed.*
36. The West (Right) – Siding Place Elevation on Sheet A-2.03 does not illustrate the delivery/loading and unloading door, which is indicated on the Terrace Floor Plan and Site Plans. This discrepancy shall be eliminated.
- September 14, 2021 Response: The July 21, 2021 Architectural Plans do not include elevations. Therefore, this comment remains outstanding.*
37. The Architectural Plans contain many abbreviations that are not described. Testimony shall be provided on what MDF/DF, TLT, TLTS, MEP, BOM, and H.S.D. stand for.
38. The building elevation illustrates a door to the 116-space parking garage. Will access to this garage be restricted? Testimony shall be provided.
39. The depth of the balconies that project into the 15-foot side yard around the bank property should be labeled on the plans to confirm they are not encroaching on the side yard setback.
40. It is unclear from the Roof Plan on Sheet A1.04 if there will be any access to the roof. Testimony shall be provided.
- September 14, 2021 Response: The Roof Plan has been revised to illustrate two roof hatches. However, a third hatch may be over the retail portion of the building but is not labeled. The Applicant should confirm if there are two or three roof hatches.*

## Landscaping & Lighting

*As of September 14, 2021, revised Site Plans have not been provided to address comments #41 through #44.*

41. There are approximately five Bar Harbor Creeping Juniper ground covers within the King Street right-of-way. It is unclear if the Applicant obtained permission from the Township to plant within the right-of-way. Testimony shall be provided.
42. The Landscape Schedule indicates there are 128 Otto Luyken Cherry Laurel shrubs, while only 127 are illustrated on the Landscape Plan. This discrepancy shall be eliminated.
43. Section 22-6.9e.1.(b) requires light fixtures along Franklin Turnpike to be "Hagerstown Fixtures (Model #S5823) with Classic I Pole (Model #SP5844), black finish, with electric outlet box, manufactured by Hadco Architectural Outdoor Lighting or approved equal". The Applicant proposes a fixture that appears to be similar to the Hagerstown Model. The Board should determine whether or not the proposed fixture is an "approved equal".

*July 1, 2021 Response: The Township Requirements table on Sheet C-703 indicates the proposed light fixture model is a "Providence (PROV2) Series LED Post Top Light" with a black finish. The Board should decide if this fixture meets the Ordinance requirement.*

44. The Township Requirements table on Sheet C-703 indicates the Applicant proposes LED lighting along the Franklin Avenue streetscape. Section 22-6.9e.1.(e) requires the source of light to be metal halide or other material approved by the Board. The Board should decide if the proposed LED lighting meets the Ordinance requirement.

## Signage

*As of September 14, 2021, revised Site Plans have not been provided to address comments #45 and #46.*

45. Sheet C-301 indicates two signs are proposed that are 40.5 square feet and 4.3 feet tall. The Site Plans illustrate a monument sign near the corner of Franklin Turnpike and King Street and a monument sign near the corner of East Ramapo Avenue and Siding Place. However, no sign detail was provided to confirm the sign area and height. The Applicant shall submit signage details.
46. It is unclear if the proposed monument signs will be illuminated, either internally or externally illuminated. Testimony shall be provided.

## Details

*As of September 14, 2021, revised Site Plans have not been provided to address comments #47 through #50.*

47. The Site Plans have been revised to provide fall protection on all retaining walls. However, the retaining wall and fall protection is noted to be installed by others and no detail was

provided for the retaining wall or fall protection. We defer to the Board Engineer regarding when these details should be submitted.

48. No detail was provided for the retaining wall with fence on top. This information shall be provided.
49. Sheet C-902 contains a Loading Zone Sign detail. However, we could not locate this sign on the Plans. Testimony shall be provided.
50. Sheet C-902 contains a Vinyl Fence detail. However, we could not locate the fence on the Plans. Is the detail for the enclosure around the dumpster area? Testimony shall be provided.

We reserve the right to make additional comments based upon further review or testimony presented before the Board. Should you have any questions on this correspondence please do not hesitate to contact me.

Sincerely,

Colliers Engineering & Design



Deborah Alaimo Lawlor, FAICP, PP  
Discipline Leader, Planning Services

cc: Angela Dragone, Zoning Board Secretary (via email [adragone@mahwahtwp.org](mailto:adragone@mahwahtwp.org))  
Michael J. Kelly, Board Engineer (via email [mkelly@boswellengineering.com](mailto:mkelly@boswellengineering.com))  
Ben Cascio, Esq. Board Attorney (via email [bencascio@aol.com](mailto:bencascio@aol.com))  
Antimo A. Del Vecchio, Applicant's Attorney (via email [adelvecchio@beattielaw.com](mailto:adelvecchio@beattielaw.com))