

IN THE MATTER OF THE APPLICATION OF

FENTON’S DREAM, LLC

**FOR APPROVAL OF A
AMENDED CONDITIONAL USE VARIANCE
AND
PRELIMINARY & FINAL MAJOR SITE PLAN
FOR THE PROPERTY LOCATED AT**

**263 SOUTH WHITE HORSE PIKE
BOROUGH OF AUDUBON, NJ
BLOCK 32 – LOT 12**

**BOROUGH OF AUDUBON
JOINT LAND USE BOARD
RESOLUTION OF
MEMORIALIZATION**

RESOLUTION NUMBER 2026-05

WHEREAS, Fenton’s Dream, LLC, whose address is 131 Copperfield Drive, Woodbury, New Jersey 08096 (hereinafter referred to as the “Applicant”), is the owner of the property located at 263 South White Horse Pike, Audubon, New Jersey, which is also designated on the Tax Map of the Borough of Audubon as Block 32, Lot 12 (hereinafter referred to as the “Property”); and

WHEREAS, the Applicant was represented by Paul C. Dougherty, Esquire of the Law Office of Paul C. Dougherty, with offices located at 115 Black Horse Pike, Haddon Heights, NJ 08035; and

WHEREAS, the Property is located in the Business (B) Zoning District; and

WHEREAS, the Property consists of a vacant interior lot with ninety-nine and three-tenths feet (99.3’) of width/frontage on the White Horse Pike and a depth of one hundred and fifty feet (150’) which is adjacent to the Audubon Arms Apartments to the southeast of the Property and an office building to the northwest of the Property; and

WHEREAS, the Applicant proposes to construct a structure containing three (3) townhomes along with parking facilities for eight (8) vehicles and associated site improvements; and

WHEREAS, the Borough of Audubon Land Development Ordinance § 113-385(1), which delineates the permitted uses in the Business (B) Zoning District, specifies that townhouses are a conditionally permitted use provided that the development of such use shall consist of not less than two (2) acres and that the provisions of § 113-448 of the Ordinance shall apply as conditions of such use; and

WHEREAS, the Borough of Audubon Land Development Ordinance § 113-448(a) sets forth the conditions imposed on townhouse developments and mandates that parking spaces provided for townhouses shall extend in total width no more than the overall length of the townhouse group served by such parking spaces; and

WHEREAS, the Applicant obtained conditional use variance relief permitting the townhouse development along with bulk variance relief from the Joint Land Use Board on January 11, 2023 permitting (a) a lot width of ninety-nine and three-tenths feet (99.3') where two hundred feet (200') is required; (b) a rear yard setback of thirty-six feet (36') where a minimum of forty-five feet (45') is required; and (3) parking facilities in a front yard area as memorialized by Resolution Number 2023-09 dated February 8, 2023 which approvals were conditioned, among other conditions, upon the Applicant obtaining preliminary and final major site plan approval from the Joint Land Use Board; and

WHEREAS, the Applicant, thereafter, obtained conditional preliminary site plan approval from the Joint Land Use Board on July 9, 2025, as memorialized by Resolution Number 2025-04 dated August 12, 2025; and

WHEREAS, the Applicant has revised its proposal from the proposal previously presented to and which was granted conditional use variance relief by the Board which proposed the construction of three townhomes, each two stories high, by now proposing three townhomes, each of which would be three stories high but will remain compliant with maximum height requirements; and

WHEREAS, the Applicant's proposal, therefore, requires amended conditional use variance relief in accordance with N.J.S.A. 40:55D-70(d)(3) in light of the alteration to the proposal and (1) the Property consisting of 0.34 acres where a minimum of two (2) acres is required and (2) the parking spaces servicing the development being located outside of the overall length of the townhouse group served by such parking spaces; and

WHEREAS, the Applicant also seeks amended major preliminary site plan and approval and final major site plan approval; and

WHEREAS, Steven M. Bach, P.E., P.P., C.M.E., Engineer/Planner for the Joint Land Use Board of the Borough of Audubon, has submitted a report dated April 2, 2026, which report and requirements therein are incorporated herein by reference; and

WHEREAS, the Application came before the Joint Land Use Board of the Borough of Audubon for Public Hearing on Wednesday, April 8, 2026 with the following members being present: Mayor Robert Jakubowski; Commissioner Dave Alemi; David Thompson; Steve

Connelly; Jim Kindya; Dan Gaspari; James Rossell, Jr.; Michael Sullivan; and Kevin Moran along with Steven M. Bach, PE, RA, PP, CME, Engineer for the Joint Land Use Board; Matthew P. Madden, Esquire, Solicitor for the Joint Land Use Board; and Stephanie Jennetta, Secretary for the Joint Land Use Board; and

WHEREAS, Mayor Jakubowski and Commissioner Alemi recused themselves from the hearing on and consideration of the application based on the nature of the relief sought by the Applicant and their positions, respectively, as Class 1 and Class 3 Members of the Board; and

WHEREAS, the Applicant submitted with this Application the following:

- a. Borough of Audubon Land Development Application.
- b. Borough of Audubon Land Development Checklist.
- c. Cover Letter by Padula Engineering dated February 2, 2026.
- d. Waiver Request Letter by Padula Engineering dated March 24, 2026.
- e. List of variances requested.
- f. List of Waivers requested.
- g. Survey Recertification letter from Padula Engineering, dated November 19, 2025.
- h. Camden County Soil Conservation District Certification, dated 4-21-2025 and valid to 10-20-2028.
- i. Letter addressed to Mr. Gene Sheppard, Fire Marshall, Borough of Audubon from Padula Engineering, dated February 2, 2026.
- j. Letter addressed to Mr. Scott Schreiber, Executive Director, Camden County M.U.A. from Padula Engineering, dated March 25, 2025.
- k. Email from Dumitru Tomsa, Sr. Engineering Aide, Camden County Municipal Utilities Authority to Bill R. Cujdik, dated March 28, 2025.

- l. Report entitled "Post-Construction Stormwater Management Report for 263 South White Horse Pike, Audubon, NJ 08016, Borough of Audubon, Camden County, New Jersey" prepared by Padula Engineering, dated August 30, 2024, revised to November 19, 2025.
- m. Report (electronic document submitted) entitled "Phase I Environmental Site Assessment, 263 S White Horse Pike, Block 32, Lot 12, Audubon, Camden County, New Jersey 08106", prepared by Curren Environmental, Inc., dated December 2024, no revision.
- n. Report (electronic document submitted) entitled "Phase II ESA - Ground Water Screening, 263 S White Horse Pike, Audubon NJ", prepared by Curren Environmental, Inc., dated October 17, 2025.
- o. Report entitled "Geophysical Survey, Vacant Property, 263 South White Horse Pike, Audubon, Camden Co., New Jersey (Block 32, Lot 12)", prepared by Curren Environmental, Inc., dated December 12, 2024, no revision.
- p. Architectural elevation (11" x 17") entitled "Proposed 3 Unit Townhouse Project, 263 South White Horse Pike, Block 32, Lot 12, Audubon, NJ for Fenton's Dream, LLC/Mike Valianti", prepared by Three Dimensions Architectural Group Inc., dated 1-26-26, no revision.
- q. Draft Master Deed of Fenton's Dream Condominium Association.
- r. Plan entitled "Condominium Plan - Fenton's Dream LLC, 263 S. Whitehorse Pike, Block 32, Lot 12, Audubon, New Jersey 08106", prepared by Padula Engineering, dated November 19, 2025, no revision.
- s. Plan set entitled "Preliminary Major Site Plan Set for Fenton's Dream LLC, Block 32 Lot 12, 263 South Whitehorse Pike, Borough of Audubon, Camden County, NJ", prepared by Padula Engineering consisting of fourteen (14) sheets
- t. Proofs of mailing and publication of public notice.

WHEREAS, the Board duly considered the application in detail, and

WHEREAS, appearing at the public meeting to testify on behalf of the application were Michael Valianti, authorized member of Fenton's Dream, LLC, the owner of the Property and the Applicant herein, along with William Cujdik, P.E., project engineer, who were each duly

sworn along with the Board Engineers and testified and responded to questions from their counsel and the members and professionals of the Joint Land Use Board of the Borough of Audubon; and

WHEREAS, the application was summarized by counsel and testimony was taken from the Applicant's representative regarding the application as follows:

1. The Applicant obtained conditional use variance relief in 2023 permitting a development consisting of three (3) townhomes.
2. The Applicant also obtained preliminary site plan approval in 2025.
3. Since receiving the prior approvals, the Applicant has amended its proposal to propose that each of the three (3) townhomes would be three (3) stories high, as opposed to the previously approved two (2) stories high.
4. The increase in height will allow for each of the three (3) townhomes to contain three (3) bedrooms where previously two-bedroom townhomes were proposed.
5. The first floor of each townhome will include a living room; a dining room; a kitchen and a powder room.
6. The second floor of each townhome will contain hallway leading to two bedrooms, a bathroom and a laundry room.
7. The third floor of each townhome will contain one (1) bedroom and one (1) bathroom.
8. The Applicant's proposal remains essentially the same as the previously approved development, with the exception of the building height and addition of one (1) bedroom for each unit.

9. There will be no livable attic space above or around the third floor.
10. The addition of a bedroom to each unit does not impact the parking requirement for the development which continues to propose eight (8) parking spaces where a minimum of eight (8) parking spaces are required.
11. The Applicant is agreeable to complying with all conditions set forth in the correspondence prepared by the Board Engineer dated April 2, 2026.
12. The Applicant will ensure that the floor plans which are submitted will note that there will be no livable attic space in the townhomes.
13. The floor area ratio for the overall development is 0.67.
14. The Applicant contends that the development remains suitable for the Property notwithstanding their inability to comply with certain conditions imposed on townhouse developments.
15. The Property remains an appropriate site for the proposed development despite the deviations from the conditional use requirements in light of there being only three (3) units proposed and the encroachment of the parking facilities outside of the length of the structure being minimal.
16. The Applicant believes the development will be a vast improvement to the area because the Property has remained vacant and fallow for an extended period of time and the proposed townhouses will be aesthetically pleasing and quality craftsmanship.

WHEREAS, the meeting was opened to the public and, there being no members of the public appeared who wished to question the Applicant or comment on the application, the public portion of the hearing was duly closed; and

WHEREAS, the Application was reviewed and discussed at length at the meeting, and

WHEREAS, upon Motion duly made by David Thompson and seconded by Jim Kindya to grant approval for the amended conditional use variance along with preliminary and final major site plan approval, conditioned upon the Applicant's compliance with the testimony presented and the terms and conditions set forth in the review correspondence prepared by the Board Engineer dated April 2, 2026, the Joint Land Use Board of the Borough of Audubon unanimously approved the amended conditional use variance and preliminary and final major site plan by a vote of seven (7) in favor and zero (0) opposed, based upon the sworn testimony of the Applicant, the Applicant's submission materials, and the conditions as set forth above and hereafter. The voting on the application was at follows:

Mayor Jakubowski	Abstain
Commissioner Alemi:	Abstain
David Thompson:	Yes
Steve Connelly:	Yes
Jim Kindya:	Yes
Dan Gaspari:	Yes
James Rossell, Jr.:	Yes
Michael Sullivan:	Yes
Kevin Moran:	Yes

NOW THEREFORE, The Joint Land Use Board of the Borough of Audubon makes the following findings of fact and conclusion of law, to wit:

1. The application and public notices are in proper order as required by statute and ordinance.

2. The Applicant is the owner of the Property and, thus, has standing to pursue the approvals sought and described herein.

3. The Applicant seeks and has advanced the necessary proofs justifying amended conditional use variance relief pursuant to N.J.S.A. 40:55D-70(d)(3) permitting the construction of the three-story townhouse development on a lot containing less than two (2) acres and permitting the parking field to appear outside of the overall length of the proposed building.

4. The Applicant seeks and has advanced the necessary proofs establishing the justification for continuation of the bulk variance relief previously granted pursuant to N.J.S.A. 40:55D-70(c) permitting (1) Property width of ninety-nine and three-tenths feet (99.3') where two hundred feet (200') is required; (2) a rear yard setback of thirty-six feet (36') where a minimum of forty-five feet (45') is required; and (3) parking facilities in a front yard area as described herein and in the Applicant's submission materials.

5. The Applicant has demonstrated the requisite proofs in accordance with the Municipal Land Use Law and the Borough of Audubon land development ordinance for the granting of the conditional use variance relief and the bulk variance relief described herein. Specifically, the Applicant has demonstrated that the Property remains particularly suitable location for a townhouse development of this nature notwithstanding the failure to meet the conditions specified in the Ordinance; that the proposal advances the purposes of the Municipal Land Use Law by creating a desirable visual environment through creative development techniques; that the benefits in granting the bulk variances substantially outweigh any detriments; and that the granting of such conditional use variance and bulk variance relief will not operate as a substantial detriment to the public good

and will not substantially impair the intent and purpose of the zone plan and zoning ordinance or the Borough Master Plan.

6. The Applicant, additionally, seeks and is granted preliminary and final major site plan approvals having established, with the imposed conditions of approval, compliance with the Borough site plan ordinance and requirements therein.

7. The Applicant's testimony, as set forth above, and the Applicant's submissions and exhibits are hereby incorporated in these findings of fact.

8. The Joint Land Use Board of the Borough of Audubon grants approval for the amended conditional use variance permitting the proposed three-unit townhome development on a lot of 0.34 acres where the minimum required lot area for townhome developments is two (2) acres and permitting the parking field servicing the development to be located outside of the length of the proposed building.

9. The Joint Land Use Board of the Borough of Audubon grants approval for the continuation of previously granted bulk variances permitting (a) a lot width of ninety-nine and three-tenths feet (99.3') where two hundred feet (200') is required; (b) a rear yard setback of thirty-six feet (36') where a minimum of forty-five feet (45') is required; and (3) parking facilities in a front yard area.

10. The Joint Land Use Board of the Borough of Audubon grants preliminary and final major site plan approvals.

NOW THEREFORE BE IT RESOLVED that the application of Fenton's Dream, LLC for amended conditional use variance relief pursuant to N.J.S.A. 40:55D-70(d)(3); bulk variance

relief pursuant to N.J.S.A. 40:55D-70(c); and preliminary and final major site plan approvals, as aforesaid, are hereby approved as noted above.

BE IT FURTHER RESOLVED that the approvals are expressly conditioned upon (a) the Applicant complying with all testimony, submissions and representations made in support of the application and at the time of the public hearing; (b) the Applicant obtaining any and all necessary outside agency approvals and permits; (c) the Applicant complying with any and all comments and conditions identified within the report dated April 2, 2026 prepared by Steven M. Bach, P.E., P.P., C.M.E. and submitting revised plans to the Board Engineer reflecting compliance with such comments which shall be subject to the review and approval of the Board Engineer; (d) the Applicant submitting floor plan reflecting that there will be no livable attic space in the townhomes; and (e) the Applicant complying with all prior conditions imposed by the Board with respect to approvals previously granted making a subsequent application for and obtaining preliminary and final site plan approval from the Board..

BE IT FURTHER RESOLVED that the Applicant comply with all the other terms and conditions of the Zoning Ordinance and Building Code of the Borough of Audubon, and the Statutes of the State of New Jersey.

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Applicant following its adoption.

The foregoing is a true and memorializing resolution adopted by the Borough of Audubon Joint Land Use Board and is in accordance with its decision at its regular monthly meeting of April 8, 2026.

The effective date of this Resolution shall be May 13, 2026.

AUDUBON JOINT LAND USE BOARD

Dated: May 13, 2026



~~DAVID THOMPSON, CHAIRMAN~~

MARK OWENS - VICE-CHAIR

CERTIFICATION

I hereby certify that the foregoing resolution is a true memorialization of the Joint Land Use Board hearing on this application held on April 8, 2026, as memorialized by the Joint Land Use Board of the Borough of Audubon at the regular meeting of the Joint Land Use Board held on May 13, 2026.

Dated: May 13, 2026



STEPHANIE JENNETTA, SECRETARY