RARITAN HEIGHTS PHASE II, LLC
1260 STELTON ROAD
PISCATAWAY, NEW JERSEY 08854

CITY OF NEW BRUNSWICK
ZONING BOARD OF ADJUSTMENT

ORDER AND RESOLUTION FOR PRELIMINARY AND FINAL SITE PLAN,
USE AND BULK VARIANCE APPLICATION APPROVAL

WHEREAS: Raritan Heights Phase II, LLC, 1260 Stelton Road, Piscataway, NJ 08854, ("Applicant") seeks approval of its Preliminary and Final Site Plan, use and bulk variance application to modify the previously approved apartment building on the northwest corner of the site and increase number of residential units while eliminating the previously proposed retail units at 19 U.S Highway Route 1 South;

WHEREAS: The applicant requests approval to make the proposed modifications to the previously approved site plan, use and bulk variance application, resulting in a request for approval of certain variances, to wit, use, maximum permitted height, minimum front yard setback and maximum impervious coverage;

WHEREAS: The Applicant has requested of the City of New Brunswick, Zoning Board of Adjustment the granting of approval of its Preliminary and Final Site Plan, Use and Bulk Variance Application to permit the elimination of the previously proposed retail units and increase of the previously approved number of residential units in the proposed building at the northwest corner of the site at Lot(s) 7.02 in Block(s) 703 of the City of New Brunswick tax map, upon property also known as 19 U.S Highway Route 1 South, New Brunswick, NJ.;

WHEREAS: A hearing was held before the Zoning Board of Adjustment on September 22, 2014 at which time the applicant was represented by, Thomas Kelso, Esquire, and evidence was presented through the testimony of Ronald Aulenbach, Director of Engineering for Applicant and Lester Nebenzahl, Licensed Professional Planner;

WHEREAS: Live testimony in support of the application, were presented by the applicant and accepted and duly considered by the Board;

WHEREAS: Members of the public in attendance were given an opportunity to comment and/or provide testimony; and,
WHEREAS: The Zoning Board of Adjustment has made the following findings and determinations:

1. The subject property is located in a C-5 zone.

2. The proposed site currently consists of an irregular 23.686 acre tract containing a single lot, upon which there is currently a movie theater, restaurant and parking. Applicant proposes to construct a residential building on the northwest corner of the site consisting of 254 dwelling units.

3. Applicant seeks certain variances, to wit: use, maximum permitted height, minimum front yard setback and maximum impervious coverage.

4. Applicant proposes to construct the residential building consistent with the submitted Amended Preliminary and Final Site Plan prepared by Bradford J. Aller, P.E. of EP Design Services, LLC dated May 5, 2014 and Floor Plan and Elevations prepared for Applicant by Francisco Y. Lado, AIA of EP Design Services, LLC, dated March 5, 2014 as both may be revised consistent with the decision of the Board.

5. The changes proposed by Applicant are de minimus.

6. The Board previously reviewed and approved the use variance for the residential use, and the additional units will have little impact on the density of the site. Further, the impervious coverage will be less than what exists today and is de minimus.

7. The Board relies and can continue to rely on the findings it made in 2011 regarding the granting of the use variance. The project still meets the negative and positive criteria for the use variance. There is no change in intensity on the site as the retail is being reduced in the proposed application.

8. The Board finds that the applicant has demonstrated that the proposed development of the property and that the variances requested can be granted without substantial detriment.
9. The Board finds that in applying a balancing test, the positive criteria and benefits from permitting the proposed development of the property as requested by applicant outweigh the negative criteria and detriments, which the Board specifically finds would be slight, if any.

10. The Board finds that the application for the requested variance can be granted without substantial detriment to the City’s zone plan, master plan or the public good.

11. The Board finds that the applicant has made a showing that the proposed development and accompanying bulk variances can be granted under the flexible “c (2)” standard of the Municipal Land Use Law.

THEREFORE BE IT RESOLVED: That the Applicant is hereby granted Preliminary and Final Site Plan, Use and Variance Approvals subject to the following conditions:

1. Compliance with the terms of the City Engineering Report dated September 22, 2014 for the above project.

2. Compliance with the terms of the Bignell Consulting Group Report dated September 19, 2014 for the above project.

3. Submission of all necessary easements and/or cross access agreements for review and approval by the City Attorney prior to filing of same.

4. Payment of a site performance bond to the New Brunswick Department of Engineering.

5. Submission of a site inspection escrow deposit for engineering inspection fees in an amount to be determined by the City Engineer.

6. Payment of all water connection fees to the New Brunswick Water Utility.

7. Payment of all sewer connection fees to the City of New Brunswick.

8. Issuance of a road opening permit from the City Engineer, if required.

9. Payment of a redeveloper fee, if applicable, to the City of New Brunswick.
10. Monetary contribution to the City’s Tree Preservation Trust Fund in an amount to be determined by the T.A.C.

11. Planning review escrow funded for all anticipated post-approval reviews.

12. Payment of any other fees and taxes due to the City of New Brunswick, if applicable.

13. Middlesex County Planning Board approval or waiver, if necessary.

14. Freehold Soil Conservation District approval, if necessary.

15. Final site plan to be subject to T.A.C. review and approval.

16. Final landscaping plan to be subject to T.A.C. review and approval.

17. Final lighting plan to be subject to T.A.C. review and approval.

18. Final site grading plan to be subject to T.A.C. review and approval.

19. Final building elevations to be subject to T.A.C. review and approval.

20. All utilities and other site improvements to be maintained by the applicant at its sole expense.

21. All utilities to be constructed underground.

22. All temporary encroachments into the public right-of-way shall require City Council approval.

23. All construction staging shall be done on-site, unless an encroachment for same into the public right-of-way shall be approved by City Council.

24. Tracking pads shall be installed at all construction exits and all street cleaning shall be performed as per the directive of the Director of Public Works.

25. Replacement of damaged streets, curbs and sidewalks as per the direction of the City Engineer.
26. Submission of plan for approval by the City Engineer to remediate geotechnical soil issues on the lot and authorize the start of the corrective work prior to the issuance of a construction permit for any work other than site work for this project.

27. Garages will only be used for parking.

28. Review off-site sidewalk provision.

29. The Applicant must provide water report for staff review.

30. The Applicant must apply to NJDOT for approvals.
BE IT FURTHER RESOLVED THAT: Copies of this Resolution be forwarded to the Tax Assessor, City Engineer, the Board’s Engineer, City Building Inspector and the Applicant.

The above is a memorialization of a motion to approve the application which was made by Mr. Cox and was duly seconded by Ms. Torrisi and passed on September 22, 2014 on the following vote:

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The undersigned, Secretary of the City of New Brunswick Zoning Board of Adjustment, hereby certifies that the above is a true copy of a Resolution memorialization by said Board on the 27th day of October, 2014 on the following vote:

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Glenn Patterson, Secretary  
New Brunswick Zoning Board of Adjustment