2025

Fourth Round Housing Plan Element and Fair Share Plan



Apartments at Montgomery Crossing
Source: CCH Site Photo taken June 2021

Draft June 13, 2025
Adopted _____, 2025
Endorsed _____, 2025

Montgomery Township, Somerset County, New Jersey

Prepared by:

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Adopted by the Planning Board on _____, 2025.

Endorsed by the Township Committee on _____, 2025.

Prepared for Montgomery Township by:

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A signed and sealed version is available at the municipal building.

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EXECUTIVE SUMMARY

This Fourth Round Housing Plan Element and Fair Share Plan (HPE/FSP) has been prepared for the Township of Montgomery ("Township" or "Montgomery"), Somerset County in accordance with the New Jersey Fair Housing Act ("FHA") at N.J.S.A. 52:27D-310 as amended by P.L. 2024 c.2, the Administrative Directive #14-24, and the rules of the New Jersey Council on Affordable Housing (COAH) contained at N.J.A.C. 5:93 *et seq*. This plan is an update to the Township's Amended Third Round HPE/FSP adopted by the Planning Board on December 7, 2020 and endorsed by the Township Committee on December 17, 2020. This cumulative Fourth Round HPE/FSP will serve as the foundation for the Township's submission to the Superior Court of New Jersey and the Affordable Housing Dispute Resolution Program (Program).

There are four components to a municipality's affordable housing obligation: the Fourth Round Present Need or Rehabilitation Share, the Prior Round obligation, the Third Round obligation, and the Fourth Round Prospective Need obligation. The Township's affordable housing obligations are as follows:

Prior Round/Third Round

On February 20, 2018, the Superior Court approved the Township's 2017 Settlement Agreement with Fair Share Housing Center (FSHC), which set the Township's Prior Round Prospective Need as previously established by COAH and established the Township's Third Round "Gap"/Prospective Need as follows:

- Prior Round Prospective Need: 307
- Third Round Prospective Need: 616

The Township Township's Third Round HPE/FSP was approved by the Superior Court in a Final Judgment of Compliance and Repose (JOR), issued on July 24, 2019. As detailed in the 2019 JOR, some projects changed necessitating a revised HPE/FSP. The Township subsequently amended its Third Round HPE/FSP and Settlement Agreement, which addressed conditions set forth in the 2019 JOR. The Township adopted an Amended Third Round HPE/FSP in 2020, and the Township and FSHC executed an amended Settlement Agreement in 2022. After a Compliance Hearing, the Township's Amended Third Round HPE/FSP and the Amended Settlement Agreement were approved by the Superior Court in a final a Final JOR, issued on January 24, 2023.

The Township has satisfied its Prior Round obligation (1987-1999) of 307 units with completed affordable family rental units in an inclusionary housing development, completed affordable family sale units in two inclusionary housing developments, affordable age-restricted sale units in an inclusionary housing development, three completed alternative living arrangement facilities comprised of 14 total units/bedrooms, and eligible Prior Round rental bonuses. Of the total 210 affordable family rental units at the existing inclusionary housing development,

Pike Run, 102 will address the Township's Prior Round obligation. Montgomery previously received COAH approval of these Prior Round compliance mechanisms as part of its Second Round substantive certification issued in 1997.

The Township has satisfied its Third Round obligation (1999-2025) of 616 units with the remaining 108 affordable family rental units at Pike Run inclusionary development, affordable family rental units at three completed inclusionary housing developments, affordable family rental units at an approved inclusionary housing development, affordable family units at six inclusionary developments approved and under construction, affordable age-restricted units at an approved assisted living facility, four group homes, a 100% affordable municipally-sponsored age-restricted development, a family for-sale project, and Third Round rental bonuses.

Fourth Round

On January 27, 2025, the Township Committee adopted Resolution #25-1-54, which accepted the determination promulgated by the New Jersey Department of Community Affairs (DCA) of the Township's Fourth Round Present Need/Rehabilitation Obligation and Prospective Need as follows:

- Fourth Round Present Need: 73
- Fourth Round Prospective Need: 260

The Fourth Round Prospective obligation (2025-2035) of 260 units will be addressed with the affordable family rental units at the proposed 23 Orchard inclusionary housing development, affordable family rental units at the proposed Kenvue inclusionary housing development, an additional affordable family rental unit from the approved Village Walk mixed use inclusionary development, affordable age-restricted units through an approved redevelopment plan, and extension of expiring controls.

Regarding rehabilitation, Montgomery Township will establish a local rehabilitation program open to eligible owner-occupied and renter-occupied units. The Township will also provide funding from the affordable housing trust fund necessary to supplement the cost to satisfy its obligation.

The Township is still in the process of analyzing existing water and sewer capacity. Given the short timeline provided by the FHA at N.J.S.A. 52:27D-310 as amended by P.L. 2024 c.2 for adoption and submission of this Fourth Round Housing Element and Fair Share Plan, the Township reserves the right to amend the plan once information regarding water and sewer availability becomes available. In the event that a sewer capacity issue comes to light, the Township reserves the right to amend this plan to take such issues into account.

AFFORDABLE HOUSING JUDICIAL & LEGISLATIVE BACKGROUND

In the 1975 Mount Laurel[1] decision, the New Jersey Supreme Court ruled that developing municipalities have a constitutional obligation to provide diversity and choice in the housing types permitted in the municipality, including housing for low- and moderate-income households. In its 1983 Mount Laurel II decision,[2] the New Jersey Supreme Court extended to all municipalities with any "growth area" as designated in the State Development Guide Plan (now superseded by the State Development and Redevelopment Plan, or SDRP) the obligation to provide their "fair share" of a calculated regional need for affordable units. Mount Laurel II also introduced a "builder's remedy" if a municipality was not providing its fair share of affordable housing. A builder's remedy may permit a developer that is successful in litigation the right to develop what is typically a higher density multi-family project on land not zoned to permit such use, so long as a "substantial" percentage of the proposed units would be reserved for low- and moderate-income households.

In 1985, in response to Mount Laurel II, the New Jersey Legislature enacted the Fair Housing Act ("FHA").[3] The FHA created the Council on Affordable Housing ("COAH") as an administrative body responsible for oversight of municipalities' affordable housing efforts, rather than having oversight go through the courts. The Legislature charged COAH with promulgating regulations (i) to establish housing regions; (ii) to estimate low- and moderate-income housing needs; (iii) to set criteria and guidelines for municipalities to use in determining and addressing their fair share obligations, and (iv) to create a process for the review and approval of municipal housing elements and fair share plans.

COAH's First and Second Rounds, 1986-1999

COAH created the criteria and regulations for municipalities to address their affordable housing obligations. COAH originally established a methodology for determining municipal affordable housing obligations for the six-year period between 1987 and 1993,[4] which period became known as the First Round. This methodology established an existing need to address substandard housing that was being occupied by low- and moderate-income households (variously known as "present need" or "rehabilitation share"), and calculated future demand, to be satisfied typically, but not exclusively, with new construction ("prospective need" or "fair share").

[1] Southern Burlington County NAACP v. Township of Mount Laurel, 67 N.J. 151 (1975)
[2] Southern Burlington County NAACP v. Township of Mount Laurel, 92 N.J. 158 (1983)
[3] N.J.S.A. 52:27D-301 *et seq.*
[4] N.J.A.C. 5:92-1 *et seq.*

The First Round methodology was superseded in 1994 by COAH's Second Round regulations.[5] The 1994 regulations recalculated a portion of the 1987-1993 affordable housing obligations for each municipality and computed the additional municipal affordable housing need from 1993 to 1999 using 1990 census data. These regulations identified a municipality's cumulative obligations for the First and Second Rounds. Under regulations adopted for the Third Round, a municipality's obligation to provide affordable housing for the First and Second Rounds is referred to cumulatively as the Prior Round obligation.

COAH's Third Round and Related Judicial and Legislative Activity, 1999-2025

The FHA had originally required housing rounds to be for a six-year period for the First and Second Rounds. In 2001, the time period increased to a 10-year period consistent with the Municipal Land Use Law ("MLUL"). In order to utilize 2000 census data, which hadn't yet been released, COAH delayed the start of the Third Round from 1999 to 2004, with the Third Round time period initially ending in 2014. In December 2004, COAH's first version of the Third Round rules[6] became effective, and the 15-year Third Round *time period* (1999 – 2014) was condensed into an affordable housing *delivery period* from January 1, 2004, through January 1, 2014.

The 2004 Third Round rules marked a significant departure from the methods utilized in COAH's Prior Round. Previously, COAH assigned an affordable housing obligation as an absolute number to each municipality. These Third Round rules implemented a "growth share" approach that linked the production of affordable housing to residential and non-residential development in a municipality.

On January 25, 2007, a New Jersey Appellate Court decision[7] invalidated key elements of the first version of the Third Round rules, including the growth share approach, and the Court ordered COAH to propose and adopt amendments to its rules. COAH issued revised rules effective on June 2, 2008 (as well as a further rule revision effective on October 20, 2008), which largely retained the growth share approach.

Just as various parties had challenged COAH's initial Third Round regulations, parties challenged COAH's 2008 revised Third Round rules. On October 8, 2010, the Appellate Division issued its decision on the challenges.[8] The Appellate Division upheld the COAH Prior Round regulations that assigned rehabilitation and Prior Round numbers to each municipality, but invalidated the regulations by which the agency assigned housing obligations in the Third

[5] N.J.A.C. 5:93-1.1 *et seq.*
[6] N.J.A.C. 5:94-1 and 5:95-1
[7] In re Adoption of N.J.A.C. 5:94 and 5:95, 390 N.J. Super. 1 (2007)
[8] In re Adoption of N.J.A.C. 5:96 and 5:97, 416 N.J. Super. 462 (2010)

Round, again ruling that COAH could not allocate obligations through a growth share formula. Instead, the Appellate Division directed COAH to use methods similar to those used in the First and Second Rounds.

Third Round Judicial Activity

After various challenges were filed, on September 26, 2013, the New Jersey Supreme Court upheld the Appellate Court decision[9] and ordered COAH to prepare the necessary rules. COAH failed to adopt new rules, and more challenges ensued.

On March 10, 2015, the New Jersey Supreme Court issued a ruling on Fair Share Housing Center's ("FSHC's") Motion in Aid of Litigant's Rights, which became known as Mount Laurel IV.[10] In this decision, the Court transferred responsibility for reviewing and approving housing elements and fair share plans from COAH to designated Mount Laurel trial judges, declaring COAH "moribund." Municipalities were now to apply to the Courts, instead of COAH, if they wished to be protected from exclusionary zoning lawsuits. The Mount Laurel trial judges, with the assistance of a Court-appointed Special Adjudicator, were tasked with reviewing municipal plans much in the same manner as COAH had done previously. Those towns whose plans were approved by the Court received a Judgment of Compliance and Repose, the court equivalent of COAH's substantive certification.

While the New Jersey Supreme Court's decision set a process in motion for towns to address their Third Round obligation, the decision did not assign those obligations. Instead, that was to be done by the trial courts, although ultimately most towns entered into settlement agreements to set their fair share obligations. The Court stated that municipalities should rely on COAH's Second Round rules (N.J.A.C. 5:93) and those components of COAH's 2008 regulations that were specifically upheld, as well as the FHA, in their preparation of Third Round housing elements and fair share plans.

On January 17, 2017, the New Jersey Supreme Court rendered a decision[11] that found that the period between 1999 and 2015, now known as the "gap period," when no valid affordable housing regulations were in force, generated an affordable housing obligation. This obligation required an expanded definition of the municipal Present Need obligation to include the unaddressed housing needs of low- and moderate-income households that had formed during the gap period. This meant that the Third Round municipal affordable housing obligation would now comprise four components: Present Need (rehabilitation), Prior Round (1987-

[9] In re Adoption of N.J.A.C. 5:96 and 5:97 by New Jersey Council On Affordable Housing, 215 N.J. 578 (2013)
[10] In re Adoption of N.J.A.C. 5:96 & 5:97, 221 NJ 1 (2015)
[11] In Re Declaratory Judgment Actions Filed by Various Municipalities, 227 N.J. 508 (2017)

1999, new construction), Third Round Gap Need (1999-2015, new construction), and Third Round Prospective Need (Third Round, 2015 to 2025, new construction).

Third Round Legislative Activity

In addition, the New Jersey Legislature has amended the FHA several times in recent years.

On July 17, 2008, P.L. 2008 c. 46 (referred to as the Roberts Bill or A500) was enacted, which amended the FHA in a number of ways. Key provisions included the following:

- It established a statewide 2.5% non-residential development fee instead of requiring non-residential developers to provide affordable housing;
- It eliminated new regional contribution agreements ("RCAs") as a compliance technique available to municipalities; previously a municipality could fund the transfer up to 50% of its fair share to so called "receiving" municipalities;
- It added a requirement that 13% of all affordable housing units be restricted to very low-income households, which it defined as households earning 30% or less of median income; and
- It added a requirement that municipalities had to commit to spend development fees within four years of the date of collection. This was later addressed in a Superior Court decision which found the four-year period begins at the time the Court approves the municipal spending plan.[12]

In July 2020, the State amended the FHA again to require, beginning in November 2020, that all affordable units that are subject to affirmative marketing requirements also be listed on the state's Affordable Housing Resource Center website.[13] All affordable housing affirmative marketing plans are now required to include listing on the State Affordable Housing Resource Center website.

[12] In the Matter of the Adoption of the Monroe Township Housing Element and Fair Share Plan, and Implementing Ordinances (2015)
[13] https://www.nj.gov/njhrc/

The Fourth Round, 2025-2035

On March 20, 2024, the FHA was amended again (as were other statutes). This amendment, P.L. 2024 c.2:

- Formally abolishes COAH;
- Requires the state Department of Community Affairs (DCA) to promulgate municipal obligations using an adjusted methodology. These obligations are to be considered advisory, not binding;
- Establishes a timeline within which municipalities need to adopt and submit binding resolutions stipulating to their Fourth Round fair share obligations, in order for them to retain their immunity from exclusionary-zoning lawsuits;
- Requires the New Jersey Housing and Mortgage Finance Agency (HMFA) and DCA to update rules and standards governing affordable housing production, trust funds, and affordable housing administration;
- Establishes a Court-based Affordable Housing Dispute Resolution Program (Program) that will be responsible for challenges to municipalities' affordable housing obligation determinations and compliance efforts;
- Establishes a longer control period – 40 years, rather than 30 years – for new affordable rental units;
- Changes the criteria for affordable housing bonuses, making various additional categories of affordable housing eligible for bonuses;
- Establishes a timeline within which municipalities need to take various steps toward adoption of a Housing Element and Fair Share Plan, in order for them to retain their immunity from exclusionary-zoning lawsuits;
- Establishes new reporting and monitoring procedures and deadlines for both affordable units and affordable housing trust funds, and assigns oversight for reporting and monitoring to DCA.

In December 2024, the Administrative Office of the Courts issued Administrative Directive #14-24, establishing procedures for implementation of the Program and for municipalities to file their Fourth Round Declaratory Judgment (DJ) filings, etc.

This plan has been prepared to meet the requirements of the FHA as most recently amended and all applicable regulations.

MONTGOMERY'S AFFORDABLE HOUSING HISTORY

The New Jersey State Supreme Court decided the "Mt. Laurel II" Supreme Court Decision on January 20, 1983. The decision addressed the responsibilities of municipalities throughout New Jersey to permit the construction of "low" and "moderate" income affordable housing units within their bounds.

Approximately one and one-half (1 ½) years after the "Mt. Laurel II" Supreme Court Decision, and prior to the creation of the COAH, Judge Eugene Serpentelli, as part of his July 16, 1984 Decision regarding "Mt. Laurel" litigation against Warren Township in Somerset County, sanctioned the so-called "consensus methodology". The methodology was the required way in which municipalities were to calculate their "fair share" housing obligation.

In accordance with the "consensus methodology", Montgomery Township's "fair share" housing obligation through December 31, 1993 initially was calculated to be a very high seven hundred thirty-one (731) affordable housing units.

However, Montgomery Township disagreed with certain aspects of the "consensus methodology" and, in the face of imminent litigation, *voluntarily* petitioned Judge Serpentelli's court during March 1985 for a review of its "Mt. Laurel II" "fair share" housing obligation, as well as for approval of the zone plan that the Township proposed to satisfy the obligation.

During the Court proceedings, Montgomery corrected certain of the statistical data from the Department of Labor which were utilized in the "consensus methodology", and the Township also successfully argued certain other aspects of the methodology. As a result of these efforts, the Court entered a Judgment of Compliance on July 31, 1985 which found that Montgomery's "fair share" housing obligation was three hundred twenty-five (325) "low" and "moderate" income units, versus the originally calculated 731 units.

Moreover, the Court found that the Township's zoning provisions for the "APT/TH" Apartment/Townhouse district in the southern portion of the Township and the "PRD" Planned Residential Development option in the northern portion of the Township provided a reasonable opportunity for the construction of the required 325 affordable units.

Montgomery Township was the *first municipality* in the State of New Jersey to *voluntarily* petition for a Judgment of compliance. As a result of the July 31, 1985 "Judgment of Compliance", Montgomery Township was deemed to be in compliance with its "Mt. Laurel II" housing obligation through *voluntary* measures.

The Township petitioned COAH for Second Round substantive certification on April 26, 1995. The Township was eventually granted Second Round substantive certification on March 5, 1997, and extensions on December 4, 2002 and February 9, 2005. The Township's Second Round fair housing obligation was 315 consisting of a rehabilitation obligation of eight (8) and new construction obligation of 307.

The Township petitioned COAH for Third Round substantive certification on December 16, 2005. However, COAH did not conduct a substantive review of the 2005 Housing Element and Fair Share Plan prior to the 2007 Appellate Division decision overturning COAH's 2004 Third Round rules. On November 25, 2008, Montgomery adopted a 2008 Third Round Housing Element and Fair Share Plan consistent with COAH's second iteration of Third Round rules. The Township submitted the 2008 Plan to COAH on December 30, 2008 as part of their second petition for Third Round substantive certification; the petition was deemed complete by COAH on March 27, 2009. The Township's 2008 Plan did not receive substantive certification prior to the 2010 Appellate Division decision invalidating COAH's second iteration of Third Round rules.

To comply with the March 10, 2015 Mount Laurel IV decision, Montgomery filed a declaratory judgment action with the Superior Court on July 7, 2015 for a Third Round Judgment of Compliance and Repose and temporary immunity from builder's remedy suits. FSHC was an interested party in the Township's declaratory judgment action, and in 2017, the Township entered into successful negotiations with FSHC to identify its fair share obligation and preliminarily how that obligation would be satisfied. These negotiations resulted in a Settlement Agreement between the Township and FSHC that was executed by the Township on December 8, 2017 (see Appendix 1 for a copy of this Settlement Agreement).[14] After a Fairness Hearing, the Court issued an Order on February 20, 2018 stating that the Settlement Agreement was fair to the interests of low and moderate income households (see Appendix 1 for a copy of the Court Order). The Court Order established the Township's fair share obligations and also preliminarily found that the manner in which the Township satisfied the obligation was reasonable. The Township's Planning Board adopted a Third Round HPE/FSP on July 2, 2018, endorsed by the Township Committee on July 5, 2018. The 2018 HPE/FSP incorporated and implemented the terms of the 2017 Settlement Agreement between the Township and FSHC and served as the foundation for the Township's application for a Judgment of Compliance and Repose by the Court. However, as identified in the 2019 Court Order, some projects changed, thus necessitating a revised HPE/FSP.

Thereafter, an Amended HPE/FSP was prepared in 2020 to make minor modifications to the preliminary compliance charts in the Settlement Agreement to account for new unit count details. On December 7, 2020, the Township's Planning Board adopted the Amended Third Round HPE/FSP, endorsed by the Township Committee on December 17, 2020.

Subsequent to the Amended HPE/FSP, the Township and FSHC executed an amendment to the 2017 Settlement Agreement to modify the preliminary compliance charts to be consistent

[14] By the terms of the Agreement, FSHC is now an Intervenor in the Township's DJ action.

with the record, with the Township's Amended HPE/FSP, and with the Court's 2019 JOR. The amended Agreement was signed on May 27, 2022 by Adam M. Gordon, Esq. for FSHC and executed for the Township on September 1, 2022 by former Mayor Devra Keenan. After a Compliance Hearing, the Court granted a Final JOR on January 24, 2023, approving the Amended 2020 HPE/FSP, approving the Amended 2022 Settlement Agreement, and giving the Township immunity and protection from any Mount Laurel builder's remedy actions through July 8, 2025. The Township's 2023 Final Third Round JOR and Amended Settlement Agreement are included as Appendix 2.

On January 27, 2025, the Township adopted a resolution declaring its Fourth Round Present Need of 73 units and a Fourth Round Prospective Need of 260 units, based on DCA's calculations. On January 29, 2025, Montgomery Township filed its Fourth Round DJ action with the Program/Superior Court, pursuant to the requirements of the amended FHA and the Administrative Directive #14-2024. The Township's Fourth Round Present Need/Prospective Need resolution was uncontested. Thereafter, on March 26, 2025, the Superior Court issued an Order which accepted the Township's Fourth Round Present Need/Prospective Need. The Township's Fourth Round DJ Filing and the April 8, 2025 Order are included as Appendix 3.

AFFORDABILITY REQUIREMENTS

Affordable housing is defined under the amended FHA as a dwelling, either for sale or rent, that is within the financial means of households of very low, low, or moderate income as income is measured within each housing region. Montgomery is in Region 3, which includes the Counties of Hunterdon, Somerset, and Middlesex. Moderate-income households are those earning more than 50% but less than 80% of the regional median income. Low-income households are those with annual incomes that are between 30% and 50% of the regional median income. Very low-income households are those with annual incomes of 30% or less of the regional median income.

Through the Uniform Housing Affordability Controls (UHAC) found at N.J.A.C. 5:80-26.1 *et seq.*, the maximum rent for a qualified unit must be affordable to households that earn no more than 60% of the median income for the region. The average rent must be affordable to households earning no more than 52% of the median income. The maximum sale prices for affordable units must be affordable to households that earn no more than 70% of the median income. The average sale price must be affordable to a household that earns no more than 55% of the median income.

The regional median income is now defined in the amended FHA and continues to utilize HUD income limits on a regional basis. In the spring of each year HUD releases updated income limits, which COAH would reallocate to its regions. It is from these income limits that the rents and sale prices for affordable units are derived. See Table 1 for 2024 income limits for Region 3.

TABLE 1. 2024 INCOME LIMITS FOR REGION 3

Household Income Levels	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5-Person Household
Moderate	$81,872	$93,568	$105,264	$116,960	$126,317
Low	$51,170	$58,480	$65,790	$73,100	$78,948
Very Low	$30,702	$35,088	$39,474	$43,860	$47,369

Source: Affordable Housing Professionals of New Jersey 2024 Affordable Housing Regional Income Limits

TABLE 2. ILLUSTRATIVE 2024 AFFORDABLE GROSS RENTS FOR REGION 3

Household Income Levels (% of Median Income)	1-Bedroom Unit Rent	2-Bedroom Unit Rent	3-Bedroom Unit Rent
Moderate (60%)	$1,645	$1,974	$2,281
Low (50%)	$1,371	$1,645	$1,901
Very Low (30%)	$822	$987	$1,140

Source: Affordable Housing Professionals of NJ / FSHC Affordable Housing Regional Income Limits and Rental Calculator

TABLE 3. ILLUSTRATIVE 2024 AFFORDABLE SALES PRICES FOR REGION 3			
Household Income Levels (% of Median Income)	1 Bedroom Unit Price	2 Bedroom Unit Price	3 Bedroom Unit Price
Moderate (70%)	$154,088	$187,267	$218,234
Low (50%)	$106,689	$130,389	$152,508
Very Low (30%)	$59,291	$73,510	$86,782
Source: Affordable Housing Professionals of NJ / FSHC Affordable Housing Regional Income Limits and Sales Calculator			

HOUSING ELEMENT & FAIR SHARE PLAN REQUIREMENTS

In accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1, *et seq.*), a municipal Master Plan must include a Housing Plan Element as the foundation for the municipal zoning ordinance (see N.J.S.A. 40:55D-28b(3) and -62). Pursuant to the FHA (N.J.S.A. 52:27D-301 *et seq.*), a municipality's Housing Plan Element must be designed to provide access to affordable housing to meet present and prospective housing needs, with particular attention to low- and moderate-income housing. Specifically, N.J.S.A. 52:27D-310 requires that the Housing Plan Element contain at least the following:

- An **inventory of the municipality's housing stock** by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low- and moderate-income households and substandard housing capable of being rehabilitated;
- A **projection of the municipality's housing stock**, including the probable future construction of low and moderate income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development, and probable residential development trends;
- An **analysis of the municipality's demographic characteristics**, including, but not necessarily limited to, household size, income level, and age;
- An **analysis of the existing and probable future employment characteristics** of the municipality;
- A **determination of the municipality's present and prospective fair share of low- and moderate-income housing** and its capacity to accommodate its present and prospective housing needs, including its fair share of low- and moderate-income housing as established pursuant to section 3 of P.L. 2024, c.2 (C.52:27D-304.1);
- A **consideration of the lands most appropriate for construction of low and moderate income housing** and of the existing structures most appropriate for conversion to, or rehabilitation for, low- and moderate-income housing, including a consideration of lands of developers who have expressed a commitment to provide low- and moderate-income housing;
- **An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity** as expressed in the

recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of 23 section 1 of P.L.2021, c.273 (C.52:27D-329.20); and

- **An analysis of consistency with the State Development and Redevelopment Plan**, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

In addition to FHA requirements, the following requirements set forth by Administrative Directive #14-24, issued by the Administrative Office of the Courts on December 13, 2024 have been issued:

1. One of the requirements for a final HPE/FSP is the inclusion of detailed site suitability analyses, based on the best available data, for each of the unbuilt inclusionary or 100% affordable housing sites in the plan as well as an identification of each of the sites that were proposed for such development and rejected, along with the reasons for such rejection.
2. The concept plan for the development of each of the selected sites should be overlaid on the most up to date environmental constraints map for that site as part of its analysis. When the detailed analyses are completed, the municipality can see what changes will be needed (either to the selected sites or to their zoning) to ensure that all of the units required by the settlement agreement will actually be produced. If it becomes apparent that one (or more) of the sites in the plan does not have the capacity to accommodate all of the development proposed for it, the burden will be on the municipality either to adjust its zoning regulations (height, setbacks, etc.) so that the site will be able to yield the number of units and affordable units anticipated by the settlement agreement or to find other mechanisms or other sites as needed to address the likelihood of a shortfall.
3. The final HPE/FSP must fully document the creditworthiness of all of the existing affordable housing units in its HPE/FSP and to demonstrate that it has followed all of the applicable requirements for extending expiring controls, including confirmation that all of the units on which the controls have been extended are code-compliant or have been rehabilitated to code-compliance, and that all extended controls cover a full 30-year period beginning with the end of the original control period. Documentation as to the start dates and lengths of affordability controls applicable to these units and applicable Affordable Housing Agreements and/or deed restrictions is also required. Additionally, the income and bedroom distributions and continued creditworthiness of all other existing affordable units in the HPE/FSP must be provided.
4. The HPE/FSP must include an analysis of how the HPE/FSP complies with or will comply with all of the terms of the executed settlement agreement. Once the HPE/FSP has been prepared, it must be reviewed by Fair Share Housing Center and the Program's Special Adjudicator for compliance with the terms of the executed

settlement agreement, the FHA and UHAC regulations. The HPE/FSP must be adopted by the Planning Board and the implementation components of the HPE/FSP must be adopted by the governing body.

The HPE/FSP must also include (in an Appendix) all adopted ordinances and resolutions needed to implement the HPE/FSP, including:

1. All zoning amendments (or redevelopment plans, if applicable).
2. An Affordable Housing Ordinance that includes, among other required regulations, its applicability to 100 percent affordable and tax credit projects, the monitoring and any reporting requirements set forth in the settlement agreement, requirements regarding very low income housing and very low income affordability consistent with the FHA and the settlement agreement, provisions for calculating annual increases in income levels and sales prices and rent levels, and a clarification regarding the minimum length of the affordability controls (at least 30 years, until the municipality takes action to release the controls).
3. The adoption of the mandatory set aside ordinance, if any, and the repeal of the existing growth share provisions of the code.
4. An executed and updated Development Fee Ordinance that reflects the court's jurisdiction.
5. An Affirmative Marketing Plan adopted by resolution that contains specific directive to be followed by the Administrative Agent in affirmatively marketing affordable housing units, with an updated COAH form appended to the Affirmative Marketing Plan, and with both documents specifically reflecting the direct notification requirements set forth in the settlement agreement.
6. An updated and adopted Spending Plan indicating how the municipality intends to allocate development fees and other funds, and detailing (in mini manuals) how the municipality proposes to expend funds for affordability assistance, especially those funds earmarked for very low income affordability assistance.
7. A resolution of intent to fund any shortfall in the costs of the municipality's municipally sponsored affordable housing developments as well as its rehabilitation program, including by bonding if necessary.
8. Copies of the resolution(s) and/or contract(s) appointing one or more Administrative Agent(s) and of the adopted ordinance creating the position of, and resolution appointing, the Municipal Affordable Housing Liaison.
9. A resolution from the Planning Board adopting the HPE/FSP, and, if a final Judgment is sought before all of the implementing ordinances and resolutions can be adopted, a resolution of the governing body endorsing the HPE/FSP.

Consistent with N.J.A.C. 5:93-5.5, any municipally sponsored 100% affordable housing development will be required to be shovel-ready within two years of the deadlines set forth in the settlement agreement:

1. The municipality will be required to submit the identity of the project sponsor, a detailed pro forma of project costs, and documentation of available funding to the municipality and/or project sponsor, including any pending applications for funding, and a commitment to provide a stable alternative source, in the form of a resolution of intent to fund shortfall, including by bonding, if necessary, in the event that a pending application for outside funding has not yet been not approved.
2. Additionally, a construction schedule or timetable must be submitted setting forth each step in the development process, including preparation and approval of a site plan, applications for state and federal permits, selection of a contractor, and start of construction, such that construction can begin within two (2) years of the deadline set forth in the settlement agreement.

This Fourth Round Housing Plan Element has been prepared to satisfy all of the above requirements.

HOUSING, DEMOGRAPHIC & EMPLOYMENT ANALYSIS

Housing Characteristics

The 2019-2023 American Community Survey (ACS) [15] indicates that Montgomery has approximately 8,582 housing units, of which 214, or 2.5%, are vacant. The Township's housing stock predominantly consists of single-family detached units (71.0%) and single-family attached units (16.6%). The Township's percentage of single-family detached units is 18.3% higher than that of the State (52.7%) and approximately 12% higher than that of Somerset County (58.8 %). The renter population represents approximately 14.7% of all occupied units in Montgomery (with 85.3% owner-occupied), which is 10.8% less than the renter population in the County (25.5%) and 21.6% less than the renter population in the State as a whole (36.3%). See Table 4, Housing Units by Number of Units in Structure, 2023, for a detailed explanation of the housing units in 2023.

TABLE 4. HOUSING UNITS BY NUMBER OF UNITS IN STRUCTURE, 2023

Number of Units	Total Units	% Total	Owner Occupied	% Total	Rentals	% Total	Vacant
1, Detached	6,097	71.0%	5,783	67.4%	223	2.6%	91
1, Attached	1,423	16.6%	1,206	14.1%	144	1.7%	73
2	52	0.6%	11	0.1%	41	0.5%	0
3 or 4	98	1.1%	18	0.2%	80	0.9%	0
5 to 9	333	3.9%	29	0.3%	304	3.5%	0
10 or more	579	6.7%	92	1.1%	437	5.1%	50
Other	0	0.0%	0	0.0%	0	0.0%	0
Total	8,582	100%	7,139	83.2%	1,229	14.3%	214

Source: Tables B25032, DP04, 2019-2023 American Community Survey Five-Year Estimate

Table 5, Housing Units by Year Built, 2023, illustrates the age of the Township's housing stock. Only 7.3% of Montgomery's housing stock was constructed prior to 1949. The majority of the Township's housing stock was constructed between 1980 and 2009 (68.4%), including 1,138 multi-family renter-occupied units, and construction slowed with the Great Recession (see Table 20 below for information on building permits since 2013). The median year homes were

[15] The American Community Survey replaced the long-form Census as the source for much of the housing data necessary to complete this section. The Census is a one-time count of the population while this ACS is an estimate taken over five years through sampling. As such, data in the ACS is subject to a margin of error.

built in the Township (1993) is more recent than both the State's median (1969) and the County's (1982).

TABLE 5. HOUSING UNITS BY YEAR BUILT, 2023					
Year Built	**Total Units**	**Percent**	**Owner**	**Renter**	**Vacant**
2020 or later	15	0.2%	15	0	0
2010 to 2018	674	7.9%	661	13	0
2000 to 2009	1987	23.2%	1402	535	50
1990 to 1999	2434	28.4%	2022	339	73
1980 to 1989	1446	16.8%	1329	117	0
1970 to 1979	391	4.6%	352	39	0
1960 to 1969	750	8.7%	692	12	46
1950 to 1959	259	3.0%	235	24	0
1940 to 1949	12	0.1%	6	6	0
1939 or earlier	614	7.2%	425	144	45
Totals	**8,582**	**100%**	**7,139**	**1,229**	**214**
Median Year Built:	**1993**		**1993**	**1998**	
Source: 2019-2023 American Community Survey 5-Year Estimate (DP04, B25036, B25037)					

Table 6, Number of Bedrooms per Housing Unit, 2023 shows that housing in Montgomery is generally larger than comparable housing across the County and the State, as evidenced by the number of bedrooms per housing unit. Housing units with three or more bedrooms comprise 76.1% of all housing units in Montgomery Township, compared to 57.4% and 62.2% in New Jersey and Middlesex County respectively.

TABLE 6. NUMBER OF BEDROOMS PER HOUSING UNIT, 2023		
Bedrooms	**Number of Units**	**Percent**
Efficiency	44	0.5%
1	559	6.5%
2	1,451	16.9%
3	2,058	24.0%
4	3,360	39.2%
5+	1,110	12.9%
Total	**8,582**	**100%**
Source: Table DP04, 2019-2023 American Community Survey Five-Year Estimate		

Table 7, Owner-Occupied Housing Values, 2013 and 2023, shows that the median housing value in Montgomery Township increased 25.9% between 2013 and 2023, a lower percentage increase than values across Somerset County overall (31.4%). Montgomery Township had dramatically higher median home values ($739,400) compared to the county ($523,900) and state in 2023 ($461,000).

Based on the 2024 illustrative sales prices provided in Table 3 and the estimated value of owner-occupied homes in 2023 as provided in Table 7, approximately 87 housing units, or 1.2% of owner-occupied units, in Montgomery may be affordable to very low-income households (depending on the number of bedrooms in the unit). Approximately 82 housing units, or 0.1%, (exclusive of units that may be affordable to very low-income households) may be affordable to low-income households, and approximately 21 units (0.3%) may be affordable to moderate-income households (excluding those units affordable to low- or very low income-households). In total, 189 owner-occupied units, or 2.6% of owner-occupied units in the Township, may be affordable to low- or moderate-income households.

TABLE 7. OWNER-OCCUPIED HOUSING VALUES, 2013 and 2023

Housing Unit Value	2013 Units	Percent	2023 Units	Percent
Less than $50,000	30	0.5%	31	0.4%
$50,000-$99,999	20	0.3%	56	0.8%
$100,000-$149,999	14	0.2%	81	1.1%
$150,000-$199,999	41	0.7%	21	0.3%
$200,000-$299,999	230	3.7%	90	1.3%
$300,000-$499,999	1,936	31.0%	1,135	15.9%
$500,000-$999,999	3,427	54.9%	4,427	62.0%
$1,000,000 or more	543	8.7%	1,298	18.2%
Total	**6,241**	**100%**	**7,139**	**100%**
Median	$587,400		$739,400	

Sources: Table DP04, 2009-2013 and 2019-2023 American Community Survey Five-Year Estimates

The median rent in Montgomery in 2023 was $2,169, compared to $1,921 across Somerset County. Based on the 2024 illustrative rents provided in Table 2, approximately 75 renter-occupied units, or 6.1%, may be affordable to very low-income renters, depending on the number of bedrooms being rented. Similarly, approximately 235 rental units (exclusive of units that may be affordable to very low-income households), or 19.1%, may be affordable to low-income renters and approximately 324 rental units (excluding units that may be affordable to low-income households), or 26.4%, may be affordable to moderate-income renters. In total, approximately 634 rental units, or 51.6% of all renter-occupied housing units, may be

affordable to low- or moderate-income households depending on the number of bedrooms being rented. See Table 8, Montgomery and Somerset County, Gross Rent.

TABLE 8. MONTGOMERY AND SOMERSET COUNTY GROSS RENT, 2023				
	Montgomery		Somerset County	
Gross Rent	Units	Percent	Units	Percent
Less than $500	57	4.6%	635	1.9%
$500 to $999	26	2.1%	1,475	4.5%
$1,000 to $1,499	30	2.4%	4,752	14.4%
$1,500 to $1,999	413	33.6%	10,799	32.7%
$2,000 to $2,499	96	7.8%	7,672	23.2%
$2,500 to $2,999	296	24.1%	3,770	11.4%
$3,000 or more	199	16.2%	2,798	8.5%
No cash rent	112	9.1%	1,144	3.5%
Total	**1,229**	**100%**	**33,045**	**100%**
Median Rent	**$2,169**		**$1,921**	

Source: Table DP04, 2019-2023 American Community Survey Five-Year Estimate

Housing is generally considered to be affordable if rents, mortgages, and other essential costs consume 28% or less of an owner-household's income or 30% or less of a renter-household's income. This percentage is lower for homeowners to account for the additional home maintenance costs associated with ownership. In Montgomery, 25.7% of all households in occupied units are expending more than 30% of their incomes on housing costs. The percent of renter-occupied households expending more than 30% of their incomes on housing (40.6%) is higher than the percent of owner-occupied households (23.9%), which suggests that some of Montgomery's existing rental housing may be unaffordable to the population.

TABLE 9: HOUSING AFFORDABILITY, 2023						
Monthly Housing Cost as % of Income	Owner-Occupied	% of Total	Renter	% of Total	All Occupied	% of Total
Less than 20 Percent	4,108	57.9%	324	29.0%	4,432	53.0%
20 to 29 Percent	1,300	18.3%	340	30.4%	1,640	19.6%
30 Percent or More	1,697	23.9%	453	40.6%	2,150	25.7%
Total	**7,105***	**85.3%**	**1,117****	**14.7%**	**8,222**	**100%**

Source: Table DP04, 2019-2023 American Community Survey Five-Year Estimate
** Includes only households with a mortgage*
*** Excludes 234 households labeled as "Not Computed"*

In 2023, there were an estimated 38 units that had incomplete kitchen facilities and 0 units with incomplete plumbing facilities. There were also an estimated six (6) overcrowded housing units (defined as more than one (1) occupant per room) built before 1950. It should be noted that overcrowding is often associated with substandard housing due to overuse of facilities and

is often occupied by lower-income households who share space to save on housing costs. Historically, the conditions mentioned in this paragraph have been indicators of housing deficiency, which are used to determine the number of units requiring rehabilitation.

TABLE 10. INDICATORS OF HOUSING DEFICIENCY, 2023			
Indicator	Incomplete Plumbing	Incomplete Kitchen	Crowded or Overcrowded, and Built Pre-1950
Number of Units	0*	38*	6*
Source: Tables B25050, DP04, 2019-2023 American Community Survey Five-Year Estimate			
**The margin of error for this information exceeds the estimated counts, and thus the estimates may be unreliable*			

Population Characteristics

The population of Montgomery grew nearly 33.5% from 2000 to 2020. The Township's rate of population growth between 2000 and 2020 is more than double the growth rate of the County (16.1%). The County's growth rate has moderately decreased from 27.3% from 2000 to 2010, to just 6.5% from 2010 to 2020. See Table 11, Population Growth.

TABLE 11. POPULATION GROWTH, 2000 – 2020						
	2000	2010	'00 – '10 Change	2020	'10 –'20 Change	'00 –'20 Change
Montgomery	17,481	22,254	27.3%	23,690	6.5%	33.5%
Somerset County	297,490	323,444	8.7%	345,361	6.8%	16.1%
New Jersey	8,414,350	8,791,894	4.5%	9,288,994	5.7%	10.4%
Sources: 2000, 2010, and 2020 U.S. Census						

Between 2013 and 2023, there were large increases in most of Montgomery's adult age cohorts, especially in the senior population. The highest rate of growth was in the age 85 and older cohort, which grew more than 80.3% between 2013 and 2023. The only adult age cohort to decline in population was the 45 to 54 cohort, with a decline of just -4.6%. The youth population of those 19 and under in Montgomery declined -15.1% from 2013 to 2023. The growth in older age cohorts and decline of children 19 and under contributed to Montgomery's increase in the median age from 39.5 to 42.9 years. See Table 12, Montgomery Age Distribution 2013 - 2023, for additional detail.

TABLE 12. MONTGOMERY AGE DISTRIBUTION, 2013 – 2023					
Age Group	2013	Percent	2023	Percent	Percent Change
Under 5	1182	5.3%	886	3.7%	-25.0%

TABLE 12. MONTGOMERY AGE DISTRIBUTION, 2013 – 2023					
Age Group	2013	Percent	2023	Percent	Percent Change
5-9	1755	7.9%	1491	6.3%	-15.0%
10-14	2537	11.4%	2242	9.5%	-11.6%
15-19	2006	9.0%	1730	7.3%	-13.8%
20-24	841	3.8%	1251	5.3%	48.8%
25-34	1,450	6.5%	1,586	6.7%	9.4%
35-44	3,387	15.2%	3,447	14.6%	1.8%
45-54	4,432	19.8%	4,230	17.9%	-4.6%
55-59	1,332	6.0%	1923	8.1%	44.4%
60-64	941	4.2%	1681	7.1%	78.6%
65-74	1,449	6.5%	1,517	6.4%	4.7%
75-84	728	3.3%	1138	4.8%	56.3%
85+	289	1.3%	521	2.2%	80.3%
Total	**22,329**	**100%**	**23,643**	**100%**	**5.9%**
Median Age:	**39.5**		**42.9**		
Source: Table DP05, U.S. Census Bureau, 2009-2013 American Community Survey Five-Year Estimates; Table DP05, U.S. Census Bureau, 2019-2023 American Community Survey Five-Year Estimates					

Household Characteristics

The U.S. Census Bureau defines a household as those persons who occupy a single room or group of rooms constituting a housing unit; however, these persons may or may not be related. Table 13, Household Size, 2013 and 2023, shows that the distribution of households by size in the Township has remained relatively similar between 2013 and 2023.

TABLE 13. HOUSEHOLD SIZE, 2013 and 2023				
	2013		2023	
Household Size	Households	Percent	Households	Percent
1 Person	1,072	14.7%	1,379	16.5%
2 People	2,040	28.0%	2,322	27.7%
3 People	1509	20.7%	2019	24.1%
4 or More People	2,659	36.5%	2,648	31.6%
Total Households	**7,280**	**100%**	**8,368**	**100%**
Sources: Table S2501, 2009-2013 and 2019-2023 American Community Survey Five-Year Estimates				

In 2023, there were 8,368 households in the Township, with an average of 2.81 persons per household and an average of 3.16 persons per family. Approximately 73.6% of the households are comprised of married couples with or without children. Approximately 18% of the Township's households are non-family households, which include individuals living alone. See Table 14, Household Composition.

TABLE 14. HOUSEHOLD COMPOSITION, 2023		
Household Type	Households	Percent
Family households	***6,858***	***82.0%***
Married-couple family	6,156	73.6%
With Children	3,296	39.4%
Male householder, no spouse present	177	2.1%
With Own Children Under 18	132	1.6%
Female householder, no spouse present	525	6.3%
With Own Children Under 18	181	2.2%
Nonfamily households	***1,510***	***18.0%***
Householder living alone	1,379	16.5%
Total Households	***8,368***	***100%***
Source: Table S1101, 2019-2023 American Community Survey Five-Year Estimate		

When the number of bedrooms in a unit (from Table 6, above) is considered vs. the size of households in Montgomery (from Table 13, above), there may be some mismatch: There are over twice as many one- and two-person households (44.2% of all households) than there are efficiency and one-bedroom units (14.0% of all units). This comparative shortage of smaller homes may be leading some empty nesters and young adults without children to consider other locations when seeking smaller-sized housing, or to occupy housing that is larger than their needs, and perhaps more costly than their means. Table 15, Unit Size vs. Household Size, 2023, provides more detail.

TABLE 15. UNIT SIZE vs. HOUSEHOLD SIZE, 2023					
Unit Size	Number of Units	Percent of Total Units	Household Size	Number of Households	Percent of Total Households
0 or 1 bedroom	603	7.0%	**1 Person**	1,379	16.5%
2 bedroom	1,451	7.0%	**2 People**	2,322	27.7%
3 bedrooms	2,058	24.0%	**3 People**	2019	24.1%
4 or more bedrooms	4,470	52.1%	**4+ persons**	2,648	31.6%
Total	***8,582***	***100%***		**8,368**	**100%**

Income Characteristics

In 2023, the median income in Montgomery was $223,409 for households and $249,106 for families. Comparable figures for the County were $135,960 for households and $167,353 for families. Table 15, Household Income by Income Brackets, 2023, further illustrates these findings by noting the number of households in each of the income brackets. The Township's poverty rate for individuals (3.1%) is less than that of the County (5.5%) as well as its poverty rate for families, 2.7% compared to the County's rate (4.4%). See Table 17, Individual and Family Poverty Rates, 2023, for the comparison.

TABLE 16. HOUSEHOLD INCOME BY INCOME BRACKET, 2023

Income Bracket	Households	Percent
Less than $10,000	151	1.8%
$10,000-$14,999	67	0.8%
$15,000-$34,999	301	3.6%
$35,000-$49,999	184	2.2%
$50,000-$74,999	435	5.2%
$75,000-$99,999	561	6.7%
$100,000-$149,999	1,121	13.4%
$150,000 or more	5,548	66.3%
Total:	***8,368***	***100%***
Median Income:	**$223,409**	

Source: Tables S1901 and DP03, 2019-2023 American Community Survey Five-Year Estimate

TABLE 17. INDIVIDUAL AND FAMILY POVERTY RATES, 2023

Location	Individuals	Families
Montgomery Township	3.1%	2.7%
Somerset County	5.5%	4.4%

Source: 2019-2023 American Community Survey 5-Year Estimate (DP03)

Employment Characteristics

Table 18, Covered Employment by Sector, 2022, shows the distribution of employment by industry sector for those employed in Montgomery Township. The four (4) industries representing the largest concentrations of employment in Montgomery in 2022 were Health Care and Social Assistance with 17.3% of employed residents; Information with 16.0%;

Educational Services with 12.9%; and Professional, Scientific, and Technical Services with 12.6%.

TABLE 18. COVERED EMPLOYMENT BY SECTOR, 2022		
Private Sector Category	**County**	**Percent**
Agriculture	24	0.2%
Mining	39	0.4%
Utilities	1	0.0%
Construction	138	1.3%
Manufacturing	868	8.5%
Wholesale Trade	294	2.9%
Retail Trade	553	5.4%
Transportation and Warehousing	91	0.9%
Information	1,642	16.0%
Finance and Insurance	259	2.5%
Real Estate	77	0.8%
Professional, Scientific, and Technical Services	1,293	12.6%
Management of Enterprises	186	1.8%
Administration & Support, Waste Management and Remediation	604	5.9%
Educational Services	1,319	12.9%
Health Care and Social Assistance	1,775	17.3%
Arts, Entertainment, and Recreation	319	3.1%
Accommodation and Food Services	327	3.2%
Other	267	2.6%
Private Sector Total	10,076	98.5%
Public Administration	158	1.5%
Total Covered Employment	**10,234**	**100.0%**

Source: OnTheMap, Center for Economic Studies, U.S. Census Bureau, 2022.

Jobs-Housing Ratio

A municipality's jobs-housing ratio is a rough indicator of the degree to which the municipality has been able to generate sufficient housing to accommodate its workers. A ratio of between 0.75 and 1.5 is generally considered to indicate a healthy balance between the number of jobs

in a municipality and the municipality's ability to house all its workers who wish to live there.[16] The ability to house workers locally enables them to spend less time commuting, reduces traffic congestion, and reduces the greenhouse gas emissions associated with commuting by automobile.

Based on Tables 4 and 18 above, Montgomery has a jobs-housing ratio of 1.17, within the range considered healthy. If additional jobs in the Township become available, the Township may need to examine whether it needs to take steps to encourage additional housing.

Population and Housing Projections

The New Jersey Transportation Authority (NJTPA), the Metropolitan Planning Organization (MPO) that contains Montgomery as well as the remainder of Somerset County, published population and employment projections for the year 2050. The NJTPA projects that the Township's population and employment will increase by 8.0% and 11.6%, respectively, from 2015 to 2050. As Table 19, Population and Employment Projections, 2015 – 2050 shows, these rates are lower than for the County as a whole.

TABLE 19. POPULATION AND EMPLOYMENT PROJECTIONS, 2015 – 2050

	Montgomery Township			Somerset County		
	2015	2050	% Change	2015	2050	% Change
Population	22,804	24,631	8.0%	330,604	363,486	9.9%
Employment	12,578	14,031	11.6%	185,400	211,386	14.0%

Sources: NJTPA Regional Transportation Plan. Forecasts adopted 9/13/2021

The Fair Housing Act requires that housing plans include a 10-year projection of new housing units based on the number of building permits, development applications approved, and probable developments, as well as other indicators deemed appropriate (N.J.S.A. 52:27D-310.b). Building permit issuance for residential new construction in Montgomery Township during the years 2014 through 2023 averaged approximately 123.8 units per year. When demolition permits are included in the calculations, the average number of net new units constructed just drops to approximately 121.7 new units per year. If this rate were to remain constant, Montgomery Township would see approximately 1,217 net new dwelling units by 2033. Table 20, Housing Projections to 2033,

[16] https://enviroatlas.epa.gov/enviroatlas/datafactsheets/pdf/supplemental/employmenthousingratio.pdf

provides an estimate of anticipated residential growth based on the extrapolation of prior housing activity and anticipated redevelopment.

TABLE 20. HOUSING PROJECTIONS TO 2033			
Year	Building Permits Issued	Demolition Permits Issued	Net New Units
2014	74	5	69
2015	143	3	140
2016	50	0	50
2017	108	0	94
2018	45	3	42
2019	128	4	124
2020	163	1	162
2021	165	3	162
2022	297	0	297
2023	65	2	63
Total 2014 to 2023	**1,238**	**21**	**1,217**
10-Year Average	***123.8***	***2.1***	***121.7***
10-Year Projection (2024 to 2033)	***1,238***	***21***	***1,217***
Source: New Jersey DCA Construction Reporter			

Development Trends and Projections

Between 2014 and 2023, Montgomery Township issued on average 123.8 new residential building permits per year. This activity was associated with several residential developments addressing the Township's Third Round obligation, including inclusionary developments at the Grove at Montgomery, the Willows at Orchard Road, and Hillside at Montgomery, the 100% affordable housing development at Apartments at Montgomery Crossing, and the Community Options group homes. During the Fourth Round, the Township expects a 34-unit single-family development part of the approved Montgomery Promenade development, as well as residential development as part of the proposed Fourth Round inclusionary sites included as compliance mechanisms in this plan.

Montgomery Township anticipates potential nonresidential growth during the Fourth Round through 2035. Based on approved or pending development projects, the Township expects approximately 359,587 square feet of additional nonresidential development through 2035, including but not limited to, Montgomery Promenade, a PSE&G electric substation, and the remaining commercial portion of Village Walk at Montgomery to be constructed.

CONSIDERATION OF LANDS APPROPRIATE FOR AFFORDABLE HOUSING

As part of this Plan, Montgomery Township has considered land that is within proximity to public sewer and water and is appropriate for the construction of very-low-, low- and moderate-income housing. Although Montgomery has known contaminated sites and many environmental constraints, including wetlands, floodplains and steep slopes, these environmentally sensitive lands and contaminated sites will not preclude the Township from addressing its affordable housing obligation.

Consistent with smart growth planning principles, the Township has and will continue to integrate affordable housing with inclusionary developments in proximity to regional thoroughfares, jobs and business centers. Furthermore, the focus on redevelopment, rather than greenfield development is evident in the planned mechanisms to create affordable dwellings. These areas of the Township provide the greatest number of employment opportunities and services, as well as proximity to regional bus service. NJ Transit Bus Route 605 connects to bus routes 600, 603, 609, and 613 at the Quaker Bridge Mall and to the Princeton Dinky Station rail line.

The Township believes that the sites and mechanisms proposed in this document represent the best and most appropriate options for affordable housing development. These mechanisms entirely satisfy the Township's cumulative affordable housing obligation as established through the Township's Court-approved 2017/2022 Amended Settlement Agreement with FSHC and as calculated by DCA according to the methodology described in its October 2024 report and agreed to by the Township in its January 2025 Fourth Round DJ filing.

FAIR SHARE PLAN

MONTGOMERY'S AFFORDABLE HOUSING OBLIGATION

There are four components to a municipality's affordable housing obligation: the Fourth Round Present Need obligation, also known as the "Rehabilitation Share," the Prior Round obligation, the Third Round obligation, and the Fourth Round Prospective Need obligation. The terms "Present Need" and "Rehabilitation Share" are used interchangeably. Present Need resets with each round of affordable housing based on census data as to the number of deficient housing units existing at the beginning of that round that potentially are occupied by low- and moderate-income households. The obligation in the Prior Round, Third Round, and Fourth Round is also known as "Prospective Need" which refers to the provisions of affordable housing including through new construction necessary to address the demand for housing based on regional population growth. Lastly, given the convoluted history of the Third Round from 1999-2025, the Third Round obligation includes both the 'Gap' Need obligation (1999-2015) and the Third Round Prospective Need obligation (2015-2025).

Rehabilitation Obligation (Fourth Round Present Need)

The FHA, as amended by P.L. 2024, c.2, defines *present need* as "the number of substandard existing deficient housing units currently occupied by low- and moderate-income (LMI) households" and *deficient housing unit* as "housing that (1) is over fifty years old and overcrowded, (2) lacks complete plumbing, or (3) lacks complete kitchen facilities." The Township's Fourth Round Present Need of 72 units was calculated by DCA according to the methodology described in the report titled *Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background* and released in October 2024. As part of its Fourth Round DJ filing, the Township adopted a resolution in January 2025 adopting the DCA Present Need of 73 units.

Prior Round Obligation

The Prior Round obligation is the cumulative prospective need obligation also known as the 'new construction' obligation for the First and Second Rounds (1987 to 1999). Montgomery Township's Prior Round obligation is 307 units as calculated by COAH per N.J.A.C. 5:93 and is reflected in the Township's Court-approved 2017 Third Round settlement agreement with FSHC.

Third Round Obligation

The Third Round obligation includes the "gap" portion of the Third Round (1999-2015) when no valid affordable housing regulations were in force and the Third Round Prospective Need (2015-2025), which included a projection 10 years into the future starting in July 2015. As

established by the Township's Court-approved 2017/2022 Amended FSHC Agreement, Montgomery Township has a Third Round obligation of 616 units.

Fourth Round Prospective Need Obligation

The amended FHA defines *prospective need* as "a projection of housing needs based on development and growth which is reasonably likely to occur in a region or municipality…" The Township's Fourth Round Prospective Need of 260 units was also calculated by DCA according to the methodology described in its October 2024 report and agreed to by the Township in its January 2025 Fourth Round DJ filing.

MONTGOMERY'S AFFORDABLE HOUSING PLAN

Means of Addressing the Present Need Obligation

N.J.A.C. 5:93-1.3, defines a dwelling needing rehabilitation as, "...a housing unit with health and safety code violations that require the repair or replacement of a major system". Per N.J.A.C. 5:97, "Major systems" include weatherization, exterior cladding, window and door replacement, roofing, plumbing (water supply and sanitary), heating, electricity, lead paint abatement and load bearing structural systems.

Montgomery Township will address its 73-unit Rehabilitation Share through the establishment of a local rehabilitation program open for eligible owner-occupied and renter-occupied units. The program will be managed by Community Grants Planning & Housing Inc. ("CGP&H"). The Township will work with CGP&H to go under contract and participate in the rehabilitation program.

Satisfaction of the Prior Round Obligation

Montgomery Township's Prior Round obligation from 1987 through 1999 is 307 units as earlier established by COAH and more recently approved by the Court. In addressing the obligation of the Prior Round, COAH's Second Round rules, as upheld by P.L. 2024, c.2, require that the Township establish the maximum number of age-restricted affordable units and the minimum number of affordable rental units.

In addition to satisfying the total obligation, the Township must also adhere to a minimum rental obligation and maximum number of age-restricted units.

As demonstrated in the Summary Tables at the end of this section, the Township has satisfied its Prior Round obligation with inclusionary development, alternative living arrangements, and rental bonus credits. The rental obligation is satisfied with the alternative living arrangements, the McKinley Comm./Montgomery Hills project and the Pike Run (Bellemead) project.

Prior Round Rental Obligation = 77 units

0.25 (Prior Round – Prior Cycle credits)

= 0.25 (307 – 0)
= 76.75, round up

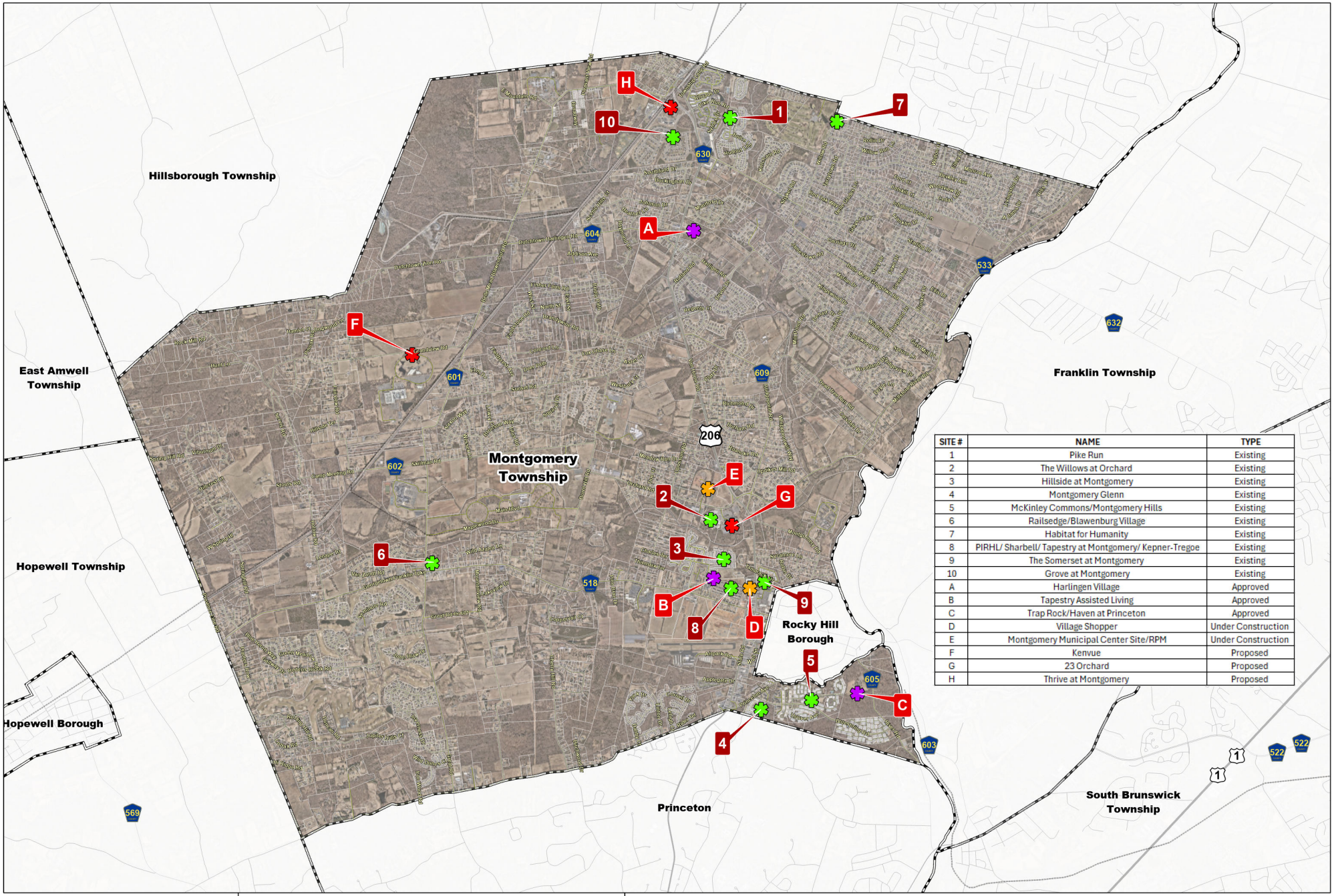
Prior Round Maximum Age-Restricted = 76 units

0.25 (Prior Round – Prior Cycle credits)

= 0.25 (307 – 0)
= 76.75, round down

Prior Round Rental Bonus Credits

- A rental unit available to the general public receives one rental bonus;
- An age-restricted unit receives a 0.33 rental bonus, but no more than 50% of the rental obligation shall receive a bonus for age-restricted units; and
- No rental bonus is granted in excess of the rental obligation.



SITE #	NAME	TYPE
1	Pike Run	Existing
2	The Willows at Orchard	Existing
3	Hillside at Montgomery	Existing
4	Montgomery Glenn	Existing
5	McKinley Commons/Montgomery Hills	Existing
6	Railsedge/Blawenburg Village	Existing
7	Habitat for Humanity	Existing
8	PIRHL/ Sharbell/ Tapestry at Montgomery/ Kepner-Tregoe	Existing
9	The Somerset at Montgomery	Existing
10	Grove at Montgomery	Existing
A	Harlingen Village	Approved
B	Tapestry Assisted Living	Approved
C	Trap Rock/Haven at Princeton	Approved
D	Village Shopper	Under Construction
E	Montgomery Municipal Center Site/RPM	Under Construction
F	Kenvue	Proposed
G	23 Orchard	Proposed
H	Thrive at Montgomery	Proposed

0 6,000 Feet

Clarke Caton Hintz
Architecture
Planning
Landscape Architecture

Legend

- Affordable Housing Sites (Existing/ Complete)
- Affordable Housing Sites (Approved)
- Affordable Housing Sites (Under Construction)
- Affordable Housing Sites (Proposed)

Montgomery Township Fourth Round
Housing Element & Fair Share Plan

Affordable Housing Sites

LOCATION:
Montgomery Township, Somerset County, NJ

DATE:
June 2025

INCLUSIONARY DEVELOPMENT

McKinley Comm./Montgomery Hills

Inclusionary Development

A development containing low- and moderate-income units among market rate units. Affordable housing set-asides are often 15% or 20%.

Inclusionary development may also be a non-residential development (i.e. a shopping center) with affordable units built-in.

McKinley Commons, also known as Montgomery Hills (formerly Scribner Village) is an existing inclusionary zoning project located along McKinley Court and Jackson Avenue on Block 37001, Lot 6 and Block 37002, Lot 5, which have been since subdivided. Previously approved as part of the Township's Second Round JOR, the McKinley Commons development has a total of 441 units, including 346 market-rate units, 35 affordable for-sale units and 60 affordable age-restricted rentals. The age-restricted units are located at Block 37003, Lots 6.840 through 6.929, and the family for-sale units are located at Block 37003, Lots 6.780 through 6.837. The last Certificate of Occupancy for this project was issued on May 2, 2003. The affordable family rental and family for-sale units at McKinley Commons/Montgomery Hills are administered by CGP&H, an experienced affordable housing administrator. All of the for-sale units have at least 30-year affordability controls and the rental units have 30-year controls (see Appendix 7 for a copy of the Deed Restrictions). As seen in Table 21, the project contains 30 two-bedroom, low-income age-restricted rentals and 30 two-bedroom, moderate-income age-restricted rentals. As seen in Table 22, the affordable family for-sale units consist of 17 low-income units and 18 moderate-income units. There are four one-bedroom units, 23 two-bedroom units, and eight three-bedroom units.

TABLE 21. INCOME/BEDROOM DISTRIBUTION, MONTGOMERY HILLS AGE-RESTRICTED

	1-bedroom	2-bedroom	3-bedroom	TOTAL	Percent of Total
Very-Low Income	-	-	-	**0**	**0.00%**
Low-Income	-	30	-	**30**	**50.00%**
Moderate-Income	-	30	-	**30**	**50.00%**
Total	**0**	**60**	**0**	**60**	**100.00%**
Percent of Total	**0.00%**	**100.00%**	**0.00%**	**100.00%**	

TABLE 22. INCOME/BEDROOM DISTRIBUTION, MONTGOMERY HILLS FAMILY FOR-SALE					
	1-bedroom	2-bedroom	3-bedroom	TOTAL	Percent of Total
Very-Low Income	-	-	-	**0**	**0.00%**
Low-Income	2	11	4	**17**	**48.57%**
Moderate-Income	2	12	4	**18**	**51.43%**
Total	**4**	**23**	**8**	**35**	**100.00%**
Percent of Total	**11.43%**	**65.71%**	**22.86%**	**100.00%**	

All 35 affordable for-sale units and 60 affordable age-restricted rental units address the Township's Prior Round obligation.

Montgomery Glen

Montgomery Glen, also known as Montgomery Walk, is an existing inclusionary residential development located along Princeton Avenue and Blue Spring Road on Block 37002, Lots 7.01 and 8.43 and Blocks 37005 through 37006, which have been since subdivided. The project has a total of 95 units, 19 of which are affordable family for-sale units. The 19 affordable family for-sale units are located at Block 37006, Lots 20.01 through 20.20, and the entire development is located is within the APT/TH Apartment Townhouse Multi-Family Residential Zoning District. The project was completed in 2002, and Certificates of Occupancy were issued on the third, ninth, and twenty-ninth days of October, 2002. The affordable family for-sale units are administered by CGP&H. Additionally, the project has at least 30-year affordability controls (see Appendix 8 for a copy of the Deed Restriction). As seen in Table 23, the project contains ten low-income units and nine moderate-income units. There are four one-bedroom units, 11 two-bedroom units, and four three-bedroom units.

TABLE 23. INCOME/BEDROOM DISTRIBUTION, MONTGOMERY GLEN					
	1-bedroom	2-bedroom	3-bedroom	TOTAL	Percent of Total
Very-Low Income	-	-	-	**0**	**0.00%**
Low-Income	2	6	2	**10**	**52.63%**
Moderate-Income	2	5	2	**9**	**47.37%**
Total	**4**	**11**	**4**	**19**	**100.00%**
Percent of Total	**21.05%**	**57.89%**	**21.05%**	**100.00%**	

All 19 affordable family for-sale units address the Township's Prior Round obligation.

Pike Run (Bellemead)

Pike Run (Bellemead) is an existing inclusionary development resulting from the Township's First Round voluntary declaratory judgment action in July 1985. The 267-acre site, located at Block 5001, Lot 1, has a total of 1,288 units including 210 affordable family rentals. The last Certificate of Occupancy for this project was issued on June 6, 2001. The affordable family rental units are administered by Piazza & Associates (Piazza), an experienced affordable housing administrator. All of the units have 30-year affordability controls (see Appendix 9 for a copy of the Deed Restriction). As seen in Table 24, the project contains 114 low-income units and 96 moderate-income units. There are 122 one-bedroom units, 54 two-bedroom units, and 34 three-bedroom units.

TABLE 24. INCOME/BEDROOM DISTRIBUTION, PIKE RUN

	1-bedroom	2-bedroom	3-bedroom	TOTAL	Percent of Total
Very-Low Income	-	-	-	**0**	**0.00%**
Low-Income	70	27	17	**114**	**54.29%**
Moderate-Income	52	27	17	**96**	**45.71%**
Total	**122**	**54**	**34**	**210**	**100.00%**
Percent of Total	**58.10%**	**25.71%**	**16.19%**	**100.00%**	

Of the 210 total affordable family rental units, 102 units address the Township's Prior Round Obligation. Additionally, the Township is eligible for a total of 77 bonus credits (capped) for this project towards the Prior Round.

ALTERNATIVE LIVING ARRANGEMENTS

Crawford Transitional Housing

This alternative living arrangement, located at Block 15001, Lot 6, was licensed by the NJ Department of Human Services, Division of Mental Health Services in December of 2005. It has seven (7) bedrooms. The facility received its Certificate of Occupancy in February of 2005. However, the facility closed in January 2021. Pursuant to N.J.A.C. 5:93-5.8(d), alternative living arrangements shall remain in effect for at least ten years. Given that the group home existed for more than ten years, from 2005 to 2021, the facility is eligible for seven credits (credit by the bedroom) to address the Township's Prior Round obligation. See crediting documents in Appendix 10.

Devereux Group Home

Located at 797 Route 601, known as Block 15024, Lot 4, in the Township, the Devereux Corporation is a NJ Department of Human Services, Division of Developmental Disabilities ("DDD") licensed Group home with four bedrooms, and the residents receive Supplemental Security Disability Income ("SSDI") from the federal government, which is their only source of income. All four of the bedrooms are for very low-income people. It received a certificate of occupancy in April of 2000. The facility is eligible for four credits (credit by the bedroom) to address the Township's Prior Round obligation. See Appendix 11 for a copy of the Supportive/Special Needs Survey.

Delta Comm. Support Group Home

Located at 174 Opossum Road (Block 19001, Lot 21) in the Township, Delta Community Support ("Delta", f.k.a. The Developmental Residential Corporation) provides services to individuals with developmental disabilities and is fully funded by DDD. The group home is licensed by the Department of Human Services as a group home for developmentally disabled persons. The Delta group home has three bedrooms in Montgomery Township, and the residents receive SSDI from the federal government, which is their only source of income. All three (3) of the bedrooms are for very low-income people. The home received a certificate of occupancy in June of 1997. It was granted Capital Funding from the DDD in May of 1997 for acquisition and renovation of the house, and received a Certificate of Approval in October 1997. The facility is eligible for three credits (credit by the bedroom) to address the Township's Prior Round obligation. See Appendix 12 for a copy of the Supportive/Special Needs Survey and State License.

Alternative Living Arrangement / Supportive & Special Needs Housing

A structure in which households live in distinct bedrooms, but share kitchen and plumbing facilities, central heat and common areas.

They may be restricted to special needs groups, such as persons with developmental disabilities, veterans and their families, and victims of domestic abuse.

COAH's regulations at N.J.A.C. 5:93-5.8 provides alternative living arrangements with credit by the bedroom.

Also, alternative living arrangements may receive credit for 10-year controls/existence per N.J.A.C. 5:93-5.8.

Prior Round Summary

The Township has met its 307-unit Prior Round obligation with inclusionary housing, alternative living arrangements, and rental bonus credits.

SATISFACTION OF THE THIRD ROUND + GAP OBLIGATION

As previously indicated, the Township's Third Round+Gap obligation (1999-2025) is 616 units.

In addition to satisfying the total obligation, the Township must also adhere to a minimum rental obligation, minimum family rental obligation, a maximum number of age-restricted units, a minimum very low-income requirement, and a minimum number of family very-low income units.

As demonstrated in the Summary Tables at the end of this section, the Township has satisfied its Third Round obligation with completed, approved and proposed inclusionary developments, proposed alternative living arrangements, a proposed assisted living facility, a proposed 100% affordable housing development, and rental bonus credits.

Third Round Rental Bonus Credits

- A rental unit available to the general public receives one rental bonus;
- An age-restricted unit receives a 0.33 rental bonus, but no more than 50% of the rental obligation shall receive a bonus for age-restricted units; and
- No rental bonus is granted in excess of the rental obligation.

Third Round Minimum Family units = 231 units

0.50(Third Round obligation - bonuses)

= .50(616 - 154)
= 231

Third Round Rental Obligation = 154 units

0.25 (Third Round obligation)

=.25 (616)
= 154

Third Round Family Rental Obligation = 77 units

0.5 (Third Round rental obligation)

=.5 (154)
= 77

Third Round Maximum Age-Restricted = 154 units

0.25 (Third Round obligation)

=.25 (616)
= 154

Third Round Minimum Very Low Income = 38 units

0.13(units approved and created after 7/17/2008)

= .13(290)
= 37.7, round up

Third Round Minimum Low Income (includes very-low income) = 231 units

0.50(Third Round obligation - bonuses)

= .50(616 - 154)
= 231

INCLUSIONARY DEVELOPMENTS

Pike Run (Bellemead)

Montgomery Township addressed its Prior Round obligation with 102 of the 210 affordable family rental units in the Pike Run (Bellemead) inclusionary family rental development. The remaining 108 units will be used to satisfy Montgomery Township's Third Round obligation. All of the units have 30-year affordability controls, which will be in effect throughout the entirety of the Third Round (see Appendix 9 for a copy of the Deed Restriction). Additional details on the inclusionary family rental units are referenced in the Prior Round section of this Plan.

Inclusionary Development

A development containing low- and moderate-income units among market rate units. Affordable housing set-asides are typically 15% or 20%.

Inclusionary development may also be a non-residential development (i.e. a shopping center) with affordable units built-in.

The Willows at Orchard Road (JER Herring Orchard)

The subject property is situated at the southwestern corner of the Route 206/Orchard Road intersection and contains an existing inclusionary development on Block 28001, Lots 5.04 and 5.05. The lots were subdivided from a larger 70.194-acre lot that included the adjacent office development to the east in order to construct the inclusionary affordable housing development. In May of 2010, the Township entered into an Affordable Housing Agreement with JER Herring Orchard, LLC, and on May 6, 2013 the Township Planning Board adopted a resolution granting preliminary and final subdivision and site plan approvals for construction of the project.

The Township committed to dedicate up to $306,000 to provide infrastructure assistance. A copy of the funding assistance agreement is provided in Appendix 13.

The development, now known as The Willows at Orchard Road, has a total of 152 units, including 112 market-rate family townhouse units for sale and 40 affordable family apartment units for rent. As seen in Table 25, 26 of the affordable family units are for moderate-income households, six are for low-income households, and eight are for very low-income households. There are eight one-bedroom units, 25 two-bedroom units, and seven three-bedroom units.

TABLE 25. INCOME/BEDROOM DISTRIBUTION, THE WILLOWS AT ORCHARD					
	1-bedroom	2-bedroom	3-bedroom	TOTAL	Percent of Total
Very-Low Income	3	5	-	**8**	**20.00%**
Low-Income	1	4	1	**6**	**15.00%**
Moderate-Income	4	16	6	**26**	**65.00%**
Total	**8**	**25**	**7**	**40**	**100.00%**
Percent of Total	**20.00%**	**62.50%**	**17.50%**	**100.00%**	

The project received 4% Low Income Housing Tax Credits ("LIHTCs"). Affordability controls were set for a period of 30 years (see Appendix 13 for a copy of the Deed Restriction). Certificates of Occupancy were issued for the 40 affordable units in two separate buildings on October 30, 2015 and January 28, 2016. The affordable rental units are owned and administered by the Ingerman Group, an experienced affordable housing administrator. The project is fully completed, with the last Certificate of Occupancy for the market-rate family townhouse issued in the beginning of 2017. All of the affordable family rental units are occupied. The Township is seeking credit for 40 units and 40 rental bonuses (for a total of 80 credits) to satisfy Montgomery Township's Third Round obligation.

Hillside at Montgomery (Sharbell-Hillside)

Sharbell-Hillside, also known as Hillside at Montgomery, is an existing inclusionary development located along Hartwick Drive on Block 28003, Lot 161. The developer (Sharbell Plainsboro, Inc.) requested that Phase II of its "Tapestry" age-restricted development be converted to non-age-restricted dwelling units in accordance with P.L. 2009, Chapter 82, the so-called "conversion law", which became effective on July 2, 2009. On June 4, 2012, Sharbell received Planning Board approval for the conversion of 112 age-restricted units to 89 market-rate non age-restricted units and 23 affordable non age-restricted units. The development is completed and the developer is currently leasing the affordable family rental units. Piazza and Associates, an experienced affordable housing administrative agent, administers the 23 affordable family rental units. See Appendix 14 for a copy of the Deed Restriction. As seen in Table 26, the project contains three very-low income units, nine low-income units and 11 moderate-income units. There are four one-bedroom units, 14 two-bedroom units, and five three-bedroom units.

TABLE 26. INCOME/BEDROOM DISTRIBUTION, HILLSIDE AT MONTGOMERY					
	1-bedroom	2-bedroom	3-bedroom	TOTAL	Percent of Total
Very-Low Income	-	3	-	3	13.04%
Low-Income	2	4	3	9	39.13%
Moderate-Income	2	7	2	11	47.83%
Total	4	14	5	23	100.00%
Percent of Total	17.39%	60.87%	21.74%	100.00%	

The project received a Certificate of Occupancy on October 28, 2014 for the entire affordable housing multi-family apartment building. The Township is seeking credit for 23 units and 6 rental bonuses (capped), for a total of 29 credits, to satisfy its Third Round obligation.

Railsedge/Blawenburg Village

The Railsedge Enterprises mixed use development (Block 26001, Lot 23) includes three (3) one-bedroom rental residential flats affordable to moderate-income households which are located above three (3) retail/office uses on the first floor of a building located in the "NC" Neighborhood Commercial District at 1143 County Route 601 (Belle Mead-Blawenburg Road). The three affordable family units for rent were included in the Township's Third Round plan, and are the result of a "use" variance approval by the Township's Zoning Board of Adjustment on April 18, 2000. The units were issued Certificates of Occupancy on March 6, 2007 and have 30-year affordability controls through March 6, 2037 (see Appendix 15 for a copy of the Deed Restriction). The units are administered by CGP&H, an experienced affordable housing administrative agent. The Township is seeking credit for three units to satisfy its Third Round obligation.

TABLE 27. INCOME/BEDROOM DISTRIBUTION, RAILSEDGE BLAWENBURG VILLAGE					
	1-bedroom	2-bedroom	3-bedroom	TOTAL	Percent of Total
Very-Low Income	-	-	-	0	0.00%
Low-Income	-	-	-	0	0.00%
Moderate-Income	3	-	-	3	100.00%
Total	3	0	0	3	100.00%
Percent of Total	100.00%	0.00%	0.00%	100.00%	

Grove at Montgomery (Country Club Meadows)

This inclusionary project is the result of a settlement agreement (dated June 24, 2014) between the Township, Country Club Meadows, LLC, and Pike Run, LLC, et al., stemming from litigation over a sewer agreement first executed in 1985. It received general development plan ("GDP") approval in 2014 for Block 4001, Lots 33 and 33.01; Block 4071, Lot 1; Block 5002, Lots 4, 5 and 6; Block 5003, Lot 1; Block 5023, Lot 2; Block 6001, Lot 1; and, the former Route 206 Bypass Right-of-Way. The GDP was prepared in October 2014 consistent with a July 9, 2014 "Land Use Plan Amendment Specific to Lands Owned by Country Club Meadows in the Belle Mead Portion of Montgomery Township." The plan comprises an area of over 190 acres, and proposes a Planned Unit Development ("PUD") containing a mixture of uses including commercial space, 148 single family homes, 27 apartments over retail, and 318 continuing care units. The GDP describes four distinct areas within the 190+ acres, including a 153.5-acre area consisting of the 148 market rate single-family homes and 27 affordable family rental units above first-story retail. On November 2, 2015, the Township Planning Board granted preliminary major subdivision, preliminary major site plan, bulk variances and other approvals for Phase I of the PUD, which includes the 27 affordable family units. All 27 units are completed and were issued Certificates of Occupancy on November 13, 2019. As seen in Table 28, the project contains four very-low income units, 10 low-income units and 13 moderate-income units. There are five one-bedroom units, 16 two-bedroom units, and six three-bedroom units.

TABLE 28. INCOME/BEDROOM DISTRIBUTION, GROVE AT MONTGOMERY

	1-bedroom	2-bedroom	3-bedroom	TOTAL	Percent of Total
Very-Low Income	1	2	1	**4**	**14.81%**
Low-Income	2	6	2	**10**	**37.04%**
Moderate-Income	2	8	3	**13**	**48.15%**
Total	**5**	**16**	**6**	**27**	**100.00%**
Percent of Total	**18.52%**	**59.26%**	**22.22%**	**100.00%**	

All units have 30-year affordability controls (see Appendix 16 for a copy of the Deed Restriction). The Township is seeking credit for the 27 units to satisfy its Third Round obligation.

Trap Rock / Haven at Princeton

The Trap Rock site (now referred to as the Haven at Princeton), consisting of 72.8 acres located on Block 37003, Lot 7, is within the APT/TH Apartment Townhouse Multi-Family Residential Zoning District. On September 20, 2021, the Planning Board granted the applicant

preliminary and final major site plan and subdivision approval for an inclusionary residential development containing 154 units yielding 32 affordable family rental units (a 20.78% affordable housing set-aside).

Additionally, as seen in Table 29, the development meets the income and bedroom distribution requirement under COAH's Second Round rules at N.J.A.C. 5:93-7.3 and UHAC at N.J.A.C. 5:80-26.1 as follows: The 32 affordable family rental units will include six (6) one-bedroom units, 18 two-bedroom units, and eight three-bedroom units. Five units will be very low-income units, 11 units will be low-income units, and 16 units will be moderate-income units.

TABLE 29. INCOME/BEDROOM DISTRIBUTION, THE HAVEN AT PRINCETON

	1-bedroom	2-bedroom	3-bedroom	TOTAL	Percent of Total
Very-Low Income	1	3	1	**5**	**15.63%**
Low-Income	2	6	3	**11**	**34.38%**
Moderate-Income	3	9	4	**16**	**50.00%**
Total	**6**	**18**	**8**	**32**	**100.00%**
Percent of Total	**18.75%**	**56.25%**	**25.00%**	**100.00%**	

The developer will be required to retain the services of either the Township's Administrative Agent or an experienced Administrative Agent acceptable to the Township to affirmatively market and administer the affordable units pursuant to COAH's regulations. The Administrative Agent will income-qualify applicants, place affordability controls of at least 30 years on the units and provide long-term administration of the units in accordance with COAH's rules at N.J.A.C. 5:93 et seq. and UHAC per N.J.A.C. 5:80-26.1, or any successor regulation. The resolution of approval may be found in Appendix 17.

The Township is seeking credit for the 32 units to satisfy its Third Round obligation.

Apartments at Montgomery Crossing ("PIRHL")

The PIRHL development, now known as Apartments at Montgomery Crossing, contains an existing 86-unit 100% affordable family rental apartment project on Block 28004 Lot 7. The 4.09-acre site is part of the Kepner-Tregoe redevelopment area, and the site received site plan approval in July 2, 2018. The project was awarded New Jersey Housing and Mortgage Finance agency tax credit financing in November 2018. All 86 family rental units are completed and were issued Certificates of Occupancy on July 1, 2021. As seen in Table 30, the project contains 14 very-low income units, 29 low-income units and 43 moderate-income units. There are 17

one-bedroom units, 47 two-bedroom units, and 22 three-bedroom units. Of the 14 very low-income units, four are special needs units and three are for individuals at risk of homelessness.

TABLE 30. INCOME/BEDROOM DISTRIBUTION, APARTMENTS AT MONTGOMERY CROSSING					
	1-bedroom	2-bedroom	3-bedroom	TOTAL	Percent of Total
Very-Low Income	7	4	3	**14**	**16.28%**
Low-Income	2	19	8	**29**	**33.72%**
Moderate-Income	8	24	11	**43**	**50.00%**
Total	**17**	**47**	**22**	**86**	**100.00%**
Percent of Total	**19.77%**	**54.65%**	**25.58%**	**100.00%**	

The units are administered by Conifer Realty, LLC, an experienced affordable housing administrative agent.[17] All units have 30-year affordability controls (see Appendix 19 for a copy of the Deed Restriction). The Township is seeking credit for the 86 affordable family rental units to satisfy its Third Round obligation.

The Somerset at Montgomery (DeVan / VanCleef)

The project now known as The Somerset at Montgomery, is an existing inclusionary development on a five-acre tract known as Block 29002, Lot 45 on U.S. Route 206 North. This inclusionary housing project contains 115-unit multi-family apartment units with a 20% set-aside, or 23 affordable family rental units. The units issued Certificates of Occupancy October 21, 2024 (see crediting documents in Appendix 18). As seen in Table 31, the project contains three very low-income units, nine low-income units, and 11 moderate-income units. There are four one-bedroom units, 14 two-bedroom units, and five three-bedroom units.

TABLE 31. INCOME/BEDROOM DISTRIBUTION, THE SOMERSET AT MONTGOMERY

[17] Conifer Realty, LLC acquired PIRHL Acquisitions, LLC, the previous affordable housing administrative agent for the project.

	1-bedroom	2-bedroom	3-bedroom	TOTAL	Percent of Total
Very-Low Income	1	1	1	3	13.04%
Low-Income	1	6	2	9	39.13%
Moderate-Income	2	7	2	11	47.83%
Total	4	14	5	23	100.00%
Percent of Total	17.39%	60.87%	21.74%	100.00%	

The units are administered CGP&H, and all units have 30-year affordability controls (see Appendix 18 for a copy of the Deed Restriction). The Township is seeking credit for the 23 affordable family rental units to satisfy its Third Round obligation.

Harlingen Village

The project is an approved inclusionary housing site known as Block 6001, Lots 33, 34, 34.01, 35, and 36, located on U.S. Route 206. The property is a 22.18-acre tract owned by Harlingen Associates, LLC ("Harlingen"), which is an affiliated entity of DeVan/Van Cleef, mentioned above. Harlingen received Planning Board preliminary and final major site plan and subdivision approval on November 13, 2023, memorialized on January 8, 2024, to construct a 54-unit inclusionary project with a 20% set-aside. The approved project consists of 18 apartments located in three two-story buildings and 36 townhomes. Of the 18 apartment units, 7 will be market rate units and 11 will be affordable units. Additionally, as seen in Table 32, the development meets the income and bedroom distribution requirement under COAH's Second Round rules at N.J.A.C. 5:93-7.3 and UHAC at N.J.A.C. 5:80-26.1 as follows: two of the affordable units will consist of one bedroom, six units will consist of two bedrooms, and three will consist of three (3) bedrooms. The project will contain two very low-income units, four low-income units, and five moderate-income units.

TABLE 32. INCOME/BEDROOM DISTRIBUTION, HARLINGEN VILLAGE					
	1-bedroom	2-bedroom	3-bedroom	TOTAL	Percent of Total
Very-Low Income	-	1	1	2	18.18%
Low-Income	1	2	1	4	36.36%
Moderate-Income	1	3	1	5	45.45%
Total	2	6	3	11	100.00%
Percent of Total	18.18%	54.55%	27.27%	100.00%	

CGP&H must administer the family affordable rental units including the affirmative marketing in accordance with UHAC at N.J.A.C. 5:80-26.1. The affordable family rental units

will remain affordable units for a period of at least 30 years from the date of their initial occupancy. See Appendix 20 for a copy of the Planning Board Resolution of Approval.

The Township is seeking credit for the 11 affordable family rental units to satisfy its Third Round obligation.

Montgomery Five

The subject property is situated along the west side of Route 206 south of Applegate Road. Identified as Block 34001, Lot 60.01 in the Township Tax Maps, the property contains approximately 1.692 acres. On September 18, 2017, the Montgomery Township Planning Board adopted a Redevelopment Plan for the subject property that requires the redeveloper to provide a payment in lieu of construction that would fund the creation of a four (4) bedroom group home. Later, a January 22, 2018 Planning Board resolution granted site plan approval for the development, and the site is now developed with an automobile dealership, an associated service center, and other site improvements. Pursuant to the Affordable Housing Agreement the redeveloper provided a $200,000 payment in lieu of construction to the Township's Housing Trust Fund (see Appendix 21 for a copy of the Affordable Housing Agreement). As discussed in more detail under "Alternative Living Arrangements," the Township had a contract with Community Options, Inc. (COI) to acquire property for the purposes of renovating, creating and operating a group home for very-low income qualified individuals with developmental disabilities. The Township committed to and has funded three (3) group home projects for COI, one of which was funded through the Montgomery Five payment in lieu of construction. The four-bedroom group home funded through Montgomery Five is complete and thus eligible for four credits towards the Third Round (credit by the bedroom). Additional details on the completed group home are discussed under "Alternative Living Arrangements."

Village Walk at Montgomery (Village Shopper)

The Village Shopper site, currently referred to as Village Walk at Montgomery or "Village Walk," is known as Block 28007, Lots 1 through 4, and, located along US Highway 206. The site is located within the Planned Mixed Use Development (PMUD) optional development alternative, which allows for mixed-use commercial development and inclusionary multi-family development. The applicant (Village Shoppes at Montgomery, LLC) received preliminary and final major subdivision and site plan approval on December 17, 2018 as well as amended approval in June 13, 2022 to construct a mixed use inclusionary development. The approved mixed use development consists of five buildings, one of which is a 3-story mixed use building containing commercial and retail space on the first floor, and a total of 52 apartments on the upper stories, including 11 family affordable rental apartments at a 20% set-aside. The developer agreed to provide a 20% affordable housing set aside regardless of the total unit count. See Appendix 22 for a copy of the Planning Board Resolution of Approval.

More recently, the Township Committee, pursuant to Resolution #24-12-421, directed the Planning Board to complete a study for certain properties that are partially located within the existing Kepner-Tregoe Redevelopment Area and are part of the Village Walk development. These properties, which consist of Block 28007, Lot 1 and 2, were planned to be developed in concert with the existing redevelopment area, as they share common infrastructure and community design elements that are critical to the successful completion of improvements within the existing redevelopment area. On March 24, 2025, the Kepner-Tregoe Redevelopment Area was amended to include Block 28007, Lots 1 and 2, and a Redevelopment Plan was drafted. On April 17, 2025, the Township passed Ordinance #25-1757 adopting a Redevelopment Plan for the site. The Redevelopment Plan for the site includes provisions related to the affordable housing requirements for the Village Walk development. Specifically,

> *"The Redeveloper shall be responsible for the provision of affordable housing. The required affordable housing shall be detailed further within an Agreement with the Township. The number of affordable dwellings to be developed shall be no less than 12 multifamily rental units. The original Village Walk approval includes 11 affordable housing units, subject to the required and approved breakdown between low- and moderate-income units. The 12th affordable housing unit may be a one-bedroom, moderate-income unit."* (page 2 of the Redevelopment Plan).

Additionally, as seen in Table 33, the development meets the income and bedroom distribution requirement under COAH's Second Round rules at N.J.A.C. 5:93-7.3 and UHAC at N.J.A.C. 5:80-26.1 as follows: The project will contain two very low-income units, four low-income units, and six moderate-income units. There will be three one-bedroom units, six two-bedroom units, and three three-bedroom units. CGP&H must administer the family affordable rental units including the affirmative marketing in accordance with UHAC at N.J.A.C. 5:80-26.1. The affordable family rental units will remain affordable units for a period of at least 30 years from the date of their initial occupancy.

TABLE 33. INCOME/BEDROOM DISTRIBUTION, VILLAGE WALK

	1-bedroom	2-bedroom	3-bedroom	TOTAL	Percent of Total
Very-Low Income	1	1	-	**2**	**16.67%**
Low-Income	-	2	2	**4**	**33.33%**
Moderate-Income	2	3	1	**6**	**50.00%**
Total	**3**	**6**	**3**	**12**	**100.00%**
Percent of Total	**25.00%**	**50.00%**	**25.00%**	**100.00%**	

The project is currently under construction, and an additional affordable housing unit will be provided as part of the Village Walk development, as required by the Redevelopment Plan. The first 11 rental units have at least 30-year affordability controls. See Appendix 22 for a copy of the Redevelopment Plan and the deed restriction. The Township is seeking credit for the 11 affordable family rental units to satisfy its Third Round obligation. The remaining 12th unit will be used to satisfy Montgomery Township's Fourth Round obligation.

Blawenburg Village Square – removed

During preparation of the 2020 Third Round Plan, the Township had reviewed a proposal from the current site owner to modify an existing mixed use development at the existing Railsedge/Blawenburg Village site mentioned above, to include one additional affordable family rental unit. The existing facilities would need to be expanded to accommodate the additional units.

The unimproved portion of the site was previously approved for a bank; however, the site owner, Blawenburg Associates, LLC, could not find a bank tenant. After some time, Blawenburg Associates, LLC approached the Township Master Plan Committee about modifying the zoning to permit a fourth mixed-use building on-site. As a result, the Township adopted the Site Specific Inclusionary Zone 3 (SSIZ-3) zoning regulations to permit a fourth mixed-use building containing approximately 3,000 square feet of retail and three family rental apartments, including one family affordable rental. While a site plan application was pending for this site in 2020, the application was withdrawn, and development on the site has not progressed. After further reexamination, the site is being removed from the Township's compliance plan. This change reduces the Township's Third Round surplus credits from two credits to one credit. As such, the Township still satisfies its Third Round obligation.

Allies, Inc. Group Home

Burnt Hill Road Group Home, Inc. received variance approval from the Township Zoning Board on August 27, 2024 to construct a six-bedroom special needs group home on a one acre site located on Burnt Hill Road, known as Block 26001, Lot 1.07. The six bedrooms will be affordable to very low-income residents. See Appendix 23 for a copy of the resolution of approval. The project is currently under construction.

Upon completion, Allies, Inc. will administer the units in accordance with COAH's rules on group homes including affirmative marketing, and place at least 30-year controls on affordability.

The Township has committed to dedicating up to $55,895.64 to provide infrastructure assistance and the replacement and installation of the HVAC system and copper piping. Copies of the funding assistance agreements are provided in Appendix 23.

Pursuant to a March 4, 2020 letter from the Division of Developmental Disabilities ("DDD"), the New Jersey Department of Human Services ("DHS") commits to support the construction of a six-bedroom dwelling to serve individuals with medical needs. DHS has also committed up to $30,000 for the installation of a fire alarm and sprinkler system.

Alternative Living Arrangement / Supportive & Special Needs Housing

A structure in which households live in distinct bedrooms, but share kitchen and plumbing facilities, central heat and common areas.

They may be restricted to special needs groups, such as persons with developmental disabilities, veterans and their families, and victims of domestic abuse.

COAH's regulations at N.J.A.C. 5:93-5.8 provides alternative living arrangements with credit by the bedroom.

Also, alternative living arrangements may receive credit for 10-year controls/existence per N.J.A.C. 5:93-5.8.

Community Options Inc. ("COI") Group Homes

Community Options, Inc. ("COI"), is a non-profit housing developer that specializes in creating housing for individuals with intellectual and developmental disabilities. COI buys, builds, renovates, and furnishes homes and provides 24/7 direct support care from highly trained staff who understand the individual's Habitation or Support Plan. The Township committed to and has funded three group home projects for COI; one of which was funded through the Montgomery Five payment in lieu of construction. Each group home is a four (4) bedroom home, with an aggregate of 12 bedrooms. The Township provided $50,000 per bedroom, with an aggregate total of $600,000. COI is responsible for the acquisition, renovation and operation of the group homes for very-low income qualified individuals with developmental disabilities. Additional details for the three (3) group homes is provided below.

COI – Willow Run Lane

COI owns and operates a four-bedroom special needs group home at Block 7003, Lot 1 located along Willow Run Lane. The facility is for very low-income residents and has been in operation since 2020. The group home received a total contribution of $200,000 from Montgomery Township's Trust Fund, and it has a 20-year control period from 2019 to 2039. The unit addresses COAH's regulations for alternative living arrangement credit at N.J.A.C. 5:93-5.8. The Township is seeking four credits (credit by the bedroom) to satisfy its Third Round obligation. See crediting documents provided in Appendix 24.

COI – Heather Lane

COI owns and operates a four-bedroom special needs group home at Block 4066, Lot 7 located along Heather Lane. The facility is for very low-income residents and has been in operation since 2021. The group home received a total contribution of $200,000 from Montgomery Township's Trust Fund, and it has a 30-year control period from 2021 to 2051. The unit addresses COAH's regulations for alternative living arrangement credit at N.J.A.C. 5:93-5.8. The Township is seeking four credits (credit by the bedroom) to satisfy its Third Round obligation. See crediting documents provided in Appendix 24.

COI – Belle-Mead Griggstown Road

COI owns and operates a four-bedroom special needs group home at Block 6001, Lot 8.04 located along Belle-Mead Griggstown Road. The facility is for very low-income residents and has been in operation since 2024. The group home received a total contribution of $200,000 from the Township, which was provided through the Montgomery Five payment in lieu of construction as required in the Redevelopment Plan for the Montgomery Five property. The facility has a 30-year control period from 2021 to 2051. The unit addresses COAH's regulations for alternative living arrangement credit at N.J.A.C. 5:93-5.8. The Township is seeking four credits (credit by the bedroom) to satisfy its Third Round obligation. See crediting documents provided in Appendix 24.

Tapestry Assisted Living

Assisted Living

A development which is a facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed. These units are considered age-restricted housing.

Sharbell Plainsboro, Inc. received preliminary and final major site plan approval from the Township Planning Board on July 10, 2023 to construct an Assisted Living Residence of up to 80 units with capacity for 91 beds. The development will be located on a 4.45-acre lot contiguous to the existing Sharbell-Hillside property, known as Block 28003, Lot 211 (see Appendix 25 for a copy of the Resolution of Approval). The site has imposed on it a 10% mandatory State-wide set-aside for the acceptance of Medicaid waivers by Assisted Living facilities created after 2001 that create ten affordable assisted living units. The ten units will consist of one-bedroom, moderate-income units, and they will address COAH's regulations at N.J.A.C. 5:93-5.16.

According to the Township Construction Office, building permits were applied for in 2024. The conformance items were completed recently, and construction is expected to commence soon.

Although the area's zoning standards allow up to 120 units, the approved project has been limited to 80 units with capacity for 91 beds. While the mandatory set-aside of 10% is provided, the lower number of approved units results in a lower set-aside number of 10 affordable assisted living units, rather than 12 units. Thus, the Township is seeking ten credits (credit by the bedroom) for the assisted living units to satisfy its Third Round obligation. See crediting documents confirming the number of beds provided in Appendix 25.

100% AFFORDABLE HOUSING PROJECTS

Habitat for Humanity

100% Affordable Development

A development in which all units are affordable to very-low-, low- and moderate-income households.

Habitat for Humanity, a recognized leader in providing affordable single-family housing to New Jersey residents, constructed a three-bedroom moderate-income single-family home located at Block 7002, Lot 5. The unit was sold to an income-qualified buyer, and a Certificate of Occupancy was issued on June 27, 2022 (provided in Appendix 26).

The Habitat for Humanity unit is administered through Raritan Valley Habitat for Humanity and the dwelling has a 30-year affordability control established in February 2022. A copy of the

deed restriction is provided in Appendix 26. The Township is seeking one credit for the home to satisfy its Third Round obligation

Montgomery Municipal Center Site / RPM

In accordance with the 2017 Settlement Agreement, the Township is sponsoring a 100% affordable housing project at the new Montgomery Municipal Center Site (formerly referred to as the ConvaTec. Inc. / RPM Site). The Township selected to sponsor the Municipal Building/RPM site in lieu of the 1860 House site, and a 100% affordable senior /special needs housing development will be located on the northwestern portion of the property known as Block 20001, Lot 10.05.

On December 17, 2020, the Township passed Ordinance #20-1648 adopting a Redevelopment Plan after previously designating the subject property as an Area in Need of Redevelopment pursuant to the Local Redevelopment and Housing Law at N.J.S.A. 40A:12A-1. The Redevelopment Plan specifically provides affordable housing requirements for the construction of a 100% affordable housing development and establishes a new Municipal Center Redevelopment Zone (MCRZ).

On June 28, 2021, the Township and the experienced affordable housing developer of the site ("RPM Development, LLC" or "RPM") entered into a developer's agreement for the conveyance of a subdivided portion of the Redevelopment Area for the construction of the affordable senior site. The Township and RPM subsequently entered into an amended settlement agreement on June 24, 2024. See Appendix 27 for a copy of the settlement agreements.

On August 16, 2021, RPM received preliminary major site plan and preliminary subdivision approval from the Township Planning Board to construct an age-restricted 100% affordable rental development consisting of 70 age restricted 100% affordable income rental apartment units and one manager unit. RPM pursued 9% Low Income Housing Tax credit ("LIHTC") financing for the site from HMFA, and on December 17, 2021, they received the tax credit award for the 71-unit 100% affordable, age-restricted housing development. See Appendix 27 for the LIHTC award.

On July 10, 2023, RPM received amended preliminary and final major site plan and preliminary and final major subdivision approval for the development, and subsequently received second amended preliminary and final major site plan and preliminary and final major subdivision approval on April 8, 2024. The entire future municipal complex consists of approximately 45.052 acres, 4.21 acres of which will contain the approved 100% affordable senior apartment building. See Appendix 27 for a copy of the resolutions of approval. The site is currently under construction.

According to the Tax Credit Rent Qualification Chart, all units will have one bedroom. Of the 70 age restricted 100% affordable rental apartment units, 10 will be very low-income units, five (5) of which will be non-age restricted special needs housing units, 25 will be low-income units, and 35 will be moderate-income units. RPM Development Group, an experienced affordable

housing developer and administrative agent, will administer the 100% affordable senior/special needs housing rental units. Documentation confirming the income and bedroom distribution breakdown of the units is provided in Appendix 27.

The Township is seeking 70 credits for the units at this 100% affordable housing project to satisfy its Third Round obligation.

1860 House Site – removed

The 1860 House site is located on a municipally-owned 16.19-acre plot of land, known as Block 23001, p/o Lot 13, along Montgomery Road adjacent to the "Stonebridge" continuing care retirement community owned and operated by Springpoint (f/k/a Presbyterian Homes). The 1860 House, which is occupied by the 124 Club as a support group facility, is located toward the front of the property, near Montgomery Road. In accordance with the 2017 Settlement Agreement, the Township selected to sponsor a 100% affordable housing project at the new Montgomery Municipal Center Site Municipal Building/RPM site in lieu of the 1860 House site. After further reexamination, the site is no longer being considering for future affordable housing development and is being removed from the Township's compliance plan. This change does not impact the Township's Third Round obligation, as the site was one of two options for the Township to pursue for future affordable housing development. As such, the Township still satisfies its Third Round obligation.

SATISFACTION OF THE FOURTH ROUND OBLIGATION

On January 27, 2025, Montgomery Township filed a resolution with its DJ action declaring a Fourth Round Present Need of 73 units and a Fourth Round Prospective Need of 260 units, as calculated by DCA according to the methodology described in the 2024 DCA report titled *Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background*.

In addition to satisfying the total obligation, the Township must also adhere to a minimum rental obligation, minimum family rental obligation, a maximum number of age-restricted units, a minimum very low-income requirement, a minimum number of family units, minimum number of very low-income family units, and a maximum number of bonuses.

As demonstrated in the Summary Tables at the end of this section, the Township has satisfied its Fourth Round obligation with approved and proposed inclusionary developments, extensions of expiring controls, and bonus credits.

Fourth Round Rental Obligation = 49 units

0.25 (Fourth Round obligation - bonuses)

=.25 (260 - 65)
= 48.75, round up

Fourth Round Family Rental Obligation = 25 units

0.5 (Fourth Round rental obligation)

=.5 (49)
= 24.5, round up

Fourth Round Maximum Age-Restricted = 58 units

0.30 (Fourth Round obligation - bonuses)

=.30 (260-65)
= 58.5, round down

Fourth Round Maximum Bonuses = 65

0.25(Fourth Round obligation)

= .25(260)
= 65

Fourth Round Minimum Family units = 98 units

0.50(Fourth Round obligation - bonuses)

= .50(260 - 65)
= 97.5, round up

EXTENSIONS OF CONTROLS

COAH acknowledged through its rules that the preservation of affordable housing is as important as the creation of new affordable units. This viewpoint was specifically upheld by the New Jersey Supreme Court In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing[18] concerning credit for the extension of controls (i.e., recorded covenants) restricting the units to the affordable housing market. The concept is to maintain units that would otherwise be lost to the regular housing market by the re-imposition of controls on affordability for a period of at least 30 years.

McKinley Commons

As previously discussed, McKinley Commons, also known as Montgomery Hills, is an existing inclusionary development with 35 affordable for-sale units and 60 affordable age-restricted rentals. The age-restricted units are located at Block 37003, Lots 6.840 through 6.929, and the family for-sale units are located at Block 37003, Lots 6.780 through 6.837. The entire development is within the APT/TH Apartment Townhouse Multi-Family Residential Zoning District. The affordability controls (deed restrictions) on the existing affordable units at McKinley Commons will expire between 2032 and 2034, close to the end of the Fourth Round in 2035 (see Appendix 7). In accordance with N.J.A.C. 5:97-6.14, the Township will apply credits from the extension of controls on 38 of the 60 age-restricted affordable rental units and on the 35 family for-sale units towards its 260-unit Fourth Round obligation. As the units approach the expiration date of the existing extensions of controls, the Township will reach out to the owner of the properties to obtain the necessary documentation at that time, such as deed restrictions and financing agreements. Such documentation will be included as Appendix 31.

Pursuant to the amended FHA, the Township and the owner of the properties will execute an agreement for extensions of controls on the 60 age-restricted affordable rental units and the 35 family affordable for-sale units whose controls are due to expire, in return for an estimated payment of $1,750,000 to the property owner from the Township's affordable housing trust fund. The estimated payment is calculated as follows:

- 60 age-restricted affordable rental units x $17,500/unit = $1,050,000
- 35 family affordable for-sale units x $20,000/unit = $700,000

[18] - 221 N.J. 1 (2015)

As explained further under "Inclusionary Developments," EKhan Development ("EKhan"), the developer of the Kenvue site, will provide a payment to the Township to fund the 35 extensions of controls for the family for-sale units as part of a non-contiguous cluster zone.

Although there are 60 age-restricted rentals at this site, only a maximum of 58 senior units can be counted towards the Fourth Round. As such, the Township is only claiming credits for 38 of the 60 senior units towards the Fourth Round, since the Township is also seeking credit for 20 age-restricted assisted living units from the Thrive at Montgomery redevelopment at Country Club Meadows as discussed below under "Inclusionary Developments."

Because part of these extensions of controls are for rental units, the amended FHA permits the Township to claim 0.5 bonuses per unit, for a total of 19 bonuses (38 senior affordable rental units x 0.5 = 19). Of those 19 bonuses, 16.5 will be applied towards the Fourth Round to not exceed the 65 maximum Fourth Round bonuses permitted.

This leaves 22 surplus senior rental extensions for the future round. However, since the Township will extend affordability controls on all 60 senior rental units, the cost of all 60 extensions of controls is accounted for in the Fourth Round spending plan. The Township will execute the deed restrictions on the sites.

Extension of Expiring Controls Criteria

The following criteria were established by COAH for their extension of expiring controls program (N.J.A.C. 5:97-6.14(a)-(c)). Each rule appears in italics, followed by the response. These criteria remain in place and will be met with the extensions of expiring controls proposed for the Fourth Round:

1. *The unit meets the criteria for prior-cycle or post-1986 credits set forth in* N.J.A.C. *5:97-4.2 or -4.3.*

2. *The affordability controls for the unit are scheduled to expire during the time period in which credit is sought.*

3. *The municipality shall obtain a continuing certificate of occupancy or a certified statement from the municipal building inspector stating that the restricted unit meets all code standards.*

4. *If a unit requires repair and/or rehabilitation work in order to receive a continuing certificate of occupancy or certified statement from the municipal building inspector, the municipality shall fund and complete the work. A municipality may utilize its affordable housing trust fund to purchase the unit and/or complete the necessary repair and/or rehabilitation work.*

5. *Information regarding the development and specific units, on forms provided by the Council.* Though COAH no longer exists, information on each unit is maintained in the records of the municipality.

6. *A written commitment from the owner to extend controls, or evidence that the controls have been extended, in accordance with UHAC.* Montgomery Township and the owner of the properties will execute an appropriate agreement for the extension of affordability controls for an additional 30 years starting on the date that the previous affordability controls expired. As for the for-sale units, pursuant to N.J.A.C. 5:93-9, the Township also has the option to extend the controls on the 35 affordable units via a municipal resolution. These units are 95/5 units, where the owner is required to pay the Township 95% of the profits above and beyond the affordable sales price after the deed restriction has ceased. The Township will extend the controls on each of the 35 affordable for-sale units for an additional 30 years.

7. *The proposed or filed deed restriction for the extended control period.*

8. *A pro forma for any proposed acquisition and/or rehabilitation costs.* No rehabilitation to code for the units is anticipated based on the annual fire inspections conducted by the Township.

9. *Documentation demonstrating the source(s) of funding.* The Township will use funds from its affordable housing trust fund as indicated in its Spending Plan (see Appendix 33).

10. *A municipal resolution appropriating funds or a resolution of intent to bond in the event of a shortfall of funds.*

11. *A draft or adopted operating manual that includes a description of the program procedures and administration in accordance with UHAC.*

12. *An affirmative marketing plan in accordance with UHAC.* Since the units were and continue to be occupied by low- and moderate-income households that were originally informed of units for occupancy in accordance with the Township's affirmative marketing regulations, no affirmative marketing plan for the extensions of controls is necessary.

13. *Designation of an experienced administrative agent, including a statement of his or her qualifications, in accordance with N.J.A.C. 5:96-18.* McKinley Commons already employs CGP&H, an experienced affordable housing administrative agent that meets the qualifications of N.J.A.C. 5:96-18.

Montgomery Glen

As previously discussed, Montgomery Glen, also known as Montgomery Walk, is an existing inclusionary residential development within the APT/TH Apartment Townhouse Multi-Family Residential Zoning District. The development contains 19 affordable family for-sale units at Block 37006, Lots 20.01 through 20.20. The project contains ten low-income units and nine moderate-income units. The affordability controls (deed restrictions) on the existing affordable units at Montgomery Glen will expire in 2032, close to the end of the Fourth Round in 2035 (see Appendix 8). In accordance with N.J.A.C. 5:97-6.14, the Township will apply credits from the extension of controls on the 19 family for-sale units towards its 260-unit Fourth Round obligation. As the units approach the expiration date of the existing extensions of controls, the Township will reach out to the owners in order to obtain the necessary documentation at that time, such as deed restrictions and financing agreements. Such documentation will be included as Appendix 31. As explained further under "Inclusionary Developments," Kenvue will provide a payment to the Township to fund the 19 extensions of control as part of the non-contiguous residential cluster.

Pursuant to the amended FHA, the Township and the owner of the properties will execute an agreement for extensions of controls on the 19 family affordable for-sale units whose controls are due to expire, in return for an estimated payment of $380,000 (19 family affordable for-sale units x $20,000/unit = $380,000) to the property owner from the Township's affordable housing trust fund.

Extension of Expiring Controls Criteria

The following criteria were established by COAH for their extension of expiring controls program *(*N.J.A.C. 5:97-6.14(a)-(c)). Each rule appears in italics, followed by the response. These criteria remain in place and will be met with the extensions of expiring controls proposed for the Fourth Round:

1. *The unit meets the criteria for prior-cycle or post-1986 credits set forth in* N.J.A.C. *5:97-4.2 or -4.3.*

2. *The affordability controls for the unit are scheduled to expire during the time period in which credit is sought.*

3. *The municipality shall obtain a continuing certificate of occupancy or a certified statement from the municipal building inspector stating that the restricted unit meets all code standards.*

4. *If a unit requires repair and/or rehabilitation work in order to receive a continuing certificate of occupancy or certified statement from the municipal building inspector, the municipality shall fund and complete the work. A municipality may utilize its affordable housing trust fund to purchase the unit and/or complete the necessary repair and/or rehabilitation work.*

5. *Information regarding the development and specific units, on forms provided by the Council.* Though COAH no longer exists, information on each unit is maintained in the records of the municipality.

6. *A written commitment from the owner to extend controls, or evidence that the controls have been extended, in accordance with UHAC.* Montgomery Township and the owner of the properties will execute an appropriate agreement for the extension of affordability controls for an additional 30 years starting on the date that the previous affordability controls expired. Pursuant to N.J.A.C. 5:93-9, the Township also has the option to extend the controls on the 19 affordable units via a municipal resolution. These units are 95/5 units, where the owner is required to pay the Township 95% of the profits above and beyond the affordable sales price after the deed restriction has ceased. The Township will extend the controls on each of the 19 affordable for-sale units for an additional 30 years.

7. *The proposed or filed deed restriction for the extended control period.*

8. *A pro forma for any proposed acquisition and/or rehabilitation costs.* No rehabilitation to code for the units is anticipated based on the annual fire inspections conducted by the Township.

9. *Documentation demonstrating the source(s) of funding.* The Township will use funds from its affordable housing trust fund as indicated in its Spending Plan (see Appendix 33).

10. *A municipal resolution appropriating funds or a resolution of intent to bond in the event of a shortfall of funds.*

11. *A draft or adopted operating manual that includes a description of the program procedures and administration in accordance with UHAC.*

12. *An affirmative marketing plan in accordance with UHAC.* Since the units were and continue to be occupied by low- and moderate-income households that were originally informed of units for occupancy in accordance with the Township's affirmative marketing regulations, no affirmative marketing plan for the extensions of controls is necessary.

13. *Designation of an experienced administrative agent, including a statement of his or her qualifications, in accordance with* N.J.A.C. *5:96-18.* Montgomery Glen already employs CGP&H, an experienced affordable housing administrative agent that meets the qualifications of N.J.A.C. 5:96-18.

INCLUSIONARY DEVELOPMENTS

23 Orchard

The subject property is situated at the southwestern corner of the NJSH Route 206/Orchard Road intersection. Block 28001, Lot 5.02 consist of 44.037 acres and the center and northern portions are developed with a research/ office building (85,000 sf.), associated parking areas, and a solar field. The southern and eastern portion of the site are wooded, undeveloped, and constrained by wetlands. The Beden Brook tributary traverses along the southern and eastern portion of the site.

As previously discussed, the original parcel (Block 28001, Lot 5) was subdivided in 2013 to construct The Willows at Orchard Road inclusionary affordable housing development located to the west (Block 28001, Lots 5.04 and 5.05). The Township was approached by Scannapieco Development Corporation ("Scannapieco"), the owner of the site, to redevelop a portion of the existing campus with an inclusionary housing development consisting of 180 units with a 20% set aside (or 36 affordable family rental units). As seen in the Concept Plan provided by Scannapieco, the inclusionary development will be located in the northeastern corner of Lot 5.02. The owner is in the process of renovating the existing research office building to attract new tenants and attain full occupancy. Their plan is to maintain the bulk of the existing facilities that constitute the research / office campus, but with the addition of the multifamily residential building, containing both market-rate and affordable rental dwellings. As seen in Table 34, the development will meet the income and bedroom distribution requirement under COAH's Second Round rules at N.J.A.C. 5:93-7.3 and UHAC at N.J.A.C. 5:80-26.1 with the projected breakdown as follows: the 36 affordable units will include five very low-income units, 14 low-income units, and 17 moderate-income units. Seven units will be one-bedroom units, 15 will be two-bedroom units, and 14 will be three-bedroom units.

Block 28001, Lot 5.02 is currently in the REO-1 Research, Engineer, Office Zone. A new zone will be created to replace the existing REO-1 Zone. The following standards associated with the new zone are proposed for this site to permit the development of multi-family inclusionary housing:

Proposed Zoning Ordinance: REO-1/SSIZ-5 Research, Engineering, Office / Residential Site Specific Inclusionary Zone 5

Permitted Principal Uses: Uses permitted in the REO-1 zone; multifamily apartments

Maximum Permitted Number of Dwellings: 180

Minimum Number of On-Site Affordable Dwellings: 36

Maximum Building Height: 42 feet and three stories

Other Bulk, Spatial and Design Standards for the Residential Development: TBD

TABLE 34. INCOME/BEDROOM DISTRIBUTION, 23 ORCHARD					
	1-bedroom	2-bedroom	3-bedroom	TOTAL	Percent of Total
Very-Low Income	1	2	2	**5**	**13.89%**
Low-Income	1	7	6	**14**	**38.89%**
Moderate-Income	5	6	6	**17**	**47.22%**
Total	**7**	**15**	**14**	**36**	**100.00%**
Percent of Total	**19.44%**	**41.67%**	**38.89%**	**100.00%**	

The Township is seeking credit for 36 units and 18 redevelopment bonuses (for a total of 54 credits) to satisfy Montgomery Township's Fourth Round obligation.

In accordance with the requirements of N.J.A.C 5:93-5.3, municipalities shall designate sites that are available, suitable, developable, and approvable (defined in N.J.A.C 5:93-1.3) and align with the SDRP, per N.J.A.C. 5:93-5.4. The subject property addresses these conditions as follows:

- *Available*. Sites that are "available" have clear title and are free of encumbrances which preclude development. To our knowledge, there are no legal encumbrances that preclude development of this site for affordable housing.

- *Approvable*. Sites that are "approvable" can be developed in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site. The site is currently in the REO-1 Research, Engineering and Office Zoning District, where residential uses are not permitted. The Township intends to use the redevelopment process to add residential as a permitted use on this lot, in order to allow the developer to submit an application for the development that will not require variances, exceptions or waivers.

- *Developable*. Sites that are "developable" have access to appropriate water and sewer infrastructure and are consistent with the areawide water quality management plan. The site is located in the Skillman Village sewer service area, and in the NJ American Water – Raritan water purveyor area. The Township is in the process of analyzing water and sewer capacity to accommodate the proposed development. In the event that a water and/or sewer capacity issue comes to light, the Township reserves the right to amend this plan to take such issues into account.

- *Suitable*. Sites that are "suitable" are adjacent to compatible land uses, have access to appropriate streets, and are consistent with the environmental policies of N.J.A.C. 5:93-4.

  - *The site is adjacent to compatible land uses and has access to appropriate streets*. The property is situated along Orchard Road and NJSH Route 206 and will have driveway access on Orchard Road. The Beden Brook tributary is located to the south, and the existing Hillside at Montgomery inclusionary development is located beyond that. Residential uses, a commercial property, and Township-owned land are located to the east, and the existing Willows at Orchard Road inclusionary development is located to the west. The Montgomery Township Municipal building is located to the northwest across Orchard Road, and single-family dwellings are located to the north across the Route 206/Orchard Road intersection.

  - *The site can be developed in accordance with R.S.I.S*. Development of the site will be consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21-1 *et seq*.

  - *The site is located in a Smart Growth Planning Area*. The 2001 Adopted State Plan Map and the 2025 Preliminary State Plan Map designates the property as the Fringe Planning Area (PA-3), which encourages development in designated centers or, per COAH's rules at N.J.A.C. 5:93-5.4(b), outside of a center COAH or the Court "*may permit such a site if infrastructure is available or can be easily extended from PA2*".

  - *The development is not within the jurisdiction of a Regional Planning Agency or CAFRA*. The site is located outside of the Pinelands, CAFRA, Highlands, or Meadowlands. While the site is located within the Delaware and Raritan ("D&R") Canal Commission Zone B, it is not expected to preclude the proposed affordable housing development.

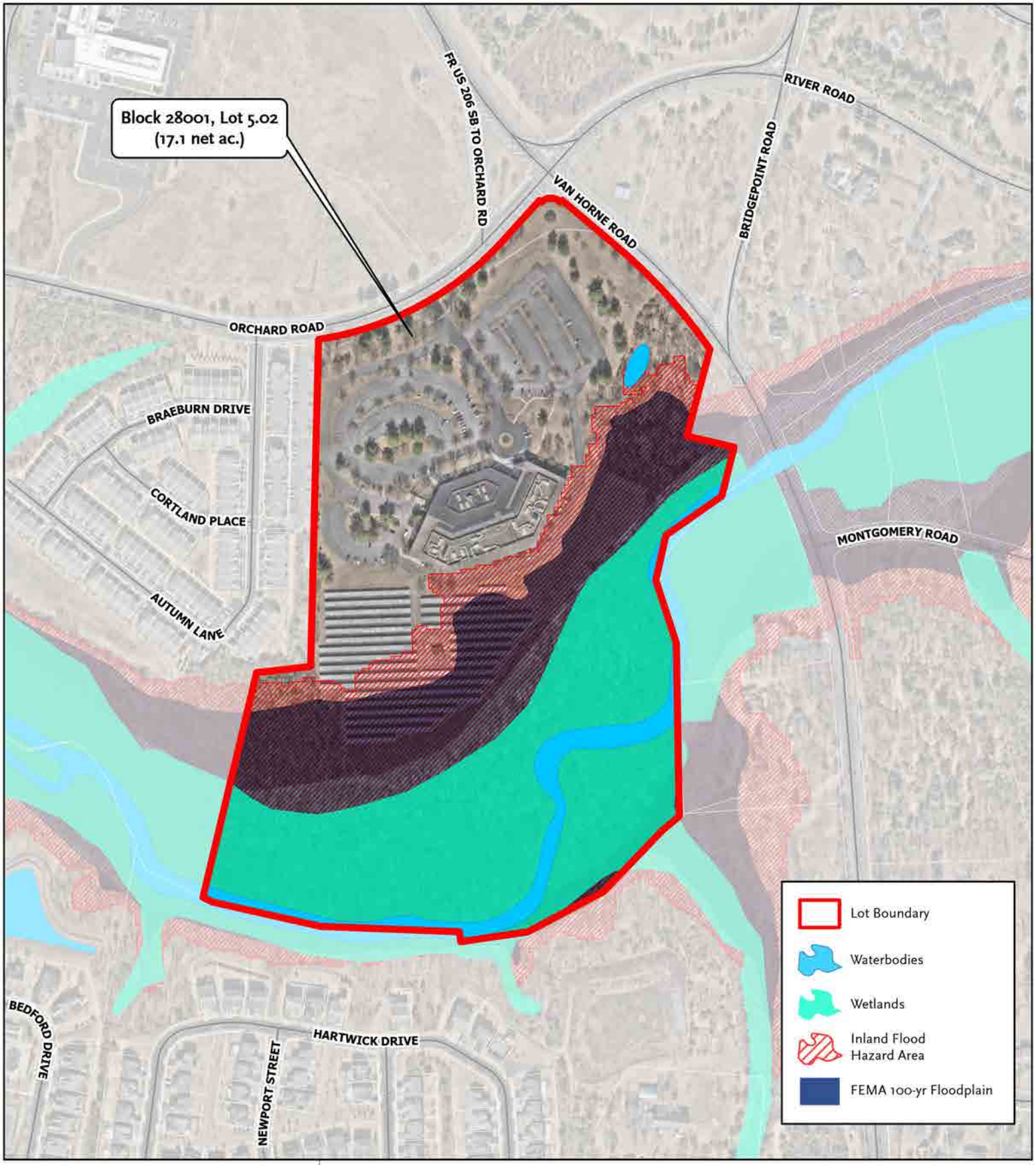
  - *The site will comply with all applicable environmental regulations*. The site will comply with all applicable environmental regulations. The southern and eastern portions of the site are encumbered by wetlands, and the 100-year floodplain and the Inland Flood Hazard Area extend along the south and east. The site contains no steep slopes, Category One streams, or known environmental contamination. As seen in the Concept Plan on the following page, the site will be located outside the wetlands areas and outside the 100-year floodplain and the Inland Flood Hazard Area. As such, these environmental constraints are not expected to preclude the proposed affordable housing development.

  - *The site will not affect any historic or architecturally important sites and districts*. There are no historic or architecturally important sites or buildings on the property or in the immediate vicinity that will affect the development of the affordable housing.

In addition to site suitability, the developer of the affordable housing project will be required to meet the applicable requirements of UHAC:

- *Administrative Entity*. The Township will require that the residential developer engage an administrative agent, as required by Chapter 15 of the Township Code as well as state regulation, to administer and affirmatively market the units at the development, income-qualify applicants, place minimum 40-year affordability controls on the family rental units, and provide long-term administration of the units in accordance with rules at N.J.A.C. 5:93-1 et seq. and N.J.A.C. 5:80-26.1 et seq.
- *Very Low-, Low- and Moderate-Income Distribution*. At least half of the affordable units developed will be affordable to low-income households, with at least 13% affordable to very low-income households.
- *Affirmative Marketing*. The affordable units will be affirmatively marketed in accordance with N.J.A.C. 5:93-1 et seq. and N.J.A.C. 5:80-26.1 et seq.
- *Controls on Affordability*. As noted, the affordable units will have minimum 40-year affordability controls.
- *Bedroom Distribution*. The distribution of the number of bedrooms will follow UHAC regulations.

A concept plan for how the redevelopment of this site might be accomplished, supplied by Scannapieco, is included in the following page.



0 125 250 500 Feet

Clarke Caton Hintz

Architecture

Planning

Landscape Architecture

Montgomery Township Fourth Round

Housing Element & Fair Share Plan

23 Orchard Inclusionary Site

Block 28001, Lot 5.02

LOCATION:

Montgomery Township,
Somerset County, NJ

DATE:

June 2025

Aerial Imagery
Nearmap (June 20, 2024)

Streams/Waterbodies
NJDEP (2015)

Wetlands/Forest
NJDEP (2020)

100-Yr Flood/Flood Hazard
FEMA (2024)



Inclusionary Multifamily Development

Total Tract Area: 44.037 Acres
Total Number of Dwellings: 180
Number of Affordable Dwellings: 34
Total Number of PArking Spaces for Dwellings: 180

Source
23 Orchard Concept Plan, prepared by Scannapieco Development Corporation

NOT TO SCALE

Clarke Caton Hintz
Architecture
Planning
Landscape Architecture

23 Orchard Concept Plan

LOCATION:
Montgomery Township, Somerset County, New Jersey

DATE:
June 2025



Clarke Caton Hintz

Architecture
Planning
Landscape Architecture

23 Orchard Concept Plan Rendering A

LOCATION:
Montgomery Township, Somerset County, New Jersey

DATE:
June 2025

Source
23 Orchard Concept Plan, prepared by
Scannapieco Development Corporation



Clarke Caton Hintz

Architecture
Planning
Landscape Architecture

23 Orchard Concept Plan Rendering B

LOCATION:
Montgomery Township, Somerset County, New Jersey

DATE:
June 2025

Source
23 Orchard Concept Plan, prepared by
Scannapieco Development Corporation

Kenvue

The subject property is situated at the southwestern corner of the Grandview Road/Belle-Mead Blawenburg Road (CR 601) intersection. The site is 382.771 acres and consists of Block 14001, Lot 2 and Block 13001, Lot 15. Lot 2 is developed with the former headquarters of the Kenvue Skillman Campus, and Lot 15 contains farm qualified land. The developer of the site (EKhan Development or "EKhan") approached the Township to redevelop the site with an inclusionary residential development consisting of 417 total units with a 29.7% set aside (or 124 affordable units). Kenvue is planned as a non-contiguous residential cluster, which would include the redevelopment of the former Kenvue campus and the existing multifamily developments of McKinley Commons and Montgomery Glen, both of which contain existing affordable family for-sale units whose affordability controls will expire in the Fourth Round. This linkage allows the Kenvue redevelopment to address its affordable set-aside with both onsite units and with existing units at the other two sites. This results in the creation of 124 affordable units as a hybrid that allows for the creation of more open space on the Kenvue site. The proposed affordable units would consist of the following:

- 70 affordable family rental units constructed on site
- 54 extensions of control: Kenvue will make a total payment of no less than $1,080,000 to fund 35 extensions of control on the family for-sale units at McKinley Commons and 19 extensions of control on the family for-sale units at Montgomery Glen.

Block 14001, Lot 2 (to contain the proposed development) is currently located in the LM Limited Manufacturing Zone. The eastern half of Block 13001, Lot 15 is located in the R-5 Single-Family Residential Zone and the western half is located MR Mountain Residential Zone. A new zone will be created to replace the existing LM Zone. The following standards associated with the new zone are proposed for this site to permit the development of multi-family inclusionary housing:

Proposed Zoning Ordinance: SSIZ-6 Research, Engineering, Office / Residential Site Specific Inclusionary Zone 6

Permitted Principal Uses: Multifamily Residential Dwellings on Block 14001, Lot 2

Maximum Permitted Number of Dwellings: 417

Minimum Number of On-Site Affordable Dwellings: 70

Minimum Number of Off-Site Affordable Dwellings: 54

Maximum Building Height: 42 feet and three stories

Other Bulk, Spatial and Design Standards: TBD

Mandatory Requirements: Block 13001, Lot 15 shall be dedicated to Montgomery Township.

As seen in Table 35. the project will meet the income and bedroom distribution requirement under COAH's Second Round rules at N.J.A.C. 5:93-7.3 and UHAC at N.J.A.C. 5:80-26.1 with the projected breakdown as follows: the 70 affordable units to be constructed on site will include 12 very low-income units, 29 low-income units, and 29 moderate-income units. Six units will be one-bedroom units, 29 will be two-bedroom units, and 35 will be three-bedroom units.

TABLE 35. INCOME/BEDROOM DISTRIBUTION, KENVUE					
	1-bedroom	2-bedroom	3-bedroom	TOTAL	Percent of Total
Very-Low Income	2	5	5	**12**	**17.14%**
Low-Income	2	12	15	**29**	**41.43%**
Moderate-Income	2	12	15	**29**	**41.43%**
Total	**6**	**29**	**35**	**70**	**100.00%**
Percent of Total	**8.57%**	**41.43%**	**50.00%**	**100.00%**	

For the affordable family rental units to be constructed on site, the Township is seeking credit for 70 units and 30 redevelopment bonuses (capped), for a total of 100 credits, to satisfy Montgomery Township's Fourth Round obligation. Additionally, the Township is seeking 54 credits for the extensions of control to satisfy Montgomery Township's Fourth Round obligation, which will consist of 35 extensions of control on the family for-sale units at McKinley Commons and 19 extensions of control on the family for-sale units at Montgomery Glen.

In accordance with the requirements of N.J.A.C 5:93-5.3, municipalities shall designate sites that are available, suitable, developable, and approvable (defined in N.J.A.C 5:93-1.3) and align with the SDRP, per N.J.A.C. 5:93-5.4. The subject property addresses these conditions as follows:

- *Available*. Sites that are "available" have clear title and are free of encumbrances which preclude development. To our knowledge, there are no legal encumbrances that preclude development of this site for affordable housing.

- *Approvable*. Sites that are "approvable" can be developed in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site. Block 13001, Lot 15 is located in the R-5 Single-Family Residential Zone, and Block 14001, Lot 2 is located in the LM Limited Manufacturing Zone, where multifamily residential uses are not permitted. The Township intends to use the redevelopment process to add multifamily

residential as a permitted use on these lots, in order to allow the developer to submit an application for the development that will not require variances, exceptions or waivers.

- *Developable*. Sites that are "developable" have access to appropriate water and sewer infrastructure and are consistent with the areawide water quality management plan. The entirety of the site is within in the NJ American Water – Raritan water purveyor area, and the majority of the site is in the Skillman Village sewer service area. The site has existing public sanitary sewer allocations. The Township is in the process of analyzing water and sewer capacity to accommodate the proposed development. In the event that a water and/or sewer capacity issue comes to light, the Township reserves the right to amend this plan to take such issues into account.

- *Suitable*. Sites that are "suitable" are adjacent to compatible land uses, have access to appropriate streets, and are consistent with the environmental policies of N.J.A.C. 5:93-4.

    - *The site is adjacent to compatible land uses and has access to appropriate streets*. The property is situated along Grandview Road and CR 206 and will have direct driveway access on Grandview Road. Residential, farm qualified land, and Township-owned land is located to the west, single-family dwelling and additional Township owned land is located to the north, farm qualified land and residential uses are located to the east across the Conrail railroad, and additional farm properties are located to the south.

    - *The site can be developed in accordance with R.S.I.S*. Development of the site will be consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21-1 *et seq*.

    - *The site is located in a Smart Growth Planning Area*. The 2001 Adopted State Plan Map and the 2025 Preliminary State Plan Map designates the majority of the property as the Rural Planning Area (PA-4) and a portion of Block 13001, Lot 15 as the Environmentally Sensitive Planning Area (PA-5). The residential portion of the development will be located in PA-4. Per COAH's rules at N.J.A.C. 5:93-5.4(c),

        > *"Where the Council determines that a municipality has not created a realistic opportunity within the development boundaries of a center to accommodate that portion of the municipal inclusionary component that the municipality process to address within the municipality, the Council shall require the municipality to identify an expanded center(s) or a new center(s) and submit the expanded or new center(s) to the State Planning Commission for designation."*

      While the site is not located within a designated center within the State Development and Redevelopment Plan, site has been previously developed, it is underutilized, and the proposed inclusionary development presents a very good

utilization of the site. Additionally, the site already contains water and sewer infrastructure to support a large-scale development, and it has existing public sanitary sewer allocations. As previously discussed, the site is entirely within the NJ American Water – Raritan water purveyor area, and the majority of Block 14001, Lot 2 (to contain the proposed development) is in the Skillman Village sewer service area (approximately 86%). The Township is in the process of analyzing water and sewer capacity to accommodate the proposed development. In the event that a water and/or sewer capacity issue comes to light, the Township reserves the right to amend this plan to take such issues into account.

- *The development is not within the jurisdiction of a Regional Planning Agency or CAFRA*. The site is located outside of the Pinelands, CAFRA, Highlands, or Meadowlands. The site is located within the Delaware and Raritan Canal Commission (DRCC) Review Zone B and any development proposal will require a Certificate of Approval from the DRCC.

- *The site will comply with all applicable environmental regulations*. The site will comply with all applicable environmental regulations. The site contains no Category One streams or known environmental contamination that could prevent its development with the proposed housing project. Although portions of the site are constrained by wetlands and waterbodies, approximately 81.3% of the site is not constrained. The existing constraints are not expected to preclude the proposed affordable housing development.

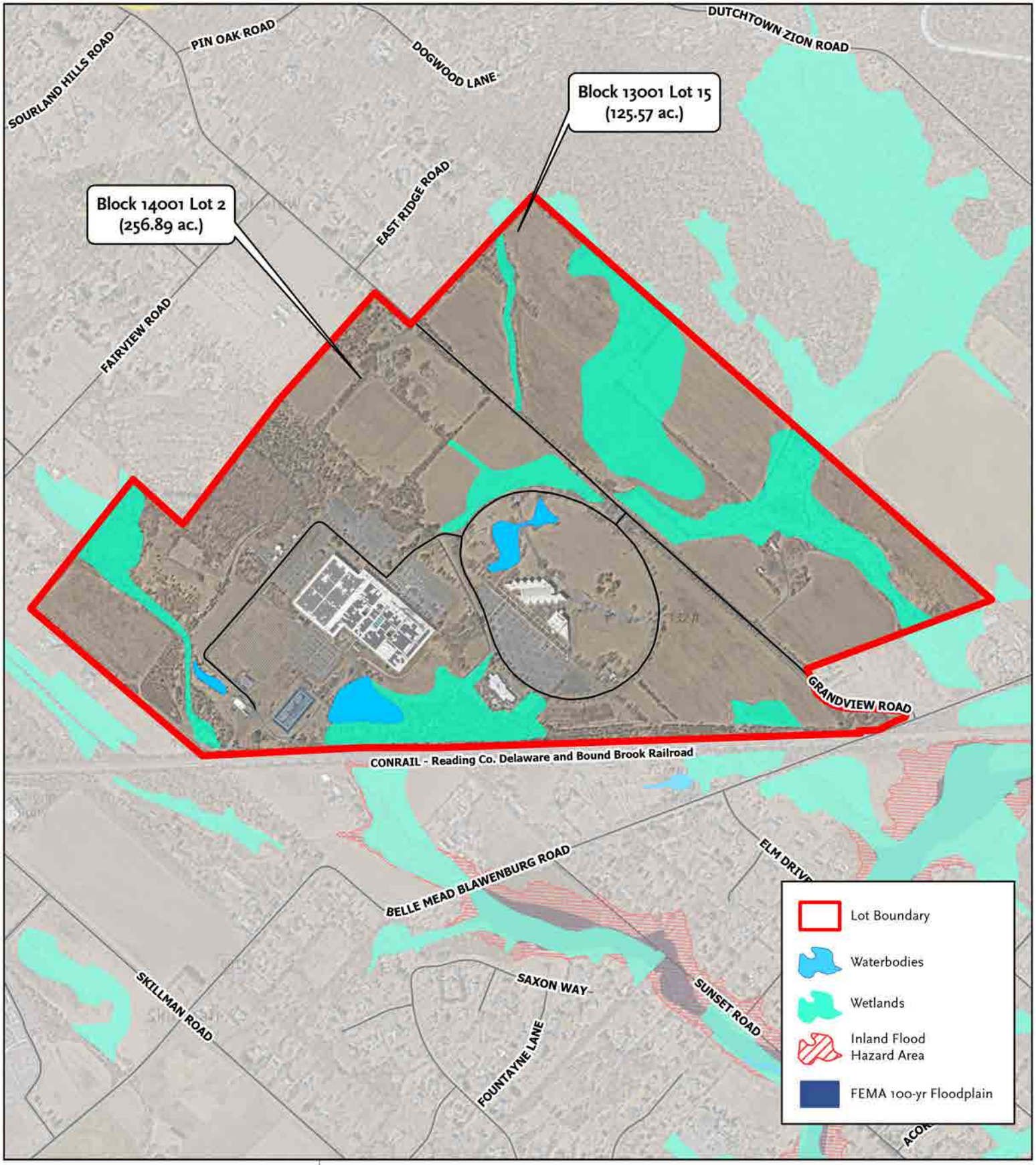
- *The site will not affect any historic or architecturally important sites and districts.* There are no historic or architecturally important sites or buildings on the property or in the immediate vicinity that will affect the development of the affordable housing.

In addition to site suitability, the developer of the affordable housing project will be required to meet the applicable requirements of UHAC:

- *Administrative Entity*. The Township will require that the residential developer engage an administrative agent, as required by Chapter 15 of the Township Code as well as state regulation, to administer and affirmatively market the units at the development, income-qualify applicants, place minimum 40-year affordability controls on the rental units, and provide long-term administration of the units in accordance with rules at N.J.A.C. 5:93-1 et seq. and N.J.A.C. 5:80-26.1 et seq.
- *Very Low-, Low- and Moderate-Income Distribution*. At least half of the affordable units developed will be affordable to low-income households, with at least 13% affordable to very low-income households.
- *Affirmative Marketing*. The affordable units will be affirmatively marketed in accordance with N.J.A.C. 5:93-1 et seq. and N.J.A.C. 5:80-26.1 et seq.

- *Controls on Affordability*. As noted, the affordable units will have minimum 40-year affordability controls.
- *Bedroom Distribution*. The distribution of the number of bedrooms will follow UHAC regulations.

A concept plan for how the redevelopment of this site might be accomplished, supplied by the developer, is included in the following page.



0 300 600 1,200 Feet

Clarke Caton Hintz

Architecture

Planning

Landscape Architecture

Montgomery Township Fourth Round
Housing Element & Fair Share Plan

Kenvue Inclusionary Site

Block 14001, Lot 2 and Block 13001, Lot 15

LOCATION:
Montgomery Township,
Somerset County, NJ

DATE:
June 2025

Aerial Imagery
Nearmap (June 10, 2024)

Steep Slopes
NJOGIS (2019)

Stream/Waterbodies
NJDEP (2015)

Wetlands/Forest
NJDEP (2020)

100-Yr Flood/Flood Hazard
FEMA (2024)

CONCEPT PLAN

KENVUE SKILLMAN CAMPUS
MIXED USE COMMUNITY

TOWNSHIP OF MONTGOMERY, SOMERSET COUNTY, N. J.
SCALE : 1" = 150'
DATE : 05/12/25
REV.: 05/31/25

HeuserDESIGN
30 Shadyhill Rd
Moylan, PA 19065
Planning | Site Design

DEVELOPMENT PROGRAM

GENERAL	
MIN. TRACT AREA	256.89 Acres +/-
• Critical Areas	(-) 40.9 Acres +/-
NET TRACT AREA (NTA)	216.0 Acres +/-
PRIMARY PASSIVE OPEN SPACE	217.9 Acres
PRIMARY OPEN SPACE PERCENTAGE	84.8%
MARKET RATE RESIDENTIAL COMMUNITY	
TOTAL DWELLING UNITS	417 DU
1 Single Family Detached Lots	165 DU
2 Single Family Semi-detached Duplexes	90 DU
3 Single Family Attached Carriage Homes	92 DU
C.O.A.H. Stacked Flats	70 DU
C.O.A.H. Units to be integrated into the Carriage Home Community & not in one Area.	
MIN. LOT SIZES	
• Single Family Detached Lots	9,375 SF
• Single Family Semi-detached Duplexes	4,600 SF
• Single Single Family Attached Carriage Homes	2,760 SF
MIN. LOT DEPTHS	
• Single Family Detached Lots	125'
• Single Family Semi-detached Duplexes	115'
• Single Single Family Attached Carriage Homes	115'
MIN. LOT WIDTHS	
• Single Family Detached Lots	75'
• Single Family Semi-detached Duplexes	40'
• Single Single Family Attached Carriage Homes	24'
MIN. YARDS	
• Front	20'
• Side	5' / 15' Both
• Side (Duplexes)	12'
• Rear	35'
MAX. UNIT FOOTPRINTS	
• Single Family Detached Lots	60' x 70'
• Single Family Semi-detached Duplexes	28' x 60'
• Single Single Family Attached Carriage Homes	24' x 60'
• C.O.A.H. Stacked Flats	22' x 48' (2 Units)



Village Shopper (Village Walk at Montgomery)

As previously discussed in the Third Round section, the Village Shopper site, currently referred to as Village Walk at Montgomery received Planning Board approvals to construct a mixed use inclusionary development including 11 family affordable rental apartments at a 20% set-aside. The project is currently under construction, and in accordance with the requirements of the Redevelopment Plan adopted on April 17, 2025, an additional one-bedroom, moderate income unit affordable housing unit will be provided as part of the Village Walk development. See Appendix 22 for a copy of the Redevelopment Plan. Additional details on the affordable family rental units are provided under the Third Round section.

The Township is seeking one credit for the additional affordable family rental unit to satisfy its Fourth Round obligation.

Thrive at Montgomery (Country Club Meadows Senior Living Redevelopment)

This property consists of the northern, undeveloped portion of Block 4020, Lot 1. Efforts to develop the northern portion of the site have faced challenges since its initial attempts began in the 1980s due to sewer capacity and economic conditions. Despite various attempts to develop the site throughout the years, several factors in connection with the location of the site precluded its development. While the surrounding areas have experienced development, the property itself has remained vacant and undeveloped. We note that the southern, developed portion of the site contains The Meadows at Montgomery senior living community consisting of two three-story buildings containing age-restricted apartments.

The site has undergone preliminary investigation per the Local Redevelopment and Housing Law, the public hearing has been held by the Planning Board, recommendation made to the Township Committee and the site designated an area in need of non-condemnation redevelopment. On April 17, 2025, the Township passed Ordinance #25-1750, adopting a Redevelopment Plan for the site. The site is envisioned to be developed with an inclusionary senior assisted living facility and provides the opportunity for a maximum of 196 dwelling units of which 20 would be affordable units. A maximum of 65% of the units shall be independent living units, a minimum of 20% shall be assisted living units, and a minimum of 10% shall be memory care units.

Additionally, the Redevelopment Plan includes provisions for affordable housing requirements as part of its mandatory components. Specifically,

> *"A minimum of 10 assisted living units shall be semi-private units containing a minimum of 20 Medicaid- eligible beds. To ensure that all beds within these units qualify to receive an individual affordable dwelling credit, each of these rooms shall be restricted to occupancy by unrelated individuals, thus producing two affordable housing credits from each unit."* (page 9 of the Redevelopment Plan).

In accordance with the requirements of N.J.A.C 5:93-5.3, municipalities shall designate sites that are available, suitable, developable, and approvable (defined in N.J.A.C 5:93-1.3) and align with the SDRP, per N.J.A.C. 5:93-5.4. The subject property addresses these conditions as follows:

- *Available*. Sites that are "available" have clear title and are free of encumbrances which preclude development. The site is vacant and predominantly undeveloped. To our knowledge, there are no legal encumbrances that preclude development of this site for affordable housing. The site is owned by Country Club Meadows, LLC, the owner of the Meadows at Montgomery senior living development along the southern portion of the site.

- *Approvable*. Sites that are "approvable" can be developed in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site. The site is currently in the Country Club Meadows Senior Living Redevelopment Area, which permits senior living facilities.

- *Developable*. Sites that are "developable" have access to appropriate water and sewer infrastructure and are consistent with the areawide water quality management plan. The site is in the Pike Brook sewer service area, and in the NJ American Water – Raritan water purveyor area. The Township's Engineering Department has confirmed that there is adequate capacity to accommodate the additional 196 units from this site.

- *Suitable*. Sites that are "suitable" are adjacent to compatible land uses, have access to appropriate streets, and are consistent with the environmental policies of N.J.A.C. 5:93-4.

    - *The site is adjacent to compatible land uses and has access to appropriate streets*. The property is situated along Scarborough Road and NJSH Route 206 and will have direct driveway access on Scarborough Road. Properties to the south contain The Meadows at Montgomery senior loving community, and a single-family residential development is located beyond that. A single-family dwelling and commercial properties are located to the west across the railroad tracks, and vacant land is located to the northeast across NJSH Route 206. A detention basin and forested land is located to the east across Scarborough Road.

    - *The site can be developed in accordance with R.S.I.S*. Development of the site will be consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21-1 *et seq*.

    - *The site is located in a Smart Growth Planning Area*. The site is located in a Smart Growth planning area. The 2001 Adopted State Plan Map and the 2025 Preliminary State Plan Map designates the property as the Suburban Planning

Area (PA-2), where development and redevelopment is preferred and which is also a preferred location for affordable housing development.

- *The development is not within the jurisdiction of a Regional Planning Agency or CAFRA*. The site is located outside of the Pinelands, CAFRA, Highlands, or Meadowlands. While the site is located within the Delaware and Raritan ("D&R") Canal Commission Zone B, it is not expected to preclude the proposed affordable housing development.

- *The site will comply with all applicable environmental regulations*. The site will comply with all applicable environmental regulations. The site contains no steep slopes, wetlands, Category One streams, or known environmental contamination that could prevent its development with the proposed housing project.

- *The site will not affect any historic or architecturally important sites and districts.* There are no historic or architecturally important sites or buildings on the property or in the immediate vicinity that will affect the development of the affordable housing.

- *Site Control (availability)*. The site has no known title defects or deed restrictions that preclude development of affordable housing.

A concept plan for how the redevelopment of this site might be accomplished is included in the Redevelopment Plan provided as Appendix 30.

The Township is seeking credit for 20 affordable assisted living units to satisfy Montgomery Township's Fourth Round obligation.



0 75 150 300 Feet

Clarke Caton Hintz

Architecture

Planning

Landscape Architecture

Montgomery Township Fourth Round
Housing Element & Fair Share Plan

Thrive at Montgomery Inclusionary Site

Portion of Block 4020, Lot 1

LOCATION:
Montgomery Township,
Somerset County, NJ

DATE:
June 2025

Aerial Imagery
Nearmap (June 20, 2024)

Wetlands/Forest
NJDEP (2020)

Fourth Round Bonuses, Maximum of 65 Bonuses –

New types of bonuses are permitted in the Fourth Round as set forth in the amended FHA. Pursuant to N.J.S.A. 52:27D-311.k(6), the 107 total affordable housing units to be developed at the three (3) inclusionary sites are eligible for up to 48.5 bonuses (capped) for being constructed on land that is or was previously developed and utilized for retail, office, or commercial space. Utilizing Local Redevelopment and Housing Law (LRHL) the sites will be designated as a redevelopment area for the provision of affordable housing.

Additionally, pursuant to N.J.S.A. 52:27D-311.k(7), the 38 extensions of control on the affordable senior rental units at the existing McKinley Commons site addressing the Fourth Round are eligible for up to 16.5 Fourth Round bonuses (up to the 65 maximum bonuses).

TABLE 36. SATISFACTION OF THE PRIOR ROUND & THIRD ROUND OBLIGATIONS										
					Prior Round: 307 units			Third Round: 616 units		
Program	Rental	Senior	Family	Total Units	Units	Bonus Credits	Total Credits	Units	Bonus Credits	Total Credits
Special Needs										
Crawford Transitional Housing	x			7	7	0	7			
Devereux Group Home	x			4	4	0	4			
Delta Comm Support Group Home	x			3	3	0	3			
Allies Group Home	x			6				6	0	6
Community Options Group Home – Willow Run Lane	x			4				4	0	4
Community Options Group Home – Heather Lane	x			4				4	0	4
Community Options Group Home – Belle-Mead Griggstown Road	x			4				4	0	4
Inclusionary Housing Developments										
McKinley Comm. / Montgomery Hills	x	x		60	60	0	60			
McKinley Comm./Montgomery Hills			x	35	35	0	35			
Montgomery Glen			x	19	19	0	19			
Pike Run (Bellmead)	x		x	210	102	77, cap	179	108	108	216
The Willows at Orchard Road (JER Herring Orchard)	x		x	40				40	40	80
Sharbell-Hillside	x		x	23				23	6, cap	29

TABLE 36. SATISFACTION OF THE PRIOR ROUND & THIRD ROUND OBLIGATIONS										
					Prior Round: 307 units			Third Round: 616 units		
Program	Rental	Senior	Family	Total Units	Units	Bonus Credits	Total Credits	Units	Bonus Credits	Total Credits
Railsedge/Blawenburg Village	x		x	3				3	0	3
Grove at Montgomery (Country Club Meadows)	x		x	27				27	0	27
Trap Rock / Haven at Princeton			x	32				32	0	32
Apartments at Montgomery Crossing (PIRHL)	x		x	86				86	0	86
The Somerset at Montgomery (DeVan / VanCleef)	x		x	23				23	0	23
Harlingen Village	x		x	11				11	0	11
Village Shopper (Village Walk at Montgomery)	x		x	11				11	0	11
Blawenburg Village Square – removed	x		x	0				0	0	0
Assisted Living										
Tapestry Assisted Living	x	x		10				10	0	10
100% Affordable Housing Developments										
Habitat for Humanity			x	1				1	0	1
Montgomery Municipal Center Site / RPM (65 of 70 senior rental)	x	x		65				65	0	65
Montgomery Municipal Center Site / RPM (5 of 70 special needs)	x			5				5	0	5
			Total	*693*	*230*	*77*	*307*	*463*	*154*	*617*

TABLE 36. SATISFACTION OF THE PRIOR ROUND & THIRD ROUND OBLIGATIONS										
Program	Rental	Senior	Family	Total Units	Prior Round: 307 units			Third Round: 616 units		
					Units	Bonus Credits	Total Credits	Units	Bonus Credits	Total Credits
									Third Round Surplus Units	1

TABLE 37. SATISFACTION OF THE FOURTH ROUND OBLIGATION							
Program	Rental	Senior	Family	Total Units	Fourth Round: 260 units Units	Bonus Credits	Total Credits
Extensions of Expiring Controls							
McKinley Court (38 of 60 senior units)	x	x		38	38	16.5, cap	54.5
McKinley Commons (Kenvue Inclusionary)			x	35	35	-	35
Montgomery Glen (Kenvue Inclusionary)			x	19	19	-	19
Inclusionary Housing Developments							
23 Orchard	x		x	36	36	18	54
Kenvue	x		x	70	70	30, cap	100
Village Walk	x		x	1	1	0.5	1.5
Thrive Redevelopment	x	x		20	20	0, cap	20
			Total	***209***	***219***	***65***	***284***
			Fourth Round Surplus Credits and Bonuses		**-**	***10.4***	***14***

TABLE 38. PRIOR ROUND CREDIT SUMMARY	Required	Provided
Prior Round Total Credits	307	307
Prior Round Total Units		230
Prior Round Rental	77 (min.)	176
Prior Round Senior	76 (max.)	60

TABLE 39. THIRD ROUND CREDIT SUMMARY	Required	Provided
Third Round Total Credits	616	617
Third Round Total Units		463
Third Round Rental	154 (min.)	430
Third Round Family Rental	77 (min.)	330
Third Round Senior	154 (max.)	77
Third Round Family	231 (min.)	363

TABLE 40. FOURTH ROUND CREDIT SUMMARY		
	Required	Provided
Fourth Round Total Credits	260	284
Fourth Round Total Units		219
Fourth Round Rental	49 (min.)	165
Fourth Round Family Rental	25 (min.)	107
Fourth Round Senior	58 (max.)	58
Fourth Round Family	98 (min.)	161

VERY LOW-INCOME UNITS – OVERALL PRIOR, THIRD, FOURTH ROUND CUMULATIVE CALCULATION

Pursuant to the amended FHA (P.L. 2008, c.46), municipalities must ensure that at least 13% of affordable housing units approved and constructed (or to be constructed) after July 17, 2008 are available to very low-income households. Thus, as seen in Table 42 below, overall, a total of 479 affordable units approved and constructed or to be constructed to address a current Township fair share obligation generate a 63-unit very low-income requirement, which the Township has addressed with 102 very low-income units constructed or approved, representing approximately 21% of the 479 total affordable units. Table 42 summarizes the Township's affordable housing mechanisms that generate and address the very low-income requirement.

TABLE 41. OVERALL CUMULATIVE PRIOR, THIRD AND FOURTH ROUNDS VERY LOW-INCOME UNITS APPROVED AND CONSTRUCTED (TO BE CONSTRUCTED) SINCE JULY 17, 2008

Mechanism	Total Units Generating VLI Obligation	Very Low-Income Units Required	Very-Low Income Units Provided	Very-Low Income Units to be Provided
The Willows at Orchard Road (JER Herring Orchard)	40	5.2	8	-
Hillside at Montgomery (Sharbell-Hillside)	23	2.99	3	-
Grove at Montgomery (Country Club Meadows)	27	3.51	4	-
Trap Rock / Haven at Princeton	32	4.16	-	5
Allies Inc. Group Home	6	0.78	-	6
Community Options Group Home – Willow Run Lane	4	0.52	4	-
Community Options Group Home – Heather Lane	4	0.52	4	-
Community Options Group Home – Belle-Mead Griggstown Road	4	0.52	4	-
Apartments at Montgomery Crossing (PIRHL)	86	11.18	14	-

TABLE 41. OVERALL CUMULATIVE PRIOR, THIRD AND FOURTH ROUNDS VERY LOW-INCOME UNITS APPROVED AND CONSTRUCTED (TO BE CONSTRUCTED) SINCE JULY 17, 2008				
Mechanism	**Total Units Generating VLI Obligation**	**Very Low-Income Units Required**	**Very-Low Income Units Provided**	**Very-Low Income Units to be Provided**
The Somerset at Montgomery (DeVan / VanCleef)	23	2.99	3	-
Harlingen Village	11	1.43	-	2
Village Shopper (Village Walk at Montgomery)	12	1.56	-	2
Tapestry Assisted Living	10	1.3	-	-
Habitat for Humanity	1	0.13	-	-
Montgomery Municipal Center Site / RPM	70	9.1	-	10
23 Orchard	36	4.68	-	5
Kenvue	70	9.1	-	8
Thrive Redevelopment	20	2.6	-	20
Total	***469***	***62.27 round up to 63 (13%)***	***102 (21.29%)***	

In addition, per the more recently amended FHA (P.L. 2024, c.2) at N.J.S.A. 52:27D-329.1, at least half of very low-income units addressing a Fourth Round Prospective Need must be "available for families with children." Thus, for the Fourth Round, Montgomery Township is required to provide 16 very low-income units, eight of which must be available to families as shown in the calculations below.

Minimum Fourth Round Very Low-Income Units = **17 units**

0.13 (Fourth Round units provided) = .13 (126) = 16.38, round up

Minimum Fourth Round Very Low-Income Family Units = **9 units**

0.50 (Fourth Round very low-income requirement) = 0.50 (17) = 8.5, round up

The Township exceeds the minimum very low-income unit requirement by providing 33 very low-income units from the proposed inclusionary developments at 23 Orchard, Kenvue, Village Walk, and Thrive at Montgomery. Additionally, the Township satisfies the minimum very low-income unit requirement for families with children by providing 14 very low-income units from the 23 Orchard and Kenvue inclusionary developments that have two or three bedrooms.

INCOME DISTRIBUTION

INCOME AND BEDROOM DISTRIBUTION

Under COAH's Second Round rules at N.J.A.C. 5:93-7.3 and UHAC at N.J.A.C. 5:80-26.3(b) (revised through December 19, 2024), non-age-restricted affordable units must adhere to the following bedroom distribution:

- No more than 20% may be one-bedroom or efficiency units;
- At least 30% must be two-bedroom units;
- At least 20% must be three-bedroom units.

Table 43 provides a summary of the bedroom-income distribution of affordable family units in Montgomery Township for the Third Round and Fourth Rounds combined, demonstrating compliance with these standards.

TABLE 42. INCOME AND BEDROOM DISTRIBUTION, FAMILY UNITS, THIRD/FOURTH ROUND

Income Distribution	Bedroom Distribution			
	One-Bedroom/ Efficiency	Two-Bedroom	Three-Bedroom	Total
Very Low-Income	17	27	14	**58 (15.93%)**
Low-Income	14	68	43	**125 (34.34%)**
Moderate-Income	34	95	52	**181 (49.73%)**
Total	**65 (17.86%)**	**190 (52.2%)**	**109 (29.95%)**	**364 (100%)**

The above bedroom and income distribution includes 364 affordable family units within the following projects:

- Railsedge Blawenburg Village (3 units)
- The Willows at Orchard (40 units)
- Grove at Montgomery (27 units)
- Hillside at Montgomery (23 units)
- Apartments at Montgomery Crossing (86 units)
- Habitat for Humanity House (1 unit)
- The Somerset at Montgomery (23 units)
- Village Walk (12 units)
- The Haven at Princeton (32 units)
- Harlingen Village (11 units)
- 23 Orchard (36 units)
- Kenvue (70 units)

AFFORDABLE HOUSING ADMINISTRATION AND AFFIRMATIVE MARKETING

Montgomery Township currently has a Court-approved Affordable Housing Ordinance (Appendix 34). Once DCA and HMFA finalize their rule proposals (not anticipated before June 30, 2025), the Township will prepare an updated Fair Share Ordinance in accordance with court-upheld COAH's rules, DCA's proposed new regulations at N.J.A.C. 5:99, and UHAC's new 2025 regulations that are anticipated to be released shortly, as well as to address any terms of the court-approved Third Round 2017 and 2022 amended FSHC agreement, if relevant. The Affordable Housing Ordinance will govern the establishment of affordable units in the Township as well as regulating the occupancy of such units. The Township's Fair Share Ordinance covers the phasing of affordable units, the low/moderate income split, including that 13% of all units approved and constructed since 2008 be affordable to very low-income households earning no more than 30% of median income, bedroom distribution, occupancy standards, affordability controls, establishing rents and sales prices, affirmative marketing, income qualification, etc.

Affirmative Marketing

The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups…to housing units which are being marketed by a developer or sponsor of affordable housing. It is a continuing program and covers the period of deed restriction.

The Township has established the position of the Municipal Housing Liaison and has appointed a staff member to the position. However, the Township relies on outside experienced affordable housing organizations to conduct the administration and affirmative marketing of its affordable housing sites.

The Township has an adopted Affirmative Marketing Plan (included in Appendix 35). Once DCA and HMFA finalize their rule proposals (not anticipated before June 30, 2025), the Township will prepare an updated Affirmative Marketing Plan in accordance with DCA's proposed new regulations at N.J.A.C. 5:99, UHAC's new 2025 regulations that are anticipated to be released shortly, any remaining relevant COAH rules not superseded by either the proposed 2025 DCA regulations or the upcoming 2025 revised UHAC rules, as well as to address any terms of the court-approved Third Round FSHC 2017/2022 amended agreement. The Township will adopt an Affirmative Marketing Plan for all affordable housing sites. The Township's current Affirmative Marketing Plan is designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to the affordable units located in the Township. Additionally, the Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units and who reside in the Township's housing region, Region 3, consisting of Hunterdon, Middlesex, and Somerset counties.

The Affirmative Marketing Plan lays out the random-selection and income qualification procedure of the administrative agent, which is consistent with COAH's rules and N.J.A.C. 5:80-26.1. All newly created affordable units will comply with the minimum 30-year or 40-year (for rentals) affordability control required by UHAC, N.J.A.C. 5:80-26.1 *et seq*. This plan must be adhered to by all private, nonprofit or municipal developers of affordable housing units and must cover the period of deed restriction or affordability controls on each affordable unit.

As required by the court-approved Third Round FSHC 2017/2022 amended agreement, the Affirmative Marketing Plan lists FSHC, the New Jersey State Conference of the NAACP, the Latino Action Network, the New Brunswick branch of the NAACP, the Plainfield Area branch of the NAACP, the Perth Amboy branch of the NAACP, and the Metuchen/Edison branch of the NAACP. The Township shall, as part of its regional affirmative marketing strategies during its implementation of this plan, provide notice to those organizations of all available affordable housing units. The Township also agrees to require any other entities, including developers or individual or companies retained to do affirmative marketing, to comply with this paragraph. Finally, in accordance with the July 2020 amendment to the FHA, The Township will include in its Affirmative Marketing Plan the requirement that all units subject to affirmative marketing requirements be listed on the state Housing Resource Center ("HRC") website.[19]

SPENDING PLAN

On March 5, 1997, COAH approved the Township's mandatory development fee ordinance. This ordinance was adopted by the municipality on April 17, 1997. An amendment to the development fee ordinance was approved by COAH on December 5, 2008, which set to establish residential development fees in the amount of 1.5% of the equalized assessed value of residential development and nonresidential development fees in the amount of 2.5% of the equalized assessed value of nonresidential development. The amendment was formally adopted by the Township on December 18, 2008. Subsequently, the Township adopted an amended development fee ordinance on July 19, 2018 (se Appendix 34).

Eligible Trust Fund Expenditures

"A municipality may use revenues collected from the development fees for any activity approved by the Council (now the Court) for addressing the municipal fair share…Municipalities are encouraged to use development fee revenues to attract other funds…"

[19] https://njhrc.gov

As of December 31, 2024, the trust fund maintained a balance of $587,765.62. A new Fourth Round Spending Plan, which discusses anticipated revenues, collection of revenues, and the use of revenues, has been prepared in accordance with N.J.A.C. 5:93-5.1(c) and is included as Appendix 33. All collected revenues are placed in the Township's Affordable Housing Trust Fund and will be dispensed for the use of affordable housing activities as indicated in the Fourth Round Spending Plan. Once DCA and HMFA finalize their rule proposals (not anticipated before June 30, 2025), the Township will prepare an updated spending plan in accordance with DCA's proposed new regulations at N.J.A.C. 5:99, UHAC's new 2025 regulations that are anticipated to be released shortly, any remaining relevant COAH rules, not superseded by either the proposed 2025 DCA regulations or the upcoming 2025 revised UHAC rules as well as to address any terms of the court-approved Third Round 2017/2022 amended FSHC agreement.

The Township may, in the future, seek to amend its Spending Plan and obtain court approval to use its affordable housing trust funds for the following additional permitted affordable housing activities, including new, emergent affordable housing activities, subject to applicable limitations and minimum expenditures:

- Rehabilitation program;
- New construction of affordable housing units and related development costs;
- Extensions or improvements of roads and infrastructure directly serving affordable housing development sites;
- Acquisition and/or improvement of land to be used for affordable housing;
- Purchase of existing market-rate or affordable housing for the purpose of maintaining or implementing affordability controls, such as in the event of foreclosure;
- Green building strategies designed to be cost-saving for low- and moderate income households, either for new construction that is not funded by other sources, or as part of necessary maintenance or repair of existing units;
- Maintenance and repair of affordable housing units;
- Repayment of municipal bonds issued to finance low- and moderate-income housing activity; and
- Affordability assistance as set forth below.

At least 30% of development fees and interest collected must be used to provide affordability assistance to low- and moderate-income households in affordable units included in a municipal Fair Share Plan and for the creation of very low-income units. Additionally, no more than 20% of trust fund revenues collected each year may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a rehabilitation program, a new construction program, an HPE/FSP, and/or an affirmative marketing program.

The adoption of the Township's Fourth Round Spending Plan will constitute a "commitment" for expenditure per the FHA at N.J.S.A. 52:27D-329.2, with a four-year time period for expenditure that will start with the entry of the Superior Court's Fourth Round Judgment of Compliance and Repose and/or Compliance Certification.

COST GENERATION

Montgomery Township's Land Development Ordinance has been reviewed to eliminate unnecessary cost generating standards, and provides for expediting the review of development applications containing affordable housing. Such expediting may consist of, but is not limited to, scheduling of pre-application conferences and special monthly public hearings. All development applications containing affordable housing must be reviewed for consistency with the Land Development Ordinance, Residential Site Improvement Standards ("RSIS") (N.J.A.C. 5:21-1 *et seq.*) and the mandate of the FHA regarding unnecessary cost generating features. Montgomery Township will comply with COAH's requirements for unnecessary cost generating requirements, N.J.A.C. 5:93-10.1, procedures for development applications containing affordable housing, N.J.A.C. 5:93-10.4, and requirements for special studies and escrow accounts where an application contains affordable housing, N.J.A.C. 5:93-10.3. Once DCA and HMFA finalize their rule proposals (not anticipated before June 30, 2025), the Township will revise its Land Development Ordinance, if needed, in accordance with DCA's proposed new regulations at N.J.A.C. 5:99, and UHAC's new 2025 regulations, anticipated to be released shortly, in order to address new requirements to address cost generative issues.

MONITORING

In accordance with the requirements of N.J.S.A. 52:27D-329.2 and -329.4 as amended by P.L. 2024 c.2, by February 15 of each year of the Fourth Round, the Township will provide a detailed accounting through DCA's new Affordable Housing Monitoring System ("AHMS") of all affordable units constructed and construction starts during the prior calendar year, and of all residential and non-residential fees collected, interest earned, and other income collected and deposited into the Township's affordable housing trust fund during the prior calendar year. Montgomery will also provide a detailed accounting in AHMS of all expenditures of affordable housing trust funds during the prior calendar year, including purposes and amounts, and documentation of the balance remaining in the affordable housing trust fund as of December 31 of that year.

Montgomery Township or any other interested party may file an action through the Program seeking a realistic opportunity review at the midpoint of the certification period and shall provide for notice to the public, including a realistic opportunity review of any inclusionary development site in this Housing Plan Element and Fair Share Plan that has not received preliminary site plan approval prior to the midpoint of the 10-year round. If such an action is initiated by the Township, Montgomery may propose one or more alternative sites with an accompanying development plan or plans that provide a realistic opportunity for the same

number of affordable units and are otherwise in compliance with the FHA and the Mount Laurel doctrine.

MULTIGENERATIONAL FAMILY HOUSING CONTINUITY

The FHA requires an HPE/FSP to provide an analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of 23 section 1 of P.L. 2021, c.273 (N.J.S. 52:27D-329.20). As of May 2025, no recommendations have been issued by the Commission.

SUMMARY

The Township of Montgomery does not have a Third Round Rehabilitation obligation. However, it does have a 73-unit Fourth Round Rehabilitation obligation that will be satisfied through the establishment of a local rehabilitation program open for eligible owner-occupied and renter-occupied units.

Pursuant to the 2017 Settlement Agreement with Fair Share Housing Center, the Township has addressed its 307-unit Prior Round obligation with three completed inclusionary housing developments, three completed alternative living arrangements, and Prior Round rental bonuses. Montgomery will address its Third Round obligation with ten inclusionary developments, one affordable age-restricted units at a proposed assisted living facility, four group homes, a 100% affordable municipally-sponsored age-restricted development, a family for-sale project, and Third Round rental bonuses.

The Township's Fourth Round Prospective obligation (2025-2035) of 260 units will be addressed with the affordable family rental units at two proposed inclusionary housing developments, an additional affordable family rental unit from the approved Village Walk mixed use inclusionary development, affordable age-restricted units through an approved redevelopment plan, and extension of expiring controls.

1. 2017 Settlement Agreement, 2018 Court Order and 2019 JOR

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FILED
JUL 24 2019
CIVIL CHAMBERS

IN THE MATTER OF THE APPLICATION OF THE TOWNSHIP OF MONTGOMERY IN SOMERSET COUNTY, Petitioner.	SUPERIOR COURT OF NEW JERSEY SOMERSET COUNTY - LAW DIVISION DOCKET NO.: SOM-L-924-15 CIVIL ACTION (Mount Laurel) **FINAL JUDGMENT OF MOUNT LAUREL COMPLIANCE AND REPOSE and APPROVING MUNICIPAL AFFORDABLE HOUSING SPENDING PLAN**

THIS MATTER having been opened to the Court upon the filing of a Verified Complaint for Declaratory Judgment in accordance with In re Adoption of N.J.A.C. 5:96 & 5:07 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) ("Mount Laurel IV"), filed by Mason, Griffin & Pierson, PC, attorneys for Petitioner, the Township of Montgomery (Kevin A. Van Hise, Esquire appearing), and Fair Share Housing Center (Adam Gordon, Esquire appearing) participating in this action as an Interested Party and by virtue of the Settlement Agreement dated December 8, 2017 (the "Settlement Agreement"), an Intervenor-Defendant; and the Court having appointed Christine Nazzaro-Cofone, PP/AICP as the Special Master; and the Parties having reached

agreement that the Township's cumulative 1987 – 2025 third round Mount Laurel affordable housing obligation is comprised of a Present Need / Rehabilitation Share obligation of 0 (no) units, a Prior Round obligation of 307 units, and a Third Round New Construction Need obligation of 616 units (including the "Gap Present Need" and "Prospective Need"); and on February 13, 2018, the Court having conducted a Fairness and Preliminary Compliance Hearing pursuant to East/West Venture vs. Borough of Fort Lee, 286 N.J. Super 311 (App. Div. 1996), and by Order entered February 20, 2018, the Court finding that the settlement reached in this matter is fair and reasonable to low and moderate income households; and the Montgomery Township Planning Board (the "Planning Board" or "Board") having adopted a 2018 Amended Third Round Housing Element & Fair Share Plan (the "Plan") on July 2, 2018, endorsed by the Montgomery Township Committee on July 5, 2018, to satisfy the Township's cumulative third round affordable housing obligations; and the Township having prepared and adopted the required implementing ordinances and materials; and the Court having scheduled a Compliance Hearing to be held on July 24, 2019 for the purposes of reviewing the Township's adopted Plan and to make a determination as to the Township's entitlement to a Judgment of Compliance and Repose; and the Township having properly caused notice of the Compliance Hearing to be published on June 22 and 24, 2019 in the Courier News, with said notice providing an opportunity for any interested party to file an objection on or before July 14, 2019; and no parties having entered objection; and the Special Master having prepared a comprehensive report dated July 22, 2019; and the Court having considered the moving papers, the matters of record submitted by the parties, the reports and testimony of the Special Master, the testimony of Township's Affordable Housing Planning Consultant, Mary Beth Lonergan, AICP, PP, and the representations of counsel; and the Court

having provided an opportunity for the parties and members of the public to ask questions and provide comments on the Plan and matters addressed in the proceedings; and good and sufficient cause having been shown for entry of this Judgment; and for the reasons placed on the record during the July 24, 2019 Compliance Hearing;

IT IS ON this 24TH day of July, 2019,

ORDERED AND ADJUDGED as follows:

1. Judgment is hereby entered in favor of Petitioner, the Township of Montgomery ("Township") for a Final Judgment of Compliance and Repose ("Judgment") pursuant to East/West Venture and Mount Laurel IV, subject to the conditions set forth herein.
2. As set forth in the Settlement Agreement and established at the February 13, 2018 Fairness Hearing, the Township's cumulative 1987 – 2025 third round Mount Laurel affordable housing obligation is comprised of:
    a. A Present Need / Rehabilitation Share obligation of 0 (no) units;
    b. A Prior Round obligation of 307 units; and
    c. A Third Round New Construction obligation (including the "Gap Present Need" and "Prospective Need") obligation of 616 units;
    d. Subject to the terms and conditions of the Settlement Agreement and the Court's February 20, 2018 Order on Fairness Hearing.
    e. As set forth in Paragraph 17 of the Settlement Agreement, if a decision of a court of competent jurisdiction in Somerset County, the Appellate Division of the Superior Court, or New Jersey Supreme Court, or a determination by

an administrative agency responsible for implementing the Fair Housing Act, or an action by the New Jersey Legislature, would result in a calculation of an obligation for the Township for the period 1999-2025 that would be lower by more than ten (10%) percent than the total prospective Third Round need obligation established above, and if that calculation is memorialized in an unappealable final judgment, the Township may seek to amend this Judgment to reduce its fair share obligation accordingly. Notwithstanding any such reduction, the Township shall remain obligated to complete and leave in place any site specific zoning change made in connection with the plan approved pursuant to the Settlement Agreement and continue to implement all aspects of the plan approved pursuant to the Settlement Agreement and this Judgment. The Township may carry over any resulting extra credits to future round(s).

3. Having reviewed the Township's Housing Element and Fair Share Plan and implementing ordinances, the Court finds and declares that the Township has demonstrated that it has met its prior round obligation and has in place a plan to meet its present need / rehabilitation share obligation and its third round (gap present need and prospective need) obligations. As such, the Court finds that the Township's Plan and implementing ordinances are constitutionally compliant and satisfy the Township's cumulative third round Mount Laurel affordable housing obligations and are therefore approved.

a. The Court notes that, pursuant to a letter submitted to the Court by Richard Schatzman, Esquire of Schatzman Baker, PC, counsel for "The Haven at Princeton, LLC", the owner and applicant of a proposed inclusionary development designated as Lot 7 in Block 37003 on the Montgomery Township Tax Map, referred to in the Plan as the "Trap Rock Property," a Letter of Interpretation obtained from the New Jersey Department of Environmental Protection pursuant to the Freshwater Wetlands Act changed the designation of the on-site wetlands from "ordinary resource value" to "exceptional resource value" pursuant to N.J.A.C. 7:7A-2.4(b), thereby increasing the wetlands buffer from 50 feet to 150 feet. The increased buffers have caused a corresponding reduction in the development of the site, and will result in a planned development of 128 market rate units and 34 affordable housing units rather than the 250 units with at least 50 affordable housing units referenced in the Township's Plan.

b. With 9 originally proposed third round surplus credits set forth in the Plan (inclusive of the Trap Rock Property as originally proposed), the revised development plan leaves a 7-credit deficiency, which the Township represents and affirms it will satisfy by increasing the unit count for the municipally sponsored affordable senior rental site (the "Municipal Building / RPM" or "1860 House" sites) from 60 units to approximately 70 units.

c. The Parties represent that the proposed plan modification, and other minor variations in the number of credits for particular Third Round sites between the Settlement Agreement and final adopted Plan, satisfactorily addresses the changes to the Trap Rock Project, and will be codified in an Amendment to the Settlement Agreement, *to be adopted within 60 days of entry of this Judgment*.

d. The Parties also represent and agree that the Plan will be amended to incorporate these changes as part of next year's mid-point review (referenced in Paragraph 4.c below) and in any event the Plan amendment shall be completed no later than September 30, 2020.

4. The findings, conclusions and grant of Final Judgment set forth herein are conditioned upon satisfaction of the following requirements:

a. The Township shall fully implement its Housing Element and Fair Share Plan.

b. Pursuant to Paragraphs 3.c and 3.d above, the Parties will enter into an amendment to the Settlement Agreement within 60 days of entry of this Judgment, and the Township will adopt an amendment to the Plan following the midpoint review.

c. Pursuant to the Fair Housing Act and the terms of the Settlement Agreement, a midpoint realistic opportunity review shall be due on July 1, 2020.

d. On the first anniversary of the execution of the Settlement Agreement (December 8, 2018) and every anniversary thereafter, the Township shall:

   i. Report on trust fund activity to the Department of Community Affairs, New Jersey Council on Affordable Housing or Division of Local Government Services or other entity designated by the State of New Jersey, with said report posted on the Township's website and a copy forwarded to Fair Share Housing Center.

   ii. Prepare a report on the status of all affordable housing activity in the municipality. The report shall be posted on the Township's website and a copy provided to Fair Share Housing Center.

e. By July 1, 2020, the Township shall provide a status report of its plan implementation efforts for the midpoint realistic opportunity review required by the Fair Housing Act and Settlement Agreement. The report shall be posted on the Township's website and a copy provided to Fair Share Housing Center. The report shall address whether any unbuilt site still creates a realistic opportunity and will invite any interested party to submit comments to the Township.

f. Within 30 days of the Settlement Agreement's third anniversary (January 8, 2021) and sixth anniversary (January 8, 2024), the Township shall prepare a status report regarding its efforts to produce very low income units. The report shall be posted on the Township's website and a copy provided to Fair Share Housing Center. The posting will invite any interested party to

submit comments to the Township and Fair Share Housing Center as to the Township's efforts to comply with its affordable housing obligation.

5. The Township's Affordable Housing Spending Plan has been reviewed and is hereby approved.

    a. The Township is authorized to impose and collect affordable housing development fees, to deposit and maintain those fees in the Township's Affordable Housing Trust Fund, and to expend those fees in accordance with its approved Spending Plan and this Judgment, subject to applicable law.

    b. The proposed expenditure of funds from the Township's Affordable Housing Trust Fund is found and determined to be consistent with and authorized by the Fair Housing Act, and as such, those funds are properly committed for expenditure as required by the 2008 amendments to the Fair Housing Act, P.L. 2008, c.46.

6. The Township is authorized and directed to use the regional income limits as set forth in the "2019 Affordable Housing Regional Income Limits by Household Size" summary chart prepared by the Affordable Housing Professionals of New Jersey ("AHPNJ") dated May, 2019, and the methodology developed thereto by AHPNJ that replicate's COAH's procedures for annually updating and establishing said income limits, for use in establishing annual eligibility and qualification levels and the maximum rental levels and sales prices for affordable housing units,

consistent with the prior Vicinage-wide order establishing income limits entered by this court on October 11, 2018.

7. Subject to the conditions set forth herein, the Township is entitled to this Judgment of Compliance and Repose and immunity from exclusionary zoning lawsuits, including but not limited to "builder's remedy" lawsuits, for its third round Mount Laurel affordable housing obligations for a period of ten (10) years, retroactive to the date of the Township's filing of the instant action on July 6, 2015, with said protections extending through and expiring on July 6, 2025 other than actions brought to enforce the terms of the Settlement Agreement and the court's orders.

8. A copy of this Judgment shall be served on the Special Master, all counsel of record and the official service list within seven days of receipt by counsel for Petitioner.

HON. THOMAS C. MILLER, P.J.Cv.

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February 26, 2018

TO: Attached Service List

RE: ***In the Matter of the Application of the Township of Montgomery in Somerset County***
Docket No.: SOM-L-924-15

Dear Sir / Madam:

With respect to the above captioned matter, attached please find the Order on Fairness Hearing entered by the Honorable Thomas C. Miller, P.J.Cv. on February 20, 2018.

Very truly yours,



Kevin Van Hise
Direct Dial: (609) 436-1209
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Encls.

SERVICE LIST
I/M/O Application of the Township of Montgomery in Somerset County
Docket No. SOM-L-924-15

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IN THE MATTER OF THE APPLICATION OF THE TOWNSHIP OF MONTGOMERY IN SOMERSET COUNTY, Petitioner.	SUPERIOR COURT OF NEW JERSEY SOMERSET COUNTY - LAW DIVISION DOCKET NO.: SOM-L-924-15 CIVIL ACTION (Mount Laurel) **ORDER ON FAIRNESS HEARING**

THIS MATTER having been opened to the Court upon the filing of a Verified Complaint for Declaratory Judgment in accordance with In re Adoption of N.J.A.C. 5:96 & 5:07 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015)("Mount Laurel IV"), filed by Mason, Griffin & Pierson, PC, attorneys for Petitioner, the Township of Montgomery (Kevin A. Van Hise, Esquire appearing), and Fair Share Housing Center (Adam Gordon, Esquire appearing) participating in this action as an Interested Party; and the Court having appointed Christine A. Nazzaro-Cofone, PP/AICP as Special Master; and the Township of Montgomery ("Township") and Fair Share Housing Center ("FSHC") having entered into a Settlement Agreement dated December 8, 2017 (the "Settlement Agreement") resolving the above captioned litigation; and the Court having conducted a Fairness Hearing on February 13, 2018 to determine whether the

Settlement Agreement adequately protects, and is fair and reasonable to low and moderate income households in the Township and housing region; and notice of said hearing have been served on all parties and posted and published in accordance with law; and there being no written or oral comments or objections received from any interested persons or parties regarding the Settlement Agreement; and the Court having considered the report of Special Master Cofone dated January 4, 2018; and the Court having heard the testimony of Special Master Cofone and Township Affordable Housing Planning Consultant Mary Beth Lonergan, AICP/PP, and considered the representations of counsel; and the Court having found, upon the conclusion of said hearing, that the criteria set forth in Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J.Super. 359, 367-69 (Law Div. 1984), *aff'd o.b.*, 209 N.J.Super. 108 (App. Div. 1986) and East/West Venture vs. Borough of Fort Lee, 286 N.J.Super. 311 (App. Div. 1996) have been satisfied; and good and sufficient cause having been shown for entry of this Order; and for the reasons placed on the record during the February 13, 2018 Fairness Hearing;

IT IS on this 20th day of February, 2017,

ORDERED AND ADJUDGED as follows:

1. The Settlement Agreement reached by and between the Township of Montgomery ("Township") and Fair Share Housing Center ("FSHC"), dated December 8, 2017, is fair and reasonable to the interests of low and moderate income households and is therefore approved.
2. The Township has a cumulative 1987 – 2025 third round Mount Laurel affordable housing obligation comprised of:
    a. A Present Need / Rehabilitation Share obligation of 0 (no) units;

b. A Prior Round obligation of 307 units; and

c. A Third Round New Construction obligation (including the "Gap Present Need" and "Prospective Need") of 616 units.

3. The parties shall comply with the terms and conditions set forth in the Settlement Agreement approved herein.

4. Pursuant to Paragraph 21 of the Settlement Agreement, FSHC is hereby deemed to be an Intervenor-Defendant in this matter.

5. The Township shall, within 120 days of the entry of this Order, adopt a Housing Element and Fair Share Plan ("HEFSP"), Spending Plan and its implementing ordinances in accordance with the terms of the Settlement Agreement.

6. The Township shall provide a copy of the adopted HEFSP, Spending Plan and implementing ordinances to the Special Master and FSHC in advance of the Compliance Hearing.

7. The Income Limits and methodology for calculating such limits in the future contained in the Settlement Agreement (Par. 14) are hereby approved.

8. Final approval of the Township's Housing Element and Fair Share Plan, Spending Plan, and grant of compliance and repose shall be determined following a Compliance Hearing:

[X] To be scheduled by the Court at the conclusion of the 120-day action period.

[___] ~~With said Compliance Hearing hereby scheduled for _____, 2018 at _____ a.m. / p.m.~~

9. The temporary immunity from Mount Laurel lawsuits previously granted to the Township is hereby extended and shall remain in full force and effect through the date of the Compliance Hearing.

10. A copy of this Order shall be served on the Special Master, all counsel of record and the official service list within seven days of receipt by counsel for Petitioner.

/s/ Thomas C. Miller, P.J.Cv.
HON. THOMAS C. MILLER, P.J.Civ.

[X] Unopposed.

[___] Opposed.

FAIR SHARE
HOUSING CENTER

Peter J. O'Connor, Esq.
Kevin D. Walsh, Esq.
Adam M. Gordon, Esq.
Laura Smith-Denker, Esq.
David T. Rammler, Esq.
Joshua D. Bauers, Esq.

December 8, 2017

Kevin A. Van Hise, Esq.
Mason, Griffin & Pierson
101 Poor Farm Road
Princeton, NJ 08540

Re: In the Matter of the Application of the Township of Montgomery, County of Somerset, Docket No. SOM-L-924-15

Dear Mr. Van Hise:

This letter memorializes the terms of an agreement reached between the Township of Montgomery (the "Township" or "Montgomery"), the declaratory judgment plaintiff, and Fair Share Housing Center (FSHC), a Supreme Court-designated interested party in this matter in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015)(Mount Laurel IV) and, through this settlement, a defendant in this proceeding.

Background

Montgomery filed the above-captioned matter on July 7, 2015 seeking a declaration of its compliance with the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq. in accordance with In re N.J.A.C. 5:96 and 5:97, supra. Through the declaratory judgment process, the Township and FSHC agreed to settle the litigation and to present that settlement to the trial court with jurisdiction over this matter to review, recognizing that the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households.

Settlement terms

The Township and FSHC hereby agree to the following terms:

1. FSHC agrees that the Township, through the adoption of a Housing Element and Fair Share Plan conforming with the terms of this Agreement (hereafter "the Plan") and through the implementation of the Plan and this Agreement, satisfies its obligations under the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., for the Prior Round (1987-1999) and Third Round (1999-2025).

2. At this time and at this particular point in the process resulting from the Supreme Court's Mount Laurel IV decision, when Third Round fair share obligations have yet to be definitively determined, it is appropriate for the parties to arrive at a settlement regarding a municipality's Third Round present and prospective need instead of doing so through plenary adjudication of the present and prospective need.

3. FSHC and Montgomery hereby agree that Montgomery's affordable housing obligations are as follows:

Rehabilitation Share (per Kinsey Report[1])	0
Prior Round Obligation (pursuant to N.J.A.C. 5:93)	307
Third Round (1999-2025) Prospective Need (per Kinsey Report, as adjusted through this Agreement)	616

4. For purposes of this Agreement, the Third Round Prospective Need shall be deemed to include the Gap Period Present Need, which is a measure of households formed from 1999-2015 that need affordable housing, that was recognized by the Supreme Court in In re Declaratory Judgment Actions Filed By Various Municipalities, 227 N.J. 508 (2017). The parties have agreed, by this Agreement, to reduce Montgomery's Third Round Obligation to 616 units by virtue of a reduction of the 975-unit Third Round Obligation calculated in the Kinsey May 2016 report.

5. The Township does not have a present need obligation.

6. As noted above, the Township has a Prior Round prospective need of 307 units, which is met through the following compliance mechanisms:

Montgomery's Prior Round Compliance Mechanisms			
	Credits	**Bonuses**	**Total**
Inclusionary Developments – completed			
McKinley Comm./Montgomery Hills – family sales	35	0	35
McKinley Comm./Montgomery Hills – senior rentals	60	0	60
Montgomery Glen – family sales	19	0	19
Pike Run (Bellemead) – family rentals, 102 of 210	102	77, cap	179
Alternative Living Arrangements – completed, credit - bedroom			
Crawford Transitional Housing – 7 bedrooms	7	0	7
Devereux Group Home – 4 bedrooms	4	0	4
Delta Comm Support Group Home – 3 bedrooms	3	0	3
Total	**230**	**77**	**307**

7. The Township has implemented or will implement the following mechanisms to address its Third Round prospective need of 616 units:

[1] David N. Kinsey, PhD, PP, FAICP, NEW JERSEY LOW AND MODERATE INCOME HOUSING OBLIGATIONS FOR 1999-2025 CALCULATED USING THE NJ COAH PRIOR ROUND (1987-1999) METHODOLOGY, May 2016.

Montgomery's Third Round Compliance Mechanisms			
	Credits	**Bonuses**	**Total**
Inclusionary Developments - Completed			
Pike Run (Bellemead) – family rentals, 108 of 210, balance, bonus cap	108	108	216
JER Herring Orchard/K. Hov/Ingerman – family rentals	40	40	80
Sharbell-Hillside – family rentals	23	6, cap	29
Railsedge/Blawenburg Village – family rentals	3	0	3
Inclusionary Developments - approved			
Country Club Meadows – family rentals, approved, agreement, under construction	27	0	27
Inclusionary Zoning - existing			
Trap Rock – family units, 250 total x 20% = 50	50	0	50
Alternative Living Arrangements – agreement, proposed			
Allies group home – developer's agreement, donated land	6	0	6
Proposed group homes –bedrooms	8	0	8
Inclusionary Developments – Proposed			
PIRHL/Sharbell/Tapestry at Montgomery / Kepner-Tregoe – 80 total affordable family rentals	80	0	80
DeVan/Van Cleef – family rentals 90 total units x 20% = 18	18	0	18
Harlingen Village – family rentals 30 total units x 20% = 6	6	0	6
Montgomery Five - Payment in Lieu - 4br group home	4	0	4
Village Shopper – family apts above retail, 50 units x 20% = 10	10	0	10
Blawenburg Village Sq. – add'l mixed use bldg. – 3 afford. units	3	0	3
Inclusionary Developments – proposed seniors			
Tapestry assisted living – 120 beds x 10% = 12 seniors	12	0	12
Proposed 100% Sites– senior units, special needs			
Muni Bldg/RPM Or 1860 House - senior rentals including special needs	64	0	64
Total	**462**	**154**	**616**

8. As an essential term of this settlement, in addition to the crediting discussed above, within one hundred and twenty days (120) days of Court Approval of this Settlement Agreement, the Township shall adopt an ordinance providing for the amendment of the Township's Housing Ordinance, in a form satisfactory to FSHC and the Special Master, so as to establish zoning standards that provide for an inclusionary zoning requirement on future multifamily development at a density of at least six (6) units per acre, yielding at least five (5) or more new units in the Township developed through municipal rezoning, zoning board use "d" variance approval, redevelopment or rehabilitation plan requiring a set-aside of at least 15 percent of all units in rental developments as

affordable, and 20 percent of all units in for-sale developments as affordable, with at least 50 percent of the units in each development being affordable to low-income households including 13 percent in rental developments affordable to very-low-income households, with all such affordable units including the required bedroom distribution, be governed by controls on affordability and affirmatively marketed in conformance with the Uniform Housing Affordability Controls ("UHAC"), N.J.A.C. 5:80-26.1 *et seq.* or any successor regulation, and all other applicable law. Language shall be included in the Ordinance to explicitly address that developers cannot, for example, subdivide a project into two lots and then make each of them a number of units just below the threshold. The Township shall maintain this Ordinance as a part of its Code through at least July 7, 2025. This ordinance does not give any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of the Township to grant such rezoning, variance or other relief.

9. The Township will provide a realistic opportunity for the development of affordable housing through the maintenance of inclusionary zoning on the Country Club Meadows site, PIRHL/Sharbell/Tapestry at Montgomery/Kepner-Tregoe, Village Shopper, and Trap Rock site and adoption of inclusionary zoning on the DeVan/Van Cleef, Harlingen Village, and Blawenburg Village Square site. The parties understand that the PIRHL/Sharbell/Tapestry Out-Parcel/Kepner-Tregoe site is being developed anticipating the developer seeking outside funding specifically from 9% Low Income Housing Tax Credits ("LIHTC") as permitted in the Fair Housing Act at N.J.S.A. 52:27D-321.1, provided that if such funding is not received after two applications in successive LIHTC rounds, the inclusionary developer will adhere to a modified inclusionary zoning phasing schedule that permits certificates of occupancy ("c.o.'s") for fifty (50%) per cent of the market rate units before a building permit for the affordable building must be issued, and once the permit for the affordable building is pulled and work commences, the developer will not obtain more than sixty-five (65%) of the market rate unit c.o.'s until the c.o. is issued for the affordable building. This property is further described in paragraph 10 below.

10. The Township will provide a realistic opportunity for the development of additional affordable housing that will be developed or created through means other than inclusionary zoning in the following ways:

    In accordance with N.J.A.C. 5:93-5.5, Montgomery recognizes that it must provide evidence that the municipality has adequate and stable funding for any non-inclusionary affordable housing developments solely including proposed group homes totaling 14 bedrooms and the municipal site (either 1860 House or Muni Bldg/RPM site). This specifically does not pertain to the PIRHL/Sharbell/Tapestry Out-Parcel/Kepner-Tregoe site. During the compliance phase of the litigation, Montgomery will provide a pro forma detailing total development costs, sources of funds and documentation of the funding available to the municipality and/or project sponsor, and any applications still pending. In the case where an application for outside funding has not been submitted or is still pending, the municipality shall provide a stable alternative source in the event that the funding request is not approved, including through the adoption of a resolution of intent to bond.

    In accordance with N.J.A.C. 5:93-5.5, for non-inclusionary projects, a construction or implementation schedule shall be submitted for each step in the development process, including preparation of a site plan, granting of municipal approvals, applications for

State and/or Federal Permits, selection of a contractor and construction. To the extent the development remains a proposed 100% affordable housing project (with the ability to make two (2) applications in successive LIHTC rounds), the schedule for the PIRHL/Sharbell/Tapestry Out-Parcel/Kepner-Tregoe (Block 28004, Lot 7) site shall provide for construction to begin within two years of the court's granting of final judgment in this matter. So as to enable the Township to prioritize seeking funding for the family rental housing at the PIRHL/Sharbell/Tapestry Out-Parcel/Kepner-Tregoe site, the schedule for the 1860 House (Block 23001, Lot 13) or Muni Bldg/RPM site, which the Township may choose between within two years of final judgment in this matter, shall provide for funding applications to be filed within four years of the court's granting of final judgment in this matter and for construction to be started within four years of the court's granting of final judgment in this matter, but in no event later than July 1, 2022. The Allies and other proposed Group Homes that provide a total of 14 bedrooms shall be available for occupancy within two years of the court's granting of final judgment in this matter.

11. The Township agrees to require 13% of all units referenced in this Agreement, excepting those units that were constructed or granted preliminary or final site plan approval prior to July 1, 2008, to be very low income units, with half of the very low income units being available to families. The municipality will comply with those requirements as follows:

    Based on the chart in #7 above, a total of 37 very-low income units will be required and provided. At least thirteen (13%) percent of the total affordable units in the following will be required to be reserved for very-low income households/individuals: Country Club Meadows, Trap Rock, proposed group homes, PIRHL/Sharbell/Tapestry Out-Parcel/Kepner-Tregoe site, DeVan/Van Cleef, Harlingen Village, Montgomery Five group home, Village Shopper, Blawenburg Village Sq., Tapestry assisted living, Muni Bldg/RPM or 1860 House site.

12. The Township shall meet its Third Round Prospective Need in accordance with the following standards as agreed to by the Parties and reflected in the table in paragraph 6 above:

    a. Third Round bonuses will be applied in accordance with N.J.A.C. 5:93-5.15(d).

    b. At least 50 percent of the units addressing the Third Round Prospective Need shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households.

    c. At least twenty-five percent of the Third Round Prospective Need shall be met through rental units, including at least half in rental units available to families.

    d. At least half of the units addressing the Third Round Prospective Need in total must be available to families.

    e. The Township agrees to comply with an age-restricted cap of 25% and to not request a waiver of that requirement. This shall be understood to mean that in no circumstance may the municipality claim credit toward its fair share obligation for age-restricted units that exceed 25% of all units developed or planned to meet its cumulative prior round and third round fair share obligation.

13. The Township shall add to the list of community and regional organizations in its affirmative marketing plan, pursuant to N.J.A.C. 5:80-26.15(f)(5), Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, and the New Brunswick, Plainfield Area, Perth Amboy, and Metuchen/Edison branches of the NAACP, and shall, as part of its regional affirmative marketing strategies during its implementation of the affirmative marketing plan, provide notice to those organizations of all available affordable housing units. The Township also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this paragraph.

14. All units, including units funded through Low Income Housing Tax Credits which shall be subject to the bedroom distribution and income requirements specified at N.J.A.C. 5:80-26.3, shall include the required bedroom distribution, be governed by controls on affordability and affirmatively marketed in conformance with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 *et seq.* or any successor regulation, with the exception that in lieu of 10 percent of affordable units in rental projects being required to be at 35 percent of median income, 13 percent of affordable units in such projects shall be required to be at 30 percent of median income, and all other applicable law. The Township shall require projects receiving nine percent Low Income Housing Tax Credits, a control period of not less than a 30 year compliance period plus a 15 year extended use period. The Township as part of its HEFSP shall adopt and/or update appropriate implementing ordinances in conformance with standard ordinances and guidelines developed by COAH to ensure that this provision is satisfied.

    Income limits for all units that are part of the Plan required by this Agreement and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1 shall be updated by the Township annually within 30 days of the publication of determinations of median income by HUD as follows:

    a. Regional income limits shall be established for the region that the Township is located within (i.e. Region 3) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the Township's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.

b. The income limits attached hereto as Exhibit A are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for FY 2017, and shall be utilized until the Township updates the income limits after HUD has published revised determinations of median income for the next fiscal year.

c. The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Township annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.

d. The parties agree to request the Court prior to or at the fairness hearing in this matter to enter an order implementing this paragraph of this Agreement.

15. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311a and -311b and all other applicable law.

16. As an essential term of this Agreement, within one hundred and twenty (120) days of Court's approval of this Agreement, the Township shall introduce and adopt an ordinance or ordinances providing for the amendment of the Township's Affordable Housing Ordinance and Zoning Ordinance to implement the terms of this Agreement and the zoning contemplated herein and adopt a Housing Element and Fair Share Plan and Spending Plan in conformance with the terms of this Agreement.

17. The parties agree that if a decision of a court of competent jurisdiction in Somerset County, or a determination by an administrative agency responsible for implementing the Fair Housing Act, or an action by the New Jersey Legislature, would result in a calculation of an obligation for the Township for the period 1999-2025 that would be lower by more than ten (10%) percent than the total prospective Third Round need obligation established in this Agreement, and if that calculation is memorialized in an unappealable final judgment, the Township may seek to amend the judgment in this matter to reduce its fair share obligation accordingly. Notwithstanding any such reduction, the Township shall be obligated to adopt a Housing Element and Fair Share Plan that conforms to the terms of this Agreement and to implement all compliance mechanisms included in this Agreement, including by adopting or leaving in place any site specific zoning adopted or relied upon in connection with the Plan adopted pursuant to this Agreement; taking all steps necessary to support the development of any 100% affordable developments referenced herein; and otherwise fulfilling fully the fair share obligations as established herein. The reduction of the Township's obligation below that established in this Agreement does not provide a basis for seeking leave to amend this Agreement or seeking leave to amend an order or judgment pursuant to R. 4:50-1. If the Township prevails in reducing its prospective need for the Third Round, the Township may carry over any resulting extra credits to future rounds in conformance with the then-applicable law.

18. The Township shall prepare a Spending Plan within the period referenced above, subject to the review of FSHC and approval of the Court, and reserves the right to seek approval from the Court that the expenditures of funds contemplated under the Spending

Plan constitute "commitment" for expenditure pursuant to N.J.S.A. 52:27D-329.2 and -329.3, with the four-year time period for expenditure designated pursuant to those provisions beginning to run with the entry of a final judgment approving this settlement in accordance with the provisions of In re Tp. Of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563). On the first anniversary of the execution of this Agreement, which shall be established by the date on which it is executed by a representative of the Township, and on every anniversary of that date thereafter through the end of the period of protection from litigation referenced in this Agreement, the Township agrees to provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services. The reporting shall include an accounting of all housing trust fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

19. On the first anniversary of the execution of this Agreement, and every anniversary thereafter through the end of this Agreement, the Township agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC.

20. The Fair Housing Act includes two provisions regarding action to be taken by the Township during the ten-year period of protection provided in this Agreement. The Township agrees to comply with those provisions as follows:

    a. For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Township will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of the Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity. Such posting shall invite any interested party to submit comments to the municipality, with a copy to Fair Share Housing Center, regarding the continued realistic opportunity of unbuilt sites or unfulfilled mechanisms. Any interested party may by motion request a hearing before the court regarding these issues.

    b. For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of this Agreement, and every third year thereafter, the Township will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein. Such posting shall invite any interested party to submit comments to the municipality and Fair Share Housing Center on the issue of whether the municipality has complied with its very low income housing obligation under the terms of this settlement.

21. FSHC is hereby deemed to have party status in this matter and to have intervened in this matter as a defendant without the need to file a motion to intervene or an answer or other pleading. The parties to this Agreement agree to request the Court to enter an

order declaring FSHC is an intervenor, but the absence of such an order shall not impact FSHC's rights.

22. This Agreement must be approved by the Court following a fairness hearing as required by Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). The Township shall present its planner as a witness at this hearing. FSHC agrees to support this Agreement at the fairness hearing. In the event the Court approves this proposed settlement, the parties agree the Township will receive a Judgment of Compliance and Repose or "the judicial equivalent of substantive certification and accompanying protection as provided under the FHA," as addressed in the Supreme Court's decision in In re N.J.A.C. 5:96 & 5:97, 221 N.J. 1, 36 (2015), which shall be determined by the trial judge. Both parties agree not to appeal the decision of the trial judge as to whether the Township receives a Judgment of Compliance and Repose or the judicial equivalent of substantive certification. The "accompanying protection" shall remain in effect through July 7, 2025. If this Agreement is rejected by the Court at a fairness hearing it shall be null and void.

23. The Township agrees to pay FSHC's attorneys fees and costs in the amount of $7,500 within thirty (30) days of the Court's approval of this Agreement pursuant to a duly-noticed fairness hearing.

24. If an appeal is filed of the Court's approval or rejection of this Agreement, the Parties agree to defend the Agreement on appeal, including in proceedings before the Superior Court, Appellate Division and New Jersey Supreme Court, and to continue to implement the terms of this Agreement if the Agreement is approved before the trial court unless and until an appeal of the trial court's approval is successful, at which point the Parties reserve their right to rescind any action taken in anticipation of the trial court's approval. All Parties shall have an obligation to fulfill the intent and purpose of this Agreement.

25. This Agreement may be enforced through a motion to enforce litigant's rights or a separate action filed in Superior Court, Somerset County.

26. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections.

27. This Agreement shall be governed by and construed by the laws of the State of New Jersey.

28. This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.

29. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same Agreement.

30. The Parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each party is the proper person and possess the authority to sign the Agreement, that this Agreement contains

the entire understanding of the Parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.

31. Each of the Parties hereto acknowledges that this Agreement was not drafted by any one of the Parties, but was drafted, negotiated and reviewed by all Parties and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the Parties expressly represents to the other Parties that: (i) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (ii) it has conferred due authority for execution of this Agreement upon the persons executing it.

32. Any and all Exhibits and Schedules annexed to this Agreement are hereby made a part of this Agreement by this reference thereto. Any and all Exhibits and Schedules now and/or in the future are hereby made or will be made a part of this Agreement with prior written approval of both Parties.

33. This Agreement constitutes the entire Agreement between the Parties hereto and supersedes all prior oral and written agreements between the Parties with respect to the subject matter hereof except as otherwise provided herein.

34. No member, official or employee of the Township shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law, absent the need to invoke the rule of necessity.

35. Anything herein contained to the contrary notwithstanding, the effective date of this Agreement shall be the date upon which all of the Parties hereto have executed and delivered this Agreement.

36. All notices required under this Agreement ("Notice[s]") shall be written and shall be served upon the respective Parties by certified mail, return receipt requested, or by a recognized overnight or by a personal carrier. In addition, where feasible (for example, transmittals of less than fifty pages) shall be served by facsimile or e-mail. All Notices shall be deemed received upon the date of delivery. Delivery shall be affected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days notice as provided herein:

TO FSHC:

Adam M. Gordon, Esq.
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, NJ 08002
Phone: (856) 665-5444
Telecopier: (856) 663-8182
E-mail: adamgordon@fairsharehousing.org

TO THE TOWNSHIP:

Kevin A. Van Hise, Esq.
Mason, Griffin & Pierson
101 Poor Farm Road
Princeton, NJ 08540
Phone: (609) 921-6543
Telecopier: (609) 683-7978
Email: k.vanhise@mgplaw.com

WITH A COPY TO THE MUNICIPAL CLERK:

Donna Kukla
2261 Van Horne Road
Belle Mead, NJ 08502
Phone: (908) 359-8211
Telecopier: (908) 281-3266
Email: clerk@twp.montgomery.nj.us

Please sign below if these terms are acceptable.

Sincerely,

Adam M. Gordon, Esq.
Counsel for Intervenor/Interested Party
Fair Share Housing Center

On behalf of the Township of Montgomery, with the authorization of the governing body:

Counsel for Montgomery Twp
Dated: 12/8/17

EXHIBIT A: 2017 INCOME LIMITS

Prepared by Affordable Housing Professionals of New Jersey (AHPNJ) - August 2017

2017 AFFORDABLE HOUSING REGIONAL INCOME LIMITS BY HOUSEHOLD SIZE

Income limits not officially adopted by the State of New Jersey. Contact your municipality to see if applicable in your jurisdiction. Additional information about AHPNJ income limits is posted on AHPNJ.org

		1 Person	*1.5 Person	2 Person	*3 Person	4 Person	*4.5 Person	5 Person	6 Person	7 Person	8+ Person	Max Increase Rents**	Max Increase Sales***	Regional Asset Limit****
Region 1	Median	$60,271	$64,576	$68,882	$77,492	$86,102	$89,546	$92,990	$99,878	$106,766	$113,655			
Bergen, Hudson, Passaic and Sussex	Moderate	$48,217	$51,661	$55,105	$61,993	$68,882	$71,637	$74,392	$79,903	$85,413	$90,924	1.7%	1.99%	$166,493
	Low	$30,136	$32,288	$34,441	$38,746	$43,051	$44,773	$46,495	$49,939	$53,383	$56,827			
	Very Low	$18,081	$19,373	$20,664	$23,248	$25,831	$26,864	$27,897	$29,963	$32,030	$34,096			
Region 2	Median	$65,953	$70,663	$75,374	$84,796	$94,218	$97,987	$101,755	$109,293	$116,830	$124,368			
Essex, Morris, Union and Warren	Moderate	$52,762	$56,531	$60,299	$67,837	$75,374	$78,389	$81,404	$87,434	$93,464	$99,494	1.7%	3.25%	$180,756
	Low	$32,976	$35,332	$37,687	$42,398	$47,109	$48,993	$50,878	$54,646	$58,415	$62,184			
	Very Low	$19,786	$21,199	$22,612	$25,439	$28,265	$29,396	$30,527	$32,788	$35,049	$37,310			
Region 3	Median	$73,780	$79,050	$84,320	$94,860	$105,400	$109,616	$113,832	$122,264	$130,696	$139,128			
Hunterdon, Middlesex and Somerset	Moderate	$59,024	$63,240	$67,456	$75,888	$84,320	$87,693	$91,066	$97,811	$104,557	$111,302	1.7%	0.38%	$200,698
	Low	$36,890	$39,525	$42,160	$47,430	$52,700	$54,808	$56,916	$61,132	$65,348	$69,564			
	Very Low	$22,134	$23,715	$25,296	$28,458	$31,620	$32,885	$34,150	$36,679	$39,209	$41,738			
Region 4	Median	$66,022	$70,738	$75,454	$84,885	$94,317	$98,090	$101,862	$109,408	$116,953	$124,498			
Mercer, Monmouth and Ocean	Moderate	$52,817	$56,590	$60,363	$67,908	$75,454	$78,472	$81,490	$87,526	$93,562	$99,599	1.7%	1.53%	$177,413
	Low	$33,011	$35,369	$37,727	$42,443	$47,158	$49,045	$50,931	$54,704	$58,476	$62,249			
	Very Low	$19,807	$21,221	$22,636	$25,466	$28,295	$29,427	$30,559	$32,822	$35,086	$37,349			
Region 5	Median	$58,240	$62,400	$66,560	$74,880	$83,200	$86,528	$89,856	$96,512	$103,168	$109,824			
Burlington, Camden and Gloucester	Moderate	$46,592	$49,920	$53,248	$59,904	$66,560	$69,222	$71,885	$77,210	$82,534	$87,859	1.7%	2.09%	$154,194
	Low	$29,120	$31,200	$33,280	$37,440	$41,600	$43,264	$44,928	$48,256	$51,584	$54,912			
	Very Low	$17,472	$18,720	$19,968	$22,464	$24,960	$25,958	$26,957	$28,954	$30,950	$32,947			
Region 6	Median	$51,085	$54,734	$58,383	$65,681	$72,979	$75,898	$78,817	$84,655	$90,494	$96,332			
Atlantic, Cape May, Cumberland, and Salem	Moderate	$40,868	$43,787	$46,706	$52,545	$58,383	$60,718	$63,054	$67,724	$72,395	$77,066	1.7%	0.00%	$136,680
	Low	$25,543	$27,367	$29,192	$32,840	$36,489	$37,949	$39,409	$42,328	$45,247	$48,166			
	Very Low	$15,326	$16,420	$17,515	$19,704	$21,894	$22,769	$23,645	$25,397	$27,148	$28,900			

Moderate income is between 80 and 50 percent of the median income. Low income is 50 percent or less of median income. Very low income is 30 percent or less of median income.

* These columns are for calculating the pricing for one, two and three bedroom sale and rental units as per N.J.A.C. 5:80-26.4(a).

**This column is used for calculating the pricing for rent increases for units as per N.J.A.C. 5:97-9.3. The increase for 2015 was 2.3%, the increase for 2016 was 1.1% and the increase for 2017 is 1.7% (Consumer price Index for All Urban Consumers (CPI-U): Regions by expenditure category and commodity and service group). Landlords who did not increase rents in 2015 or 2016 may increase rent by up to the applicable combined percentage from their last rental increase for that unit. In no case can rent for any particular apartment be increased more than one time per year.

*** This column is used for calculating the pricing for resale increases for units as per N.J.A.C. 5:97-9.3. As per 5:97-9.3,(b), The price of owner-occupied low and moderate income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administive agent be lower than the last recorded purchase price.

Low income tax credit developments may increase based on the low income tax credit regulations.

**** The Regional Asset Limit is used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3.

Note: Since the Regional Income Limits for Region 6 in 2016 were higher than the 2017 calculations, the 2016 income limits will remain in force for 2017. See N.J.A.C. 5:97-9.2(c).

2. 2023 Court Order Granting the Township a Final Judgment of Third Round Compliance and Repose (JOR), and 2022 Amended Settlement Agreement

Fair Share Housing Center
510 Park Boulevard
Cherry Hill, New Jersey 08002
P: 856-665-5444
F: 856-663-8182
Attorneys for Defendant-Intervenor
By: Ashley J. Lee, Esq. (375392021)
ashleylee@fairsharehousing.org

IN THE MATTER OF THE APPLICATION OF THE TOWNSHIP OF MONTGOMERY, COUNTY OF SOMERSET.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: SOMERSET COUNTY

DOCKET NO.: SOM-L-924-15

CIVIL ACTION
(*Mount Laurel*)

CONSENT ORDER

THIS MATTER having been brought before the Court by Wendy R. Quiroga, Esq., of Weiner Law Group LLP, counsel for the Township of Montgomery, with the consent and agreement of Fair Share Housing Center ("FSHC"), through counsel Ashley J. Lee, Esq., with the review and recommendation of approval of the Court-appointed Special Master Christine Nazarro-Cofone, PP/AICP; and

WHEREAS, on or about December 8, 2017, the Township of Montgomery (the "Township") executed a Settlement Agreement with FSHC (the "Settlement Agreement") that established the Township's Third Round Mount Laurel affordable housing obligation, including a Present Need/Rehabilitation Share obligation of 0 units, a Prior Round obligation of 307 units, and a Third Round New Construction Need obligation of 616 units, and preliminarily established the Township's compliance mechanisms; and

WHEREAS, one of the agreed upon compliance mechanisms is an inclusionary development of 250 market rate units and 50 affordable housing units on Block 37003, Lot 7 (the "Trap Rock Property"); and

WHEREAS, the after a duly-noticed Fairness Hearing, the Hon. Thomas C. Miller, A.J.S.C., files an Order dated February 20, 2018, which approved the Settlement Agreement, finding that the settlement is fair and reasonable to low- and moderate-income households and approved the Township's preliminary compliance mechanisms as generally compliant subject to certain conditions, including the adoption of the Township's Housing Element and Fair Share Plan ("HEFSP") and all implementing ordinances and resolutions as required in the Settlement Agreement; and

WHEREAS, the Township Planning Board adopted, and the Township Committee subsequently endorsed the Township's HEFSP on July 2, 2018 (the "2018 HEFSP")

WHEREAS, a Letter of Interpretation regarding the Trap Rock Property was obtained from the New Jersey Department of Environmental Protection changing the designation of the on-site wetlands; and

WHEREAS, the change in the wetlands designation resulted in an increase of the wetlands buffer from 50 feet to 150 feet, causing a reduction in units on the Trap Rock Property to 128 market rate units and 34 affordable housing units; and

WHEREAS, the reduction in units on the Trap Rock Property leaves a 7-credit deficiency in the Township's fair share obligation which is satisfied with the increase of units on the municipally sponsored affordable senior rental site from 60 units to 70 units.

WHEREAS, a Compliance Hearing was held before Judge Miller on July 24, 2019 and the Court approved the Township's 2018 HEFSP, subject to the conditions set forth in the Court's

July 24, 2019 Judgment of Compliance and Repose (the "2019 JOR"), attached herein as **Exhibit A**; and

WHEREAS, the 2019 JOR ordered that the Parties to codify the changes to the Trap Rock Project in an Amendment to the Settlement Agreement and in an amended HEFSP; and

WHEREAS, the Township Planning Board adopted an amended HEFSP on December 7, 2020 which included an updated spending plan to implement the HEFSP, and the Township Committee endorsed the amended HEFSP on December 17, 2020 ("2020 HEFSP"), attached herein as **Exhibit B**, consistent with the record and the Court's 2019 JOR; and

WHEREAS, on September 1, 2022, the Township and FSHC executed an Amendment to the Settlement Agreement, attached herein as **Exhibit C**, consistent with the record, the Township's 2020 HEFSP, and the Court's 2019 JOR.

NOW, THEREFORE, IT IS on this 24th day of January, 2022, **ORDERED** as follows:

1. Final Judgment of Compliance and Repose ("FJOR") is hereby entered in favor of the Township in the within declaratory judgment action.
2. It is hereby ordered and adjudged that the within FJOR shall remain in effect for 10 years, ending on July 8, 2025, and during this 10-year period the Township and all of its boards shall have repose and immunity from any and all exclusionary zoning lawsuits, including but not limited to "builder's remedy" lawsuits. The grant of repose shall not prohibit actions brought by FSHC to enforce the terms of the Settlement Agreement, Amendment to the Settlement Agreement, or the within FJOR.
3. As a continuing obligation and condition of this FJOR, the Township shall comply with all monitoring and reporting requirements identified in the Settlement Agreement.

4. While the within FJOR resolves all issues raised in the litigation, the Court retains jurisdiction over this matter for the purpose of monitoring compliance and assisting the Township and FSHC in promptly resolving any issues that may arise.
5. In this regard, the Court hereby continues the appointment of Christine Nazarro-Cofone, PP/AICP as Special Master in this matter for the purpose of assisting the Township and advising the Court regarding the Township's compliance efforts.
6. The Township's 2020 HEFSP is hereby approved.
7. The Amendment to the Settlement Agreement between the Township and FSHC executed on September 1, 2022 is hereby approved.
8. A copy of this Order shall be served to the Special Master and counsel for the Township within seven (7) days of receipt.

/s/ Kevin M. Shanahan, A.J.S.C.

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

The undersigned consent to the form of this order:

Ashley J. Lee, Esq.
Counsel for
FAIR SHARE HOUSING CENTER

Date: **1/3/2023**

Wendy R. Quiroga, Esq.
Counsel for
TOWNSHIP OF MONTGOMERY

Date: 12/22/2022

SETTLEMENT AGREEMENT AMENDMENT BETWEEN THE TOWNSHIP OF MONTGOMERY AND FAIR SHARE HOUSING CENTER

In the Matter of the Application of the Township of Montgomery, County of Somerset, Docket No. SOM-L-924-15

Background

The Township of Montgomery (the "Township") filed the above-captioned matter on July 7, 2015 seeking a declaration of its compliance with the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq. in accordance with Mount Laurel IV, 221 N.J. 1 (2015). Through the declaratory judgment process, the Township and FSHC agreed to settle the matter by agreement dated December 8, 2017 ("Original Settlement Agreement"), and thereafter presented that settlement to the trial court with jurisdiction over this matter to review, recognizing that the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households.

After a duly-noticed fairness hearing and subsequent compliance hearing before the Hon. Thomas C. Miller, A.J.S.C., the Court conditionally approved the Township's 2018 HEFSP, subject to conditions set forth in the Court's July 24, 2019 Order (the "Compliance Order"). Those conditions included a requirement for the Township to increase the unit count for the 100% affordable municipally sponsored affordable senior rental site project from 60 units to at least 70 affordable units; and also recognized that due to increased wetland buffers at the" Trap Rock" development, the affordable housing units to be constructed at that site would be reduced from 50 units identified in the Settlement Agreement and the 2018 HEFSP to 34 total affordable units. The Compliance Order also required the Township to adopt an amendment to the 2018 HEFSP and to memorialize the revisions to the compliance plan in an amendment to the Original Settlement Agreement. The Township Planning Board adopted the amended HEFSP on December 7, 2020 (the "2020 HEFSP"), and the Township Committee endorsed the 2020 HEFSP on December 17, 2020.

Settlement Terms

1. The Original Settlement Agreement is hereby modified as follows. All other provisions not specifically modified herein remain in full force and effect:

    a. The chart in paragraph 7 is replaced with the following chart:

Montgomery's Third Round Compliance Mechanisms			
	Credits	**Bonuses**	**Total**
Inclusionary Developments - Completed			
Pike Run (Bellemead) – family rentals, 108 of 210, balance, bonus cap	108	108	216
JER Herring Orchard/K. Hov/Ingerman – family rentals	40	40	80
Sharbell-Hillside – family rentals	23	6, cap	29
Railsedge/Blawenburg Village – family rentals	3	0	3

Country Club Meadows – family rentals, approved, agreement, construction completed	27	0	27
Inclusionary Developments – approved			
PIRHL/Sharbell/Tapestry at Montgomery/Kepner-Tregoe – 80 total affordable family rentals, awarded tax credit financing and is under construction	86	0	86
Village Shopper – family apts above retail, 52 units x 20% = 11	11	0	11
Inclusionary Zoning – Existing			
Trap Rock – family units, 128 Market rate and 32 affordable	32	0	32
Alternative Living Arrangements – agreements, proposed			
Allies group home – developer's agreement, donated land	6	0	6
Proposed group homes – bedrooms	8	0	8
DeVan/Van Cleef – family rentals 115 total units x 20% = 23	23	0	23
Blawenburg Village Sq. – add'l mixed use bldg. – 1 afford units	1	0	1
Inclusionary Developments - Proposed			
Harlington Village – family rentals 45 total units x 20% = 9	9	0	9
Montgomery Five – Payment in Lieu – 4br group home	4	0	4
Inclusionary Developments – proposed seniors			
Tapestry assisted living – 120 beds x 10% = 12 seniors	12	0	12
100% Sites – senior units, special needs			
RPM/Municipal Building Site (Block 20001, Lot 10.05) – senior rentals, special needs	70	0	70
Total	463	154	617

b. The Original Settlement Agreement as anticipated to be amended by the Settlement Agreement Amendment was approved by the Court following a fairness hearing and compliance hearing as required by Morris Cty. Fair Hous. Counsel v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. Borough of Fort Lee, 286 N.J. Super 311, 328-29 (App. Div. 1996) by order dated July 24, 2019 (the "Compliance Order"). The Compliance Order requires the parties to execute this Settlement Agreement Amendment to memorialize the changes to the compliance plan identified and approved at the compliance hearing.

c. In the event any party is in default of its obligations pursuant to this Agreement, the party may seek to enforce this Agreement by a motion in aid of litigant's rights or a separate action in Superior Court, Law Division, Somerset County.

d. Unless otherwise specific, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses

or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections.

e. This Agreement shall be governed by and construed by the laws of the State of New Jersey.

f. This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.

g. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute by one and the same Agreement.

h. The Parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel that each party is the proper person and possess the authority to sign the Agreement, that this Agreement contains the entire understating of the Parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.

i. Each of the Parties hereto acknowledges that this Agreement was not drafted by any one of the Parties, but was drafted, negotiated and reviewed by all Parties and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the Parties expressly represents to the other Parties that: (i) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (ii) it has conferred due authority for execution of this Agreement upon the persons executing it.

j. This Agreement constitutes the entire Agreement between the Parties hereto and supersedes all prior oral and written agreements between the Parties with respect to the subject matter hereof except as otherwise provided herein.

k. No member, official or employee of the Township shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law, absent the need to invoke the rule of necessity.

l. Anything herein contained to the contrary notwithstanding, the effective date of this Agreement shall be the date upon which all of the Parties hereto have executed and delivered this Agreement.

m. All notices required under this Agreement ("Notice[s]") shall be written and shall be served upon the respective Parties by certified mail, return receipt requested, or

by a recognized overnight or by a personal carrier. In addition, where feasible (for example, transmittals of less than fifty pages) shall be served by facsimile or e-mail. All Notices shall be deemed received upon the date of delivery. Delivery shall be affected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days notice as provided herein:

TO FSHC:

Adam M. Gordon, Esq.
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, NJ 0802
Phone: (856) 665-5444
Telecopier: (856) 663-8182
E-mail: adamgordon@fairsharehousing.org

TO THE TOWNSHIP:

Wendy Rubinstein, Esq.
DeCotiis, FitzPatrick, Cole & Giblin, LLP
61 S. Paramus Road
Paramus, NJ 07652
Phone: (201) 907-5282
Telecopier: (201) 928-0588
E-mail: wrubinstein@decotiislaw.com

WITH A COPY TO THE TOWNSHIP CLERK:

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On behalf of Fair Share Housing Center:

Adam M. Gordon, Esq., Executive Director

Dated: May 27, 2022

On behalf of the Township of Montgomery, with the authorization of the governing body:

Devra Keenan

Mayor Devra Keenan

Dated: Sept 1, 2022

3. Fourth Round Declaratory Judgment Filing and Binding Resolution, and Order Setting Montgomery Township's Fourth Round Obligation

Wendy R. Quiroga, Esq. (ID# 029772002)
WEINER LAW GROUP LLP
629 Parsippany Road
Parsippany, NJ 07054
(973) 403-1100
Attorneys for Plaintiff Township of Montgomery
Our File No.: MONTG001
5214513.1

IN THE MATTER OF THE APPLICATION OF THE TOWNSHIP OF MONTGOMERY, COUNTY OF SOMERSET, STATE OF NEW JERSEY

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: SOMERSET COUNTY
DOCKET NO.:

COMPLAINT FOR A DECLARATORY JUDGMENT OF COMPLIANCE WITH THE FAIR HOUSING ACT

Plaintiff, the Township of Montgomery, a municipal corporation and body politic organized under the laws of the State of New Jersey (hereinafter, "Montgomery" or the "Township"), with offices located at 100 Community Drive, Township of Montgomery, County of Somerset, State of New Jersey, by way of this Declaratory Judgment Action ("DJ Action") as authorized under Directive #14-24 of the Administrative Office of the Courts alleges and says:

Background

1. The Township of Montgomery is a municipal corporation of the State of New Jersey.

2. The Planning Board of the Township of Montgomery (hereinafter, "Planning Board") is a municipal agency created and organized under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et. seq., ("MLUL"), and, among other duties and obligations, is responsible for adopting the Housing Element and Fair Share Plan ("HEFSP") of the Township's Master Plan.

3. Through this DJ Action, the Township seeks the following relief in relation to its Fourth Round (2025-2035) affordable housing obligation: (a) to secure the jurisdiction of the

Affordable Housing Alternative Dispute Resolution Program (the "Program") pursuant to P.L. 2024, c.2 (hereinafter, the "Act") and the Court, pursuant to Directive #14-24; (b) to have the Program and the Court approve the Township of Montgomery's Present and Prospective affordable housing obligations as set forth in the binding resolution adopted by the Township, attached hereto as **Exhibit 1**; (c) to have the Program and the Court approve a HEFSP to be adopted by the Planning Board and endorsed by the Committee and issue a "Compliance Certification" pursuant to the Act or other similar declaration such as a judgment of compliance and repose; (d) to the extent it is not automatically granted pursuant to the Act, through the filing of this DJ Action and binding resolution, to have the Program and the Court confirm Montgomery's immunity from all exclusionary zoning litigation, including builder's remedy lawsuits, during the pendency of the process outlined in the Act and for the duration of Fourth Round, *i.e.*, through June 30, 2035; and (e) to have the Program and the Court take such other actions and grant such other relief as may be appropriate to ensure that the Township receive and obtain all protections as afforded to it in complying with the requirements of the Act, including, without limitation, all immunities and presumptions of validity necessary to satisfy its affordable housing obligations voluntarily without having to endure the expense and burdens of unnecessary third party litigation.

COUNT 1
ESTABLISHMENT OF JURISDICTION UNDER P.L.2024, C.2

4. The Township of Montgomery repeats and realleges each and every allegation as set forth in the previous paragraphs of this DJ Action as if set forth herein in full.

5. The Act represents a major revision of the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 *et seq*.

6. Among other things, the Act abolished the Council on Affordable Housing (hereinafter, "COAH"), and replaced it with seven retired, on recall judges designated as the

Program. Among other things, the Act authorized the Director of the Administrative Office of the Courts, (hereinafter, respectively, "Director" and "AOC") to create a framework to process applications for a compliance certification.

7. On or about December 13, 2024, the Director issued Directive #14-24, which among other things, required municipalities seeking compliance certification to file an action in the form of a declaratory judgment complaint and Civil Case Information Statement in the County in which the municipality is located within 48 hours after the municipality's adoption of a binding resolution as authorized under the Act and attach a copy of said binding resolution to the DJ Action.

8. The Township adopted a binding resolution establishing its present and prospective affordable housing obligations within the statutory window of time set forth in the Act and in accordance with the methodology and formula set forth in the Act, a certified copy of which resolution is attached to this DJ Action as **Exhibit 1.**

9. Based on the foregoing, the Township has established the jurisdiction of the Program and the Court in regard to this DJ Action for a compliance certification as set forth hereinafter.

WHEREFORE, the Township of Montgomery seeks a declaratory judgment for the following relief:

a. Declaring that the Township has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as **Exhibit 1** to this DJ Action or to adjust such determination consistent with the Act;

b. Declaring the present and prospective affordable housing obligations of the Township under the Act;

c. Declaring the approval of the Township's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Township Committee, including, as appropriate and applicable, (i) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (ii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); (iii) an adjustment of rehabilitation obligation based upon a windshield survey; (iv) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (v) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (vi) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or (vii) any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations;

d. Declaring that the Township continues to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established under the Program;

e. Declaring and issuing compliance certification and immunity from exclusionary zoning litigation in accordance with the Act and Directive #14-24 to the Township of Montgomery for the period beginning July 1, 2025 and ending June 30, 2035; and

f. Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act and applicable COAH regulations.

COUNT II
DETERMINATION OF THE PRESENT AND PROSPECTIVE NEED OF THE TOWNSHIP OF MONTGOMERY

10. The Township repeats and realleges each and every allegation set forth in the previous paragraphs of this DJ Action as if set forth herein in full.

11. The Act adopted the methodology to calculate every municipality's present and prospective need affordable housing obligation for the Fourth Round (2025-2035) and beyond.

12. The Act directed the Department of Community Affairs ("DCA") to apply the methodology and to render a non-binding calculation of each municipality's present and prospective affordable housing obligations to be contained in a report to be issued not later than October 20, 2024.

13. The DCA issued its report on October 18, 2024.

14. Pursuant to the October 18, 2024 report, the DCA calculated the Township's present and prospective affordable housing obligations as follows:

PRESENT NEED (REHABILITATION OBLIGATION)	FOURTH ROUND PROSPECTIVE NEED OBLIGATION (2025-2035)
73	260

15. Pursuant to the Act, a municipality desiring to participate in the Program is obligated to adopt a "binding resolution" determining its present and prospective affordable housing obligations to which it will commit based upon the methodology set forth in the Act.

16. The Township adopted a binding resolution on January 27, 2025, a copy of which is attached hereto and made a part hereof as **Exhibit 1** to this DJ Action.

17. The binding resolution maintains that the Present Need ("Rehabilitation") obligation of the Montgomery is 73 and its Prospective Need obligation is 260.

18. Montgomery seeks the approval of and confirmation by the Program and the Court of the Present and Prospective affordable housing obligations as set forth in the binding resolution attached hereto and made a part hereof as **Exhibit 1** or the adjustment of those obligations consistent with the Act and the applicable COAH regulations.

19. Pursuant to the binding resolution, the Township of Montgomery reserves all rights to amend its affordable housing obligations in the event of a successful legal challenge, or legislative change, to the Act.

20. Pursuant to the binding resolution, Montgomery specifically reserves the right to seek and obtain 1) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 2) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); 3) an adjustment of rehabilitation obligation based upon a windshield survey; 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; 5) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; 6) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or 7) any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations.

WHEREFORE, the Township of Montgomery seeks a declaratory judgment for the following relief:

a. Declaring that the Township has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as **Exhibit 1** to this DJ Action or to adjust such determination consistent with the Act;

b. Declaring the present and prospective affordable housing obligations of Montgomery under the Act;

c. Declaring the approval of the Township's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Committee, including, as appropriate and applicable, (i) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (ii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); (iii) an adjustment of rehabilitation obligation based upon a windshield survey; (iv) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (v) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (vi) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or (vii) any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations;

d. Declaring that the Township continues to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established under the Program;

e. Declaring and issuing compliance certification and immunity from exclusionary zoning litigation in accordance with the Act and Directive #14-24 to the Township for the period beginning July 1, 2025 and ending June 30, 2035; and

f. Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act and applicable COAH regulations.

COUNT III
HOUSING ELEMENT AND FAIR SHARE PLAN

21. The Township of Montgomery repeats and realleges each and every allegation set forth in the previous paragraphs of this DJ Action as if set forth herein in full.

22. Pursuant to the Act, a Housing Element and Fair Share Plan (hereinafter, ("HEFSP") must be prepared, adopted by the Planning Board and endorsed by the municipality by June 30, 2025.

23. Montgomery hereby commits for its professionals to prepare the appropriate HEFSP to address its affordable housing obligations, as determined by the Program and the Court which HEFSP shall apply as appropriate, any applicable adjustments, including, without limitation, 1) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 2) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); 3) an adjustment of rehabilitation obligation based upon a windshield survey; 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; 5) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; 6) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or 7) any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations.

WHEREFORE, the Township of Montgomery seeks a declaratory judgment for the following relief:

a. Declaring that Montgomery has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing need as set forth in the binding resolution attached as **Exhibit 1** to this DJ Action or to adjust such determination consistent with the Act;

b. Declaring the present and prospective affordable housing obligations of Montgomery under the Act;

c. Declaring the approval of Montgomery's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Committee, including, as appropriate and applicable, (i) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (ii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); (iii) an adjustment of rehabilitation obligation based upon a windshield survey; (iv) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (v) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (vi) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or (vii) any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations;

d. Declaring that the Township of Montgomery continues to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established under the Program;

e. Declaring and issuing compliance certification and immunity from exclusionary zoning litigation in accordance with the Act and Directive #14-24 to the Township of Montgomery for the period beginning July 1, 2025 and ending June 30, 2035; and

f. Declaring such other relief that the program and Court deems just and proper within the parameters of the Act and applicable COAH regulations.

COUNT IV
CONFIRMATION OF IMMUNITY

24. The Township of Montgomery repeats and realleges each and every allegation set forth in the previous paragraphs of this declaratory judgment complaint as if set forth herein in full.

25. Pursuant to the Act, a municipality that complies with the deadlines in the Act for both determining present and prospective affordable housing obligations affordable housing obligations and for adopting an appropriate HEFSP shall have immunity from exclusionary zoning litigation.

26. The Township of Montgomery has met the deadline for the adoption and filing of its binding resolution (and the filing of this DJ Action in accordance with Directive #14-24) not later than January 31, 2025 by adopting the binding resolution attached to this DJ Action as **Exhibit 1**, and has committed to the adoption of its HEFSP by June 30, 2025.

WHEREFORE, the Township of Montgomery seeks a declaratory judgment for the following relief:

a. Declaring that the Township has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as **Exhibit 1** to this DJ Action or to adjust such determination consistent with the Act;

b. Declaring the present and prospective affordable housing obligations of Montgomery under the Act;

c. Declaring the approval of the Township's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Committee, including, as appropriate and applicable, (i) a Vacant Land Adjustment predicated upon a

lack of vacant, developable and suitable land; (ii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); (iii) an adjustment of rehabilitation obligation based upon a windshield survey; (iv) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (v) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (vi) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or (vii) any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations;

d. Declaring that the Township continues to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established under the Program;

e. Declaring and issuing compliance certification and immunity from exclusionary zoning litigation in accordance with the Act and Directive #14-24 to Montgomery for the period beginning July 1, 2025 and ending June 30, 2035; and

f. Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act and applicable COAH regulations.

WEINER LAW GROUP, LLP
Attorneys for Plaintiff, Township of Montgomery

By: /s/ *Wendy R. Quiroga*
Wendy R. Quiroga, Esq.

Dated: January 29, 2025

CERTIFICATION PURSUANT TO R. 4:5-1

Wendy R. Quiroga, Esq., of full age, hereby certifies as follows:

1. I am a member of the Firm of Weiner Law Group, LLP, attorneys for plaintiff, Township of Montgomery.
2. To the best of my knowledge, there is no other action pending in any court or any pending arbitration proceeding of which the matter in controversy herein is the subject and no such other action or arbitration proceeding is contemplated. To the best of my knowledge, there are no other parties who should be joined in this action.
3. The within Complaint was filed and served within the time prescribed by the Rules of Court.

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.

WEINER LAW GROUP, LLP
Attorneys for Plaintiff, Township of Montgomery

By: /s/ *Wendy R. Quiroga*
Wendy R. Quiroga, Esq.

Dated: January 29, 2025

CERTIFICATION PURSUANT TO R. 1:38-7(b)

Wendy R. Quiroga, Esq., of full age, hereby certifies as follows:

1. I am a member of the Firm of Weiner Law Group, LLP, attorneys for plaintiff, Township of Montgomery.
2. I certify that confidential personal identifiers have been redacted from documents now submitted to the Court and will be redacted from all documents submitted in the future in accordance with R. 1:38-7(b).

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.

WEINER LAW GROUP, LLP
Attorneys for Plaintiff, Township of Montgomery

By: /s/ *Wendy R. Quiroga*
Wendy R. Quiroga, Esq.

Dated: January 29, 2025

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, notice is hereby given that Wendy R. Quiroga, Esq., attorney for Plaintiff, Township of Montgomery is designated as trial counsel in the above captioned matter.

WEINER LAW GROUP, LLP
Attorneys for Plaintiff, Township of Montgomery

By: /s/ *Wendy R. Quiroga*
Wendy R. Quiroga, Esq.

Dated: January 29, 2025

Exhibit 1

TOWNSHIP OF MONTGOMERY
SOMERSET COUNTY, NEW JERSEY

RESOLUTION #25-1-54

A RESOLUTION OF THE TOWNSHIP OF MONTGOMERY, SOMERSET COUNTY, COMMITTING TO THE TOWNSHIP'S FOURTH ROUND AFFORDABLE HOUSING OBLIGATION AS CALCULATED BY DCA

WHEREAS, the Township of Montgomery, County of Somerset, State of New Jersey, (hereinafter the "Township") has a demonstrated history of voluntary compliance with its constitutional affordable housing obligations and obtained a Third Round Judgment of Compliance and Repose thereby immunizing the Township from builder remedy litigation until July 1, 2025, In the Matter of the Application of the Township of Montgomery, County of Somerset, Superior Court of New Jersey, Law Division, Somerset County, Docket No.: SOM-L-924-15; and

WHEREAS, on March 20, 2024, P.L. 2024, c.2 was signed into law which amended the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) (hereinafter "Amended FHA"); and

WHEREAS, the Amended FHA abolished the Council on Affordable Housing, ("COAH"), and delegated its responsibilities to the New Jersey Department of Community Affairs (hereinafter "DCA"), the New Jersey Housing and Mortgage Finance Agency, and the Affordable Housing Dispute Resolution Program (hereinafter "Program"), created by the same law; and

WHEREAS, the Amended FHA requires the DCA to calculate non-binding estimates of fair share obligations on or before October 20, 2024; and

WHEREAS, the DCA issued a report on October 18, 2024 ("DCA Report") wherein it reported its estimate of the Fourth Round obligations for all municipalities based upon its interpretation of the standards in the Amended FHA; and

WHEREAS, the DCA employed three (3) factors to allocate the Regional Need to each applicable municipality: equalized non-residential valuation, income capacity, and land capacity; and

WHEREAS, the DCA Report calculates the Township's Fourth Round (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 73 and a Prospective Need or New Construction Obligation of 260; and

WHEREAS, the Amended FHA provides that "[a]ll parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by COAH unless those regulations are contradicted by statute, including P.L. 2024, c.2, or binding court decisions" (N.J.S.A. 52:27D-311(m)); and

WHEREAS, COAH regulations authorize vacant land adjustments, durational adjustments and other adjustments; and

WHEREAS, COAH regulations authorize municipalities to secure an adjustment to their rehabilitation obligation through a windshield survey; and

WHEREAS, based on the foregoing, the Township accepts the DCA calculations of the Township's fair share obligations and commits to its fair share of 73 units present need and 260 units prospective need subject to any vacant land, windshield survey and/or any other additional authorized adjustments it may seek as part of the Housing Plan Element and Fair Share Plan it subsequently submits in accordance with the Amended FHA; and

WHEREAS, the Township reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

WHEREAS, the Township also reserves the right to adjust its position in the event of any rulings in the Montvale case (MER-L-1778-24) or any other such litigation or legislative action that alters the deadlines and/or requirements of the Amended FHA; and

WHEREAS, in the event that a third party challenges the calculations provided for in this Resolution, the Township reserves the right to take such position as it deems appropriate in response thereto; and

WHEREAS, in addition to the foregoing, nothing in the Amended FHA requires or can require an increase in the Township's Fourth Round Present or Prospective Need Obligations based on a successful downward challenge of any other municipality in the region since the plain language and clear intent of the Amended FHA is to establish, for example, unchallenged numbers by default on March 1, 2025; and

WHEREAS, in light of the above, the Governing Body of the Township of Montgomery finds that it is in the best interest of the Township to declare its commitment to the obligations reported by the DCA on October 18, 2024 subject to the reservations set forth herein; and

WHEREAS, in addition to the above, the Acting Administrative Director of the Administrative Office of the Court issued Directive #14-24, dated December 13, 2024, and made the directive available later in the week that followed; and

WHEREAS, pursuant to Directive #14-24, a municipality seeking a certification of compliance with the FHA shall file an action in the form of a declaratory judgment complaint . . . . in the county in which the municipality is located . . . . within 48 hours after adoption of the municipal resolution of fair share obligations, or by February 3, 2025, whichever is sooner"; and

WHEREAS, the Township seeks a certification of compliance with the Amended FHA and, therefore, directs its Affordable Housing Counsel to file a declaratory relief action within 48 hours of the adoption of this resolution.

NOW, THEREFORE, BE IT RESOLVED on this 27th day of January, 2025 by the Township Committee of the Township of Montgomery, Somerset County, New Jersey as follows:

1. All of the above recitals are incorporated into the operative clauses of this resolution.

2. For the reasons set forth in this resolution, the Township of Montgomery hereby commits to the DCA Fourth Round Present Need Obligation of 73 units and the Fourth Round Prospective Need Obligation of 260 units described in this resolution, subject to all reservations of rights which specifically include:

a) The right to adjust these obligations based on a windshield survey, lack of land, sewer, water, regional planning inputs, or any combination thereof;
b) All rights to revoke or amend this resolution in the event of a successful legal challenge, or legislative change, to the Amended FHA;
c) All rights to take any contrary position in the event of a third party challenge to the obligations.

3. The Township hereby directs its Affordable Housing Counsel to file a declaratory judgment complaint in Somerset County within 48 hours after adoption of this resolution, attaching this resolution.

4. The Township authorizes its Affordable Housing Counsel to attach this resolution as an exhibit to the declaratory judgment action that is filed and to submit and/or file this resolution with the Program or any other such entity as may be determined to be appropriate.

5. The Township hereby directs its Township Clerk to post this resolution on the Township website within 48 hours after adoption of this resolution, attaching this resolution.

6. The Township shall undertake all acts necessary to adopt a Housing Plan Element and Fair Share Plan to address its present and prospective need obligations as provided for by the Amended FHA, for filing by June 30, 2025 as part of the declaratory judgment action authorized herein.

7. This resolution shall take effect immediately, according to law.

CERTIFICATION

I, Lisa Fania, Clerk of the Township of Montgomery, County of Somerset, do hereby certify that the foregoing is a true and correct copy of a resolution duly adopted by the Township Committee at a Special Meeting held on January 27, 2025.

Lisa Fania, RMC
Township Clerk

FILED
March 26, 2025
HUNTERDON COUNTY SUPERIOR COURT
WILLIAM G. MENNEN, J.S.C.

PREPARED BY THE COURT:

IN THE MATTER OF THE DECLARATORY JUDGMENT ACTION OF THE TOWNSHIP OF MONTGOMERY, SOMERSET COUNTY PURSUANT TO P.L. 2024, CHAPTER 2	SUPERIOR COURT OF NEW JERSEY LAW DIVISION – CIVIL PART SOMERSET COUNTY DOCKET NO. SOM-L-153-25 Civil Action **ORDER FIXING MUNICIPAL OBLIGATIONS FOR "PRESENT NEED" AND "PROSPECTIVE NEED" FOR THE FOURTH ROUND HOUSING CYCLE**

THIS MATTER, having come before the Court on its own motion, *sua sponte*, on the Complaint for Declaratory Judgment filed on January 29, 2025 ("DJ Complaint") by the Petitioner, Township of Montgomery ("Petitioner" or "Municipality"), pursuant to N.J.S.A. 52:27D-304.2, -304.3, and -304.1(f)(1)(c) of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, *et seq.* (collectively, the "FHA"), and in accordance with Section II.A of Administrative Directive #14-24 ("Directive #14-24") of the Affordable Housing Dispute Resolution Program (the "Program"), seeking a certification of compliance with the FHA;

AND IT APPEARING, that on October 18, 2024, pursuant to the FHA (as amended), the New Jersey Department of Community Affairs ("DCA") issued its report entitled *Affordable Housing Obligations for 2025-2035 (Fourth Round),*[1] therein setting forth the present need and prospective need obligations of all New Jersey municipalities for the Fourth Round housing cycle (the "DCA's Fourth Round Report");

[1] *See* https://nj.gov/dca/dlps/pdf/FourthRoundCalculation_Methodology.pdf

AND IT APPEARING that, pursuant to the DCA's Fourth Round Report, the **present need** obligation of the Petitioner has been calculated and reported as 73 affordable units, and its **prospective need** obligation of the Petitioner has been calculated and reported as 260 affordable units, and which calculations have been deemed presumptively valid for purposes of the FHA;

AND

THE COURT, having determined that no interested party has filed a challenge to the Petitioner's DJ Complaint by way of an Answer thereto as provided for and in accordance with Section II.B of Directive #14-24 of the Program; **AND THE COURT**, having found and determined, therefore, that the present need and prospective need affordable housing obligations of the Petitioner for the Fourth Round housing cycle as calculated and reported in the DCA's Fourth Round Report have been committed to by the Petitioner and are uncontested, and for good cause having otherwise been shown: **IT IS, THEREFORE**, on this **26th** day of **MARCH 2025 ORDERED AND ADJUDGED** as follows:

1. That the present need obligation of the Municipality, be, and hereby is fixed as 73 affordable units for the Fourth Round housing cycle.

2. That the prospective need obligation of the Municipality, be, and hereby is fixed as 260 affordable units for the Fourth Round Housing cycle; and

3. That the Petitioner is hereby authorized to proceed with preparation and adoption of its proposed Housing Element and Fair Share Plan for the Fourth Round, incorporating therein the present need and prospective need allocations aforesaid (and which plan shall include the elements set forth in the "Addendum" attached to Directive #14-24), by or before June 30, 2025,

as provided for and in accordance with Section III.A of Directive #14-24, and without further delay.

IT IS FURTHER ORDERED, that a copy of this Order shall be deemed served on the Petitioner and Petitioner's counsel.

SO ORDERED:

Hon. William G. Mennen, J.S.C.

(X) Uncontested.

4. Planning Board Adoption Resolution

TOWNSHIP OF MONTGOMERY PLANNING BOARD
COUNTY OF SOMERSET
STATE OF NEW JERSEY

RESOLUTION NO. PB-___-2025

RESOLUTION APPROVING AND ADOPTING A HOUSING ELEMENT AND FAIR SHARE PLAN TO SATISFY THE TOWNSHIP'S FOURTH ROUND AFFORDABLE HOUSING OBLIGATION

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L.2024, c.2, establishing a new framework for determining and enforcing municipal affordable housing obligations under the New Jersey Supreme Court's Mount Laurel doctrine and the New Jersey Fair Housing Act (the "FHA") (N.J.S.A. 52:27D-301, *et al.*); and

WHEREAS, pursuant to N.J.S.A. 52:27D-304.1(f)(1)(b), each municipality was to adopt a binding resolution no later than January 31, 2025, determining and setting forth its present and prospective fair share obligations for the "Fourth Round" of affordable housing obligations ("Fourth Round"); and

WHEREAS, the Township Committee of the Township of Montgomery ("Township") adopted Resolution No. 25-1-54 on January 27, 2025, identifying its present need obligation as 73 units and prospective need obligation as 260 affordable units for the Fourth Round.

WHEREAS, in accordance with the FHA and Administrative Directive #14-24, issued by the Administrative Office of the Courts on December 13, 2024 ("Directive #14-24"), the Township filed a Complaint for Declaratory Judgment with the Superior Court of New Jersey, Law Division, Somerset County, entitled In the Matter of the Application of the Township of Montgomery, County of Somerset, State of New Jersey, Docket No. SOM-L-153-25 on January 29, 2025 (the "DJ Action"), identifying its present and prospective fair share obligations for the Fourth Round as set forth above, and committing to adopting and submitting a Fourth Round Housing Element and Fair Share Plan ("HEFSP") as required by the FHA; and

WHEREAS, no parties challenged the Township's present and prospective need obligations; and

WHEREAS, on March 26, 2025, the Honorable William G. Mennen, J.S.C., issued an Order setting the Township's present need obligation at 73 units and the prospective need obligation at 260 affordable units and further authorized the Township to proceed with preparation and adoption of a proposed HEFSP to satisfy the Township's affordable housing obligation; and

WHEREAS, pursuant to N.J.S.A. 52:27D-304.1(f)(2)(a) and Directive #14-24, each municipality must adopt and file as part of its DJ Action a HEFSP, with associated resolutions and

proposed drafts of the appropriate zoning and other ordinances, necessary to implement its HEFSP, no later than June 30, 2025; and

WHEREAS, the Township's Affordable Housing Planner, Clarke Caton Hintz, prepared a proposed HEFSP, entitled "2025 Fourth Round Housing Element & Fair Share Plan" dated June 13, 2025 (the "Fourth Round HEFSP"); and

WHEREAS, pursuant to N.J.S.A. 40:55D-28, the Township of Montgomery Planning Board ("Board"), may prepare and adopt or amend a master plan or component parts thereof, after a public hearing, to guide the use of lands within the municipality in a manner which protects health and safety and promotes the general welfare; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Board held a public hearing on the proposed Fourth Round HEFSP on June 23, 2025, during which the proposed Fourth Round HEFSP was presented to the Board and public, and opportunity for comments and questions was provided; and

WHEREAS, with the conclusion of the public hearing, the Board finds and hereby determines that the proposed Fourth Round HEFSP is consistent with the goals and objectives of the Master Plan of the Township, will guide the use of lands in the municipality in a manner which protects public health and safety and promotes the general welfare in accordance with N.J.S.A. 40:55D-28, and is designed to achieve the goal of access to affordable housing to meet present and prospective housing needs in accordance with N.J.S.A. 52:27D-310; and

WHEREAS, by the adoption of this Resolution, the Board memorializes its adoption of the proposed Fourth Round HEFSP as the Housing Element and Fair Share Plan components of the Township of Montgomery Master Plan, in accordance with N.J.S.A. 40:55D-28, the FHA and Directive #14-24.

NOW, THEREFORE, BE IT RESOLVED by the Township of Montgomery Planning Board that the plan entitled "2025 Fourth Round Housing Element & Fair Share Plan", prepared by Clarke Caton Hintz, dated June 13, 2025 (the "Fourth Round HEFSP"), is hereby approved and adopted as the 2025 Housing Element and Fair Share Plan components of the Township of Montgomery Master Plan.

BE IT FURTHER RESOLVED that the Board Secretary is hereby authorized and directed to transmit a certified, electronic copy of the 2025 HEFSP and this resolution to the Township's affordable housing counsel for further disposition

BE IT FURTHER RESOLVED the Board Secretary is hereby authorized and directed to provide a copy of the adopted Fourth Round HEFSP and a certified copy of this Resolution to the Somerset County Planning Board and New Jersey Office of Planning Advocacy, in accordance with the requirements of N.J.S.A. 40:55D-13.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately.

5. Governing Body Endorsement Resolution

RESOLUTION ENDORSING THE 2025 HOUSING ELEMENT AND FAIR SHARE PLAN

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L.2024, c.2, establishing a new framework for determining and enforcing municipal affordable housing obligations under the New Jersey Supreme Court's Mount Laurel doctrine and the New Jersey Fair Housing Act (the "FHA") (N.J.S.A. 52:27D-301, *et al.*); and

WHEREAS, among other things, the Act abolished the Council on Affordable Housing (hereinafter, "COAH"), and replaced it with seven retired, on recall judges designated as the Program and authorized the Director of the Administrative Office of the Courts, (hereinafter, respectively, "Director" and "AOC") to create a framework to process applications for affordable housing compliance certification; and

WHEREAS, pursuant to N.J.S.A. 52:27D-304.1(f)(1)(b), each municipality was to adopt a binding resolution no later than January 31, 2025, determining and setting forth its present and prospective fair share obligations for the "Fourth Round" of affordable housing obligations ("Fourth Round"); and

WHEREAS, the Township Committee of the Township of Montgomery ("Township") adopted Resolution No. 25-1-54 on January 27, 2025, identifying its present need obligation as 73 units and prospective need obligation as 260 affordable units for the Fourth Round.

WHEREAS, in accordance with the FHA and Administrative Directive #14-24, issued by the Administrative Office of the Courts on December 13, 2024 ("Directive #14-24"), the Township filed a Complaint for Declaratory Judgment with the Superior Court of New Jersey, Law Division, Somerset County, entitled In the Matter of the Application of the Township of Montgomery, County of Somerset, State of New Jersey, Docket No. SOM-L-153-25 on January 29, 2025 (the "DJ Action"), identifying its present and prospective fair share obligations for the Fourth Round as set forth above, and committing to adopting and submitting a Fourth Round Housing Element and Fair Share Plan ("HEFSP") as required by the FHA; and

WHEREAS, no parties challenged the Township's present and prospective need obligations; and

WHEREAS, on March 26, 2025, the Honorable William G. Mennen, J.S.C., issued an Order setting the Township's present need obligation at 73 units and the prospective need obligation at 260 affordable units and further authorized the Township to proceed with preparation and adoption of a proposed HEFSP to satisfy the Township's affordable housing obligation; and

WHEREAS, pursuant to N.J.S.A. 52:27D-304.1(f)(2)(a) and Directive #14-24, each municipality must adopt and file as part of its DJ Action a HEFSP, with associated resolutions and proposed drafts of the appropriate zoning and other ordinances, necessary to implement its HEFSP, no later than June 30, 2025; and

WHEREAS, the Township of Montgomery Planning Board ("Board") adopted the HEFSP, entitled "2025 Fourth Round Housing Element & Fair Share Plan" prepared by the Township's affordable housing planner, Clarke Caton Hintz, dated June 13, 2025 (the "Fourth Round HEFSP"), as an amendment to the Township's Master Plan on June 23, 2025; and

WHEREAS, the Governing Body desires to endorse the Fourth Round HEFSP adopted by the Board on June 23, 2025.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Township of Montgomery, Somerset County as follows:

1. The Governing Body does hereby endorse the Fourth Round HEFSP adopted by the Township of Montgomery Planning Board on June 23, 2025.

2. The Governing Body does hereby authorize the filing of this Resolution endorsing the Fourth Round HEFSP adopted by the Board on eCourts for review by the Program.

3. The Mayor and Clerk, together with other appropriate officers and employees of the Township of Montgomery, are hereby authorized to take all steps necessary to effectuate the purposes of this Resolution.

4. This Resolution shall take effect immediately.

6. Rehabilitation Program Documentation

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT by and between the Township of Montgomery (hereinafter referred to as "Township"), a Municipal Corporation of the State of New Jersey and CGP&H LLC, 1249 South River Road, Suite 301, Cranbury, NJ 08512 (hereinafter referred to as "CGP&H"); and

WHEREAS, both the Township and CGP&H desire to set forth the various duties, terms and responsibilities of the parties hereto;

WHEREAS, the Township Committee hereby desires to approve of this Contract that was presented for the provision of said services.

WITNESSETH, that the parties hereto, for and in consideration of the mutual agreements herein contained, promise and agree as follows:

1. The term of the Agreement shall become effective as of the 1st day of January, 2025, terminating at the close of business on 31st day of December, 2025. The Agreement may be terminated by either party, by giving one (1) month advanced written notice to the other.

2. CGP&H shall furnish all equipment and materials and shall perform the services set forth in Schedule A, Scope of Services and Compensation. Compensation will be provided as in this Agreement and as awarded in accordance with Compensation Schedule in strict accordance with the contract as the word "contract" is hereinafter defined and in accordance with all other terms and provisions.

3. The "contract" shall consist of the following:
   a. This Agreement and all Schedules annexed thereto.
   b. Resolution of appointment made by the Mayor and Township Committee.
   c. All other terms required by law to be inserted in this contract, whether actually inserted or not.
   d. The Affirmative Action Requirements annexed hereto, applicable to this contract, as Schedule B.

4. CGP&H hereby represents to the Township that CGP&H is qualified to fulfill the position set forth herein with applicable requirements. CGP&H further represents that CGP&H is familiar with all applicable statutes, laws, regulations, procedures and requirements in connection with this appointment.

5. CGP&H hereby agrees to perform the services set forth under the Scope of Services and Compensation, Schedule A, for the Township of Montgomery during the period set forth herein above.

6. CGP&H shall not assign this contract or any of its rights or monies due hereunder without the previous written consent of the Township of Montgomery as evidenced by a duly adopted Resolution.

7. CGP&H represents that they currently have professional liability insurance in a minimum amount of $1,000,000 per occurrence and $2,000,000 aggregate, and that they shall supply a certificate to the Township showing said coverage. CGP&H further covenants and agrees to protect, keep and hold the Township of Montgomery harmless against any and all actions, claims or demands for damages, which may be caused by the negligent error, act or omission of CGP&H or by the improper performance of the contract.

8. Payment to CGP&H shall be made in strict accordance with the terms of this contract. It is understood and agreed that in the event CGP&H is required to perform services that are not contemplated and are not within the subject matter of this contract and are extraordinary and are of a kind which would not ordinarily be performed in the normal course of providing services, that CGP&H shall be paid additional sums of money based upon change orders duly approved by Resolution of the Township of Montgomery Committee.

AND IT IS FURTHER UNDERSTOOD AND AGREED that the covenants, conditions and agreements herein contained are binding of the parties hereto, their successors, assigns and legal representatives.

IN WITNESS WHEREOF, the parties hereto have caused their presents to be signed by the respective authorized officers and the proper corporate and/or municipal seals affixed hereto, the date and year first written above.

WITNESS:

BY: Cheryl L Chrusz

NAME: Cheryl L. Chrusz

TITLE: Assistant Planning Director

TOWNSHIP OF MONTGOMERY

BY: Lori Savron

NAME: Lori Savron

TITLE: Planning Director/Township Administrator

DATE: 2-10-25

WITNESS:

_____

NAME: _____

TITLE: _____

CGP&H, LLC

_____

NAME: John Burton, MPA

TITLE: Chief Executive Officer

DATE: _____

SCHEDULE A: SCOPE OF SERVICES AND COMPENSATION

For services rendered by CGP&H, under the terms of this document, CGP&H shall be compensated as follows:

ADMINISTRATIVE AGENT GENERAL SERVICES paid by Municipality	
1. Municipal Services	Not-to-exceed $10,000 billed hourly at a rate of $165 per hour for senior staff which include planners and department supervisors
2. Applicant Services	Monthly flat fee of $150 per month for a total of $1,800 per year.
3. Administrative Agent Resale Fee	$2,000 flat fee payable by Municipality for each sale unit when home gets listed for sale. *A fee of 3% of the resale price will be paid from the seller at the closing to CGP&H.*
4. Subordination Requests	$175 flat fee to process refinancing requests. **This fee is paid by the homeowner.**
5. Direct Costs	Reimbursement for expenses. Not to exceed $300 per contract year.
TOTAL PAID BY MUNICIPALITY	**Not-to-exceed $20,100 including up to 4 units listed for sale.**

1. **Municipal Services:** This may include, but is not limited to:
    - Implementing Affirmative Marketing Plan postings and other compliance requirements
    - Creation/Updates to the Administrative Agent Operating Manual and Affirmative Marketing Plan, when required
    - Distressed Properties follow up activities
    - Responding to initial private developer inquiries
    - Advising Municipality on affordable housing requirements for new developments
    - Foreclosure prevention activities
    - Enforcing affordability controls, including annual mailings to homeowners
    - Program setup for Accessory Apartment program
    - Program setup for Affordability Assistance Programs
    - Unit Monitoring
    - Entry of unit information into state database
    - Assisting with Spending Plan revisions
    - Extension of Controls
    - Releasing controls at end of control period
    - Calculating annual tax assessments for affordable homeowners
    - Midpoint Review
    - Group home research to document creditworthiness

If the municipality requires additional services above this line item's budgetary cap, CGP&H will request permission to proceed before invoicing further.

CGP&H will strive to comply with all aspects of S2527 affirmative marketing legislation. However, CGP&H cannot ensure that other administrative agents administering affordable housing units in the Municipality are meeting the regulations until further direction is provided by the State of New Jersey.

2. **Applicant Services:**

This may include, but is not limited to:

- Affordable Housing Waitlist Management for existing Sales and Rental units
- Responding to general affordable housing inquiries from pre-applicants, applicants, and existing affordable housing owners
- Unit Administration
- Management of general inquiries
- Responding to existing homeowners' inquiries (intent to sell requests, etc.)
- Processing requests for loan subordinations/approval of equity loans and refinancing
- Answering Affordability Assistance Questions
- Advising on annual increases for Market to Affordable, Accessory Apartment, and other units

3. **Administrative Agent Resale Fee:** This includes but is not limited to:

- Facilitation of the resale of any affordable sales unit that is put up for sale by current owner
- Certifying a buying household(s) as eligible
- Sending potential purchasers to the unit
- Facilitating an agreement between buyer and seller
- Preparing and filing closing documents.

The flat fee that is paid by the Municipality will be billed once a notice of intent to sell is signed by the seller. In the event that the seller cancels the sale during the sale process, and the unit does not go to closing, this flat fee is still applicable and will not be returned or cancelled.

4. **Subordination Requests:** includes the cost of processing mortgage Subordination Requests during the affordability control period.

5. **Direct Costs:** this includes, but is not limited to:

- Reimbursement for direct costs for large scale printing jobs; postage; affirmative marketing mailing, mailings to affordable housing homeowners; poster production; expedited mailings or messenger services, etc.

SCHEDULE B

N.J.S.A. 10-5-31 et seq., (N.J.A.C. 17-27)
MANDATORY AFFIRMATIVE ACTION LANGUAGE
GOODS PROFESSIONAL SERVICES AND GENERAL SERVICE CONTRACTS

During the performance of this contract, the contractor agrees as follows:

a. The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Except with respect to affectional or sexual orientation, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

b. The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex.

c. The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The contractor or subcontractor, where applicable, agrees to comply with the regulations promulgated by the Treasurer pursuant to **N.J.S.A. 10:5-31 et seq.** as amended and supplemented from time to time and the American with Disabilities Act.

e. The contractor or subcontractor agrees to make good faith efforts to employ minority and women workers consistent with the applicable county employment goals established in accordance with N.J.A.C 17:-5.2. or a binding determination of the applicable county employment goals determined by the Division pursuant to N.J.A.C.17:27-5.2.

f. The contractor or subcontractor agrees to inform in writing appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

g. The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal Law and applicable Federal Court decisions.

h. In conforming with the applicable employment goals, the contractor or subcontractor agrees to review all procedures to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex, consistent with the statues and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions

i. The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval

Certificate of Employee Information Report

Employee Information Report Form AA302

j. The contractor and its subcontractor shall furnish such reports or other documents to the Division of Contract Compliance and EEO as may be requested by the Division from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Contract Compliance and EEO for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C.17:27.**

COMPANY CGP&H, LLC

SIGNATURE _____

TITLE CHIEF EXECUTIVE OFFICER

DATE _____

7. Prior Round: McKinley Comm. / Montgomery Hills

AFFORDABLE HOUSING AGREEMENT

Prepared by:

A DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

This AGREEMENT is entered into on this 1st day of August 2002 between TOWN HOMES AT MONTGOMERY, L.L.C., owner of the properties designated in Section II PROPERTY DESCRIPTION, hereafter "OWNER", and The HOUSING AUTHORITY OF THE TOWNSHIP OF MONTGOMERY, which is an instrumentality of the Township of Montgomery hereafter the "AUTHORITY", both parties having agreed that the covenants, conditions and restrictions contained herein shall be imposed on the Affordable Housing units described in Section II PROPERTY DESCRIPTION for a period of at least thirty (30) years beginning on the date of the first sale of an Affordable For Sale unit and ending at the first non-exempt transfer of title occurring more than thirty (30) years thereafter, unless extended by municipal resolution as described in Section III TERM OF RESTRICTIONS.

WHEREAS, municipalities within the State of New Jersey are required by the Fair Housing Act (P.L.1985, c.222) hereinafter the "Act", to provide for their fair share of housing that is affordable to households with low or moderate incomes in accordance with provisions of the Act; and

WHEREAS, the Act requires that municipalities ensure that such designated housing remains affordable to low and moderate income households for a minimum period of at least 6 years; and

WHEREAS, the Act establishes the Council on Affordable Housing (hereinafter the "Council") to assist municipalities in determining a realistic opportunity for the planning and development of such affordable housing; and

WHEREAS, pursuant to the Act, the housing units described in Section II PROPERTY DESCRIPTION hereafter and/or in attached Exhibit A of this Agreement have been designated as low and moderate income housing as defined by the Act; and

WHEREAS, the purpose of this Agreement is to ensure that the described housing units remain affordable to low and moderate income-eligible households for that period of time described in Section III TERM OF RESTRICTIONS.

NOW, THEREFORE, it is the intent of this Agreement to ensure that the affordability controls are contained directly in the property deed for the premises and incorporated into and recorded with the property deed so as to bind the owner of the described premises and notify all future purchasers of the housing unit that the housing unit is encumbered with affordability controls; and by entering into this Agreement, the Owner of the described premises agrees to restrict the sale of the housing unit to low and moderate income-eligible households at a maximum resale price determined by the Authority for the specified period of time.

I. DEFINITIONS

For purposes of this Agreement, the following terms shall be defined as follows:

"Affordable Housing" shall mean residential units that have been restricted for occupancy by Households whose total Gross Annual Income is measured at less than 80% of the median income level established by an authorized income guideline for geographic region and family size.

"Agency" shall mean the New Jersey Housing and Mortgage Finance Agency established by L. 1983, c.530 (C. 55: 14K-1 et seq.).

"Agreement" shall mean this written Affordable Housing Agreement between the Authority and the owner of an Affordable Housing unit which places restrictions on Affordable Housing units so that they remain affordable to and occupied by Low and Moderate Income-Eligible Households for the period of time specified in this Agreement.

"Assessments" shall mean all taxes, levies or charges, both public and private, including those charges by any condominium, cooperative or homeowner's association as the applicable case may be, imposed upon the Affordable Housing unit.

"Authority" shall mean the administrative organization designated by the Township of Montgomery for the purpose of monitoring the occupancy and resale restrictions contained in this Affordable Housing Agreement. The Authority shall serve as an instrument of the municipality in exercising the municipal rights to the collection of funds as contained in this Agreement.

"Base Price" shall mean the initial sales price of a unit produced for or designated as owner-occupied Affordable Housing.

"Council" shall mean the Council on Affordable Housing (COAH) established pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301 et seq.

"Certified Household" shall mean any eligible Household whose estimated total Gross Annual Income has been verified, whose financial references have been approved and who has received written certification as a Low or Moderate Income-Eligible Household from the Authority.

"Department" shall mean the New Jersey Department of Community Affairs.

"Exempt Transaction" shall mean the following "non-sales" title transactions: (1) Transfer of ownership between husband and wife; (2) Transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation (but not including sales to third parties); (3) Transfer of ownership through an Executor's deed to a Class A Beneficiary and, (4) Transfer of ownership by court order. All other title transfers shall be deemed non-exempt.

"Fair Market Price" shall mean the unrestricted price of a low or moderate income unit if sold at a current real estate market rate.

"First Purchase Money Mortgage" shall mean the most senior mortgage lien to secure repayment of funds for the purchase of an Affordable Housing unit providing that such mortgage is not in excess of the applicable maximum allowable resale price and is payable to a valid First Purchase Money Mortgagee.

"First Purchase Money Mortgagee" shall mean an institutional lender or investor, licensed or regulated by the Federal or a State government or any agency thereof, which is the holder and/or assignee of the First Money Mortgage.

"Foreclosure" shall mean the termination through legal processes of all rights of the mortgagor or the mortgagor's heirs, successors, assigns or grantees in a restricted Affordable Housing unit covered by a recorded mortgage.

"Gross Annual Income" shall mean the total amount of all sources of a Household's income including, but not limited to salary, wages, interest, tips, dividends, alimony, pensions, social security, business and capital gains, tips and welfare benefits. Generally, gross annual income will be based on those sources of income reported to the Internal Revenue Service (IRS) and/or that can be utilized for the purpose of mortgage approval.

"Hardship Waiver" shall mean an approval by the Authority of a non-exempt transfer of title to sell an affordable unit to a household that exceeds the income eligibility criteria

~~after the Owner has demonstrated that no Certified Household has signed an~~ agreement to purchase the unit. The Owner shall have marketed the unit for 90 days after a Notice of Intent to Sell, has been received by the Authority and the Authority shall have 30 days thereafter to approve a Hardship Waiver. The Hardship Waiver shall permit a low income unit to be sold to a moderate income household or a moderate income unit to be sold to a household whose income is at 80% or above the applicable median income guide. The Hardship Waiver is only valid for a single sale.

"Household" shall mean the person or persons occupying a housing unit.

"Index" shall mean the measured percentage of change in the median income for a Household of four by geographic region using the income guideline approved for use by Council.

"Low Income Household" shall mean a Household whose total Gross Annual Income is equal to 50% or less of the median gross income figure established by geographic region and household size using the income guideline approved for use by Council.

"Moderate Income Household" shall mean a Household whose total Gross Annual Income is equal to more than 50% but less than 80% of the median gross income established by geographic region and household size using the income guideline approved for use by Council.

"Owner" shall mean the title holder of record as same is reflected in the most recently dated and recorded deed for the particular Affordable Housing unit. For purposes of the initial sales or rentals of any Affordable Housing unit, Owner shall include the developer/owner of such Affordable Housing units. Owner shall not include any co-signer or co-borrower on any First Purchase Money Mortgage unless such co-signer or co-borrower is also a named title holder of record of such Affordable Housing unit.

"Price Differential" shall mean the total amount of the restricted sales price that exceeds the maximum restricted resale price as calculated by the Index after reasonable real estate broker fees have been deducted. The unrestricted sales price shall be no less than a comparable fair market price as determined by the Authority at the time a Notice of Intent to Sell has been received from the Owner.

"Primary Residence" shall mean the unit wherein a Certified Household maintains continuing residence for no less than nine months of each calendar year.

"Purchaser" shall mean a Certified Household who has signed an agreement to purchase an Affordable Housing unit subject to a mortgage commitment and closing.

"Repayment" shall mean the Owner's obligation to the municipality for payment of 95% of the price differential between the maximum allowable resale price and the fair market selling price which has accrued to the Affordable unit during the restricted period of resale at the first non-exempt sale of the property after restrictions have ended as specified in the Affordable Housing Agreement.

"Repayment Mortgage" shall mean the second mortgage document signed by the Owner that is given to the municipality as security for the payment due under the Repayment Note.

"Repayment Note" shall mean the second mortgage note signed by the owner that requires the repayment to the municipality of 95% of the price differential which has accrued to the low or moderate income unit during the period of resale controls at the first non-exempt sale of the property after restrictions have ended as specified in the Affordable Housing Agreement.

"Resale Price" shall mean the Base Price of a unit designated as owner-occupied affordable housing as adjusted by the Index. The resale price may also be adjusted to accommodate an approved home improvement.

"Total Monthly Housing Costs" shall mean the total of the following monthly payments associated with the cost of an owner-occupied Affordable Housing unit including the mortgage payment (principal, interest, private mortgage insurance), applicable assessments by any homeowners, condominium, or cooperative associations, real estate taxes, and fire, theft and liability insurance.

II. PROPERTY DESCRIPTION This agreement applies to the Owner's interest in the real property commonly known as:

SEE EXHIBIT A

III. TERM OF RESTRICTIONS

A. The terms, restrictions and covenants of this Affordable Housing Agreement shall begin on the later of the date a Certificate of Occupancy is issued or the date on which closing and transfer of title takes place for initial ownership.

B. The terms, restrictions and covenants of this Affordable Housing Agreement shall terminate upon the occurrence of either of the following events:

1 At the first non-exempt sale after thirty (30) years from the beginning date established pursuant to Paragraph A above; or

2. The date upon which the event set forth in Section IX FORECLOSURE herein shall occur.

C. The terms, restrictions and covenants of this Affordable Housing Agreement may be extended by municipal resolution as provided for in N.J.A.C. 5:92.1 et seq. Such municipal resolution shall provide for a period of extended restrictions and shall be effective upon filing with the Council and the Authority. The municipal resolution shall specify the extended time period by providing for a revised ending date. An amendment to the Affordable Housing Agreement shall be filed with the recording office of the county in which the Affordable Housing unit or units is/are located.

D. At the first non-exempt title transaction after the established ending date, the Authority shall execute a document in recordable form evidencing that the Affordable Housing unit has been released from the restrictions of this Affordable Housing Agreement.

IV. RESTRICTIONS

A. The Owner of an owner-occupied Affordable Housing unit for sale shall not sell the unit at a Resale Price greater than an established Base Price plus the allowable percentage of increase as determined by the Index applicable to the municipality in which the unit is located. However, in no event shall the maximum allowable price established by the Authority be lower than the last recorded purchase price.

B. The Owner shall not sell the Affordable Housing unit to anyone other than a Purchaser who has been certified utilizing the income verification procedures established by the Authority to determine qualified Low and Moderate Income-Eligible Households.

C. An Owner wishing to enter a transaction that will terminate controls as specified heretofore in Section III TERM OF RESTRICTIONS shall be obligated to provide a Notice of Intent to Sell to the Authority and the Council. An option to buy the unit at the maximum restricted sales price as calculated by the Index shall be made available to the Municipality, the Department, the Agency, or a qualified non-profit organization as determined by the Council for a period of ninety (90) days from the date of delivery of the Notice of Intent to Sell. The option to buy shall be by certified mail and shall be effective on the date of mailing to the Owner.

1. If the option to buy is not exercised within ninety (90) days pursuant to Paragraph C above, the Owner may elect to sell the unit to a certified income-eligible household at the maximum restricted sales price as calculated by the Index, provided the unit continues to be restricted by an Affordable Housing Agreement and a Repayment Lien for a period of up to thirty (30) years.

2. Alternately, the Owner may also elect to sell to any purchaser at a fair market price. In this event, the Owner shall be obligated to pay the municipality 95% of the Price Differential generated at the time of closing and transfer of title of the Affordable Housing unit after restrictions have ended as specified heretofore in Section III TERM OF RESTRICTIONS.

3. If the Owner does not sell the unit within one (1) year of the date of delivery of the Notice of Intent to Sell, the option to buy shall be restored to the municipality and subsequently to the Department, the Agency or a Non-Profit approved by the Council. The Owner shall then be required to submit a new Notice of Intent to Sell the affordable unit to the Authority.

D. The Affordable Housing unit shall be sold in accordance with all rules, regulations, and requirements duly promulgated by the Council (N.J.A.C. 5:92-1 et seq.), the intent of which is to ensure that the Affordable Housing unit remains affordable to and occupied by Low and Moderate Income-Eligible Households throughout that duration of the Agreement.

V. REQUIREMENTS

A. This Agreement shall be recorded with the recording office of the County of Somerset. The Agreement shall be filed no earlier than the recording of an applicable Master Deed and no later than the closing of the initial sale.

B. When a single Agreement is used to govern more than one Affordable Housing unit, the Agreement shall contain a description of each Affordable Housing unit governed by the Agreement as described in Section II PROPERTY DESCRIPTION and/or Exhibit A of the Agreement and an ending date to be imposed on the unit as described in Section III TERM OF RESTRICTIONS of the Agreement.

C. A Repayment Mortgage and a Repayment Note shall be executed between the Owner and Township of Montgomery at the time of closing and transfer of title to any purchaser of an Affordable Housing unit. The Repayment Mortgage shall provide for the repayment of 95% of the Price Differential at the first non-exempt transfer of title after the ending date of restrictions as specified in Section III TERM OF

RESTRICTIONS. The Repayment Mortgage shall be recorded with the records office of the County of Somerset.

VI. DEEDS OF CONVEYANCE AND LEASE PROVISIONS

All Deeds of Conveyance and Contracts to Purchase from owners to Certified Purchasers of Affordable housing units shall include the following clause in a conspicuous place:

"The Owner's right, title and interest in this unit and the use, sale, resale and rental of this property are subject to the terms, conditions, restrictions, limitations and provisions as set forth in the AFFORDABLE HOUSING AGREEMENT dated _____ which was filed in the Office of the Clerk of Somerset County in Misc. Book _____ at Page _____ on _____ and is also on file with the Housing Authority of the Township of Montgomery."

Any Master Deed that includes an affordable unit shall also reference the affordable unit and the Affordable Housing Agreement and any variation in services, fees, or other terms of the Master Deed that differentiates the affordable unit from all other units covered in the Master Deed.

VII. COVENANTS RUNNING WITH LAND

The provisions of this Affordable Housing Agreement shall constitute covenants running with the land with respect to each Affordable Housing unit affected hereby, and shall bind all Purchasers and Owners of each Affordable Housing unit, their heirs, assigns and all persons claiming by, through or under their heirs, executors, administrators and assigns for the duration of this Agreement as set forth herein.

VIII. OWNER RESPONSIBILITIES

In addition to fully complying with the terms and provisions of this Agreement, the Owner acknowledges the following responsibilities:

A. Affordable Housing units shall at all times remain the Primary Residence of the Owner. The Owner shall not rent any Affordable Housing unit to any party whether *or* not that party qualifies as a Low or Moderate income household without prior written approval from the Authority .

B. All home improvements made to an Affordable Housing unit shall be at the Owner's expense except that expenditures for any alteration that allows a unit to be sold to a larger household size because of increased capacity for occupancy shall be

considered for a recalculation of Base Price. Owners must obtain prior approval for such alteration from the Authority to qualify for this recalculation.

C. The Owner of an Affordable Housing unit shall keep the Affordable Housing unit in good repair.

D. Owners of Affordable Housing units shall pay all taxes, charges, assessments both public and private, assessed against such unit, or any part thereof, as and when they become due.

E. Owners of Affordable Housing units shall notify the Authority in writing no less than ninety (90) days prior to any proposed sale of an intent to sell the property. Owners shall not execute any purchase agreement, convey title or otherwise deliver possession of the Affordable Housing unit without the prior written approval of the Authority.

F. An Owner shall request referrals of eligible households from pre-established referral lists maintained by the Authority.

G. If the Authority does not refer an eligible household within sixty (60) days of the Notice of Intent to Sell the unit or no Agreement to Purchase the unit has been executed, the Owner may propose a Contract to Purchase the unit to an eligible household not referred through the Authority. The proposed Purchaser must complete all required Household Eligibility forms and submit Gross Annual Income Information for verification to the Authority for written certification as an eligible sales transaction.

H. At resale, all items of property which are permanently affixed to the unit and/or were included when the unit was initially restricted (e.g. refrigerator, range, washer, dryer, dishwasher,. wall to wall carpeting) shall be included in the maximum allowable Resale Price. Other items of property may be sold to the Purchaser at a reasonable price that has been approved by the Authority at the time of signing the Agreement to Purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the Base Price may be made a condition of the unit resale provided the price has been approved by the Authority. Unless otherwise permitted by the Council, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The Owner and the Purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at Resale.

I. The Owner shall not permit any lien, other than the First Purchase Money Mortgage, second mortgages approved by the Authority and liens of the Authority to attach and remain on the property for more than sixty (60) days.

J. If an Affordable Housing unit is part of a condominium, homeowner's or cooperative association, the Owner, in addition to paying any assessments required by the Master Deed of the Condominium or By-laws of an Association, shall further fully comply with all of the terms, covenants or conditions of said Master Deed or By-Laws, as well as fully comply with all terms, conditions and restrictions of this Affordable Housing Agreement.

K. The Owner shall have responsibility for fulfilling all requirements in accordance with and subject to any rules and regulations duly promulgated by the Council (*N.J.A.C.* 5 :92-1 et seq.), for determining that a resale transaction is qualified for a Certificate of Exemption. The Owner shall notify the Authority in writing of any proposed Exempt Transaction and supply the necessary documentation to qualify for a Certificate of Exemption. An Exempt Transaction does not terminate the resale restrictions or existing liens and is not considered a certified sales transaction in calculating subsequent resale prices. A Certificate of Exemption shall be filed with the deed at the time of title transfer.

L. The Owner shall have responsibility for fulfilling all requirements in accordance with and subject to any rules and regulations duly promulgated by the Council (N.J.A.C. 5:92-1 et seq.), for determining that a resale transaction is qualified for a Hardship Waiver. The Owner may submit a written request for a Hardship Waiver if no Certified Household has executed an agreement to purchase within ninety (90) days of notification of an approved resale price and referral of potential purchasers. Prior to issuing a Hardship Waiver, the Municipality shall have 30 days in which to sign an agreement to purchase the unit at the approved resale price and subsequently rent or convey it to a Certified Household. The Municipality may transfer this option to the Department, the Agency, or a qualified non-profit organization as determined by the Council. For approval of a Hardship Waiver, an Owner must document efforts to sell the unit to an income eligible household. If the waiver is granted, the Owner may offer a low income unit to a moderate income household or a moderate income unit to a household whose income exceeds 80% of the applicable median income guide. The Hardship Waiver shall be filed with the deed at the time of closing and is only valid for the designated resale transaction. It does not affect the resale price. All future resales are subject to all restrictions stated herein.

M. The Owner shall be obligated to pay a reasonable service fee to the Authority at the time of closing and transfer of title in the amount specified by the Authority at the time a restricted resale price has been determined after receipt of a Notice of Intent to Sell. Such fee shall not be included in the calculation of the maximum resale price.

IX. FORECLOSURE

The terms and restrictions of this Agreement shall be subordinated only to the First Purchase Money Mortgage lien on the Affordable Housing property and in no way shall impair the First Purchase Money Mortgagee's ability to exercise the contract remedies available to it in the event of any default of such mortgage as such remedies are set forth in the First Purchase Money Mortgage documents for the Affordable Housing unit. Any Affordable Housing owner-occupied property that is acquired by a First Purchase Money Mortgagee by Deed in lieu of Foreclosure, or by a Purchaser at a Foreclosure sale conducted by the holder *of* the First Purchase Money Mortgagee shall be permanently released from the restrictions and covenants *of* this Affordable Housing Agreement. All resale restrictions shall cease to be effective as *of* the date *of* transfer *of* title pursuant to Foreclosure with regard to the First Purchase Money Mortgagee, a lender in the secondary mortgage market, including but not limited to the FNMA, Federal Home Loan Mortgage Corporation, GNMA, or an entity acting *on* their behalf and all subsequent purchasers, Owners and mortgagees *of* that particular Affordable Housing unit (except for the defaulting mortgagor, who shall be forever subject to the resale restrictions *of* this Agreement with respect to the Affordable Housing unit owned by such defaulting mortgagor at time *of* the Foreclosure sale).

Upon a judgment of Foreclosure, the Authority shall execute a document to be recorded in the county recording office as evidence that such Affordable Housing unit has been forever released from the restrictions of this Agreement. Execution of foreclosure sales by any other class of creditor or mortgagee shall not result in a release of the Affordable Housing unit from the provisions and restrictions of this Agreement.

In the event of a Foreclosure sale by the First Purchase Mortgagee, the defaulting mortgagor shall be personally obligated to pay to the Authority any excess funds generated from such Foreclosure sale. For purposes of this Agreement, excess funds shall be the total amount paid to the sheriff by reason of the Foreclosure sale in excess of the greater of: (1) the maximum permissible Resale Price of the Affordable Housing unit as of the date of the Foreclosure sale pursuant to the rules and guidelines of the Authority, and (2) the amount required to pay and satisfy the First Money Mortgage, including the costs of Foreclosure, plus any second mortgages approved by the Authority in accordance with this Agreement. The amount of excess funds shall also include all payments to any junior creditors out of the Foreclosure sale proceeds even if such were to the exclusion of the defaulting mortgagor.

The Authority is hereby given a first priority lien, second only to the First Purchase Money Mortgagee and any taxes or public assessments by a duly authorized governmental body, equal to the full amount of such excess funds. This obligation *of* the defaulting mortgagor to pay the full amount of excess funds to the Authority shall be

deemed to be a personal obligation of the Owner of record at time of the Foreclosure sale surviving such sale. The Authority shall be empowered to enforce the obligation of the defaulting mortgagor in any appropriate court of law or equity as though same were a personal contractual obligation of the defaulting mortgagor. Neither the First Purchase Money Mortgagee nor the purchaser at the Foreclosure sale, shall be responsible, or liable to, the Authority for any portion of this excess.

No part of the excess funds, however, shall be part of the defaulting mortgagor's equity.

The defaulting mortgagor's equity shall be determined to be the difference between the maximum permitted Resale Price of the Affordable Housing unit as of the date of the Foreclosure sale as calculated in accordance with this Agreement and the total of the following sums: First Purchase Money Mortgage, prior liens, costs of Foreclosure, assessments, property taxes, and other liens which may have been attached against the unit prior to Foreclosure, provided such total is less than the maximum permitted Resale Price.

If there are Owner's equity sums to which the defaulting mortgagor is properly entitled, such sums shall be turned over to the defaulting mortgagor or placed in an escrow account for the defaulting mortgagor if the defaulting mortgagor cannot be located. The First Purchase Money Mortgagee shall hold such funds in escrow for a period of two years or until such earlier time as the defaulting mortgagor shall make a claim for such. At the end of two years, if unclaimed, such funds, including any accrued interest, shall become the property of the Authority to the exclusion of any other creditors who may have claims against the defaulting mortgagor.

Nothing shall preclude the Township of Montgomery from acquiring an affordable property prior to foreclosure sale at a negotiated price not to exceed the maximum Resale Price and holding, renting or conveying it to a Certified Household if such right is exercised within 90 days after the property is listed for sale and all outstanding obligations to the First Purchase Money Mortgagee are satisfied.

X. VIOLATION, DEFAULTS AND REMEDIES

In the event of a threatened breach of any of the terms of this Agreement by an Owner, the Authority shall have all remedies provided at law or equity, including the right to seek injunctive relief or specific performance, it being recognized by both parties to this Agreement that a breach will cause irreparable harm to the Authority, in light of the public policies set forth in the Fair Housing Act and the obligation for the provision of low and moderate income housing. Upon the occurrence of a breach of any of the terms of the Agreement by an Owner, the Authority shall have all remedies provided at law or equity, including but not limited to foreclosure, acceleration of all sums due under the

mortgage, recoupment of any funds from a sale in violation of the Agreement, injunctive relief to prevent further violation of the Agreement, entry on the premises, and specific performance.

XI. RIGHT TO ASSIGN

The Authority may assign from time to time its rights, and delegate its obligations hereunder without the consent of the Owner. Upon such assignment, the Authority, its successors or assigns shall provide written notice to the Owner.

XII. INTERPRETATION OF THIS AGREEMENT

The terms of this Agreement shall be interpreted so as to avoid financial speculation or circumvention of the purposes of the Fair Housing Act for the duration of this Agreement and to ensure, to the greatest extent possible, that the purchase price, mortgage payments and rents of designated Affordable Housing units remain affordable to Low and Moderate Income-Eligible households as defined herein.

XIII. NOTICES

All notices required herein shall be sent by certified mail return receipt requested as follows:

To the Owner:

At the address of the Property stated in SECTION II PROPERTY DESCRIPTION hereof.

To the Authority:

Housing Authority of the Township of Montgomery
Township of Montgomery Municipal Building
2261 Route 206
Belle Mead, New Jersey 08502
Attention: Affordable Housing Administrator

Or such other address that the Authority, Owner, or municipality may subsequently designate in writing and mail to the other party.

XIV. SUPERIORITY OF AGREEMENT

Owner warrants that no other Agreement with provisions contradictory or, or in opposition to, the provisions hereof has been or will be executed, and that, in any event, the requirements of this Agreement are paramount and controlling as to the rights and obligations between and among the Owner, the Authority, and their respective successors.

XV. SEVERABILITY

It is the intention of all parties that the provisions of this instrument are severable so that if any provisions, conditions, covenants or restrictions thereof shall be invalid or void under any applicable federal, state or local law, the remainder shall be unaffected thereby.

In the event that any provision, condition, covenant or restriction hereof is at the time of recording of this instrument, void, voidable or unenforceable as being contrary to any applicable federal, state or local law, both parties, their successors and assigns, and all persons claiming by, through or under them covenant and agree that any future amendments or supplements to the said laws having the effect of removing said invalidity, voidability or unenforceability, shall be deemed to apply retrospectively to this instrument thereby operating to validate the provisions of this instrument which otherwise might be invalid and it is covenanted and agreed that any such amendments and supplements to the said laws shall have the effect herein described as fully as if they had been in effect at the time of the execution of this instrument.

XVI. CONTROLLING LAW

The terms of this Agreement shall be interpreted under the Laws of the State of New Jersey.

XVII. OWNER'S CERTIFICATION

The Owner certifies that all information provided in order to qualify as the owner of the property or to purchase the property is true and correct as of the date of the signing of this Agreement.

XVIII. AGREEMENT

A. The Owner and the Authority hereby agree that all Affordable Housing units described herein shall be marketed, sold, and occupied in accordance with the provisions of this Agreement. Neither the Owner, nor the Authority, shall amend or alter the provisions of this Agreement without first obtaining the approval of the other party except as described in Section III, Paragraph C, TERM OF RESTRICTIONS. Any such approved amendments or modifications of this Agreement shall be in writing and shall contain proof of approval from the other party and shall not be effective unless and until recorded with the County Clerk of the County of Somerset.

Witness:

Nancy Justus, Asst. Sec

Attest:

Donna Kuhlp

TOWN HOMES AT MONTGOMERY, L.L.C.
By: The Matzel & Mumford Organization, Inc,
Managing Member

Roger Mumford, President

HOUSING AUTHORITY OF THE TOWNSHIP OF MONTGOMERY
By: Township of Montgomery

Louise Wilson

Louise Wilson, Mayor

STATE OF NEW JERSEY, COUNTY OF MONMOUTH, SS.:

I CERTIFY that on July 23, 2002, ROGER MUMFORD personally came before me and this person acknowledged under oath to my satisfaction, that:

(a) this person signed, sealed and delivered the attached document as the President of The Matzel & Mumford Organization, Inc., which is the Managing Member of the Limited Liability Company named in this document and was fully authorized to and did execute this document on its behalf; and;

(b) this document was signed and delivered by the company as its voluntary act duly authorized by a proper resolution of its Members.

Signed and sworn to before me on
this 23rd day of July, 2002

Patricia A. DeLuco

PATRICIA A. DELUCO
A Notary Public of New Jersey
My Commission Expires 2/22/2006

STATE OF NEW JERSEY, COUNTY OF SOMERSET, SS.:

I CERTIFY that on Aug. 1, 2002, LOUISE WILSON personally came before me and this person acknowledged under oath to my satisfaction, that:

(a) this person signed, sealed and delivered the attached document as the Mayor of the Township of Montgomery, the municipal corporation named in this document;

(b) the proper corporate seal was affixed; and

(c) this document was signed and made by the municipal corporation as its voluntary act and deed.

Signed and sworn to before me on
this 1st day of August, 2002

Louise Wilson

Donna Kukla

DONNA KUKLA
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 10/30/2006

MCKINLEY COMMONS

AFFORDABLE FOR SALE CONDOMINIUMS

TOWNSHIP OF MONTGOMERY, COUNTY OF SOMERSET, STATE OF NEW JERSEY

	Block	Lot	Street Address	Model Type	% Interest
Bldg #03	37003	6.820	600 McKinley Court	D	1.05263
	37003	6.821	601 McKinley Court	E	1.05263
	37003	6.822	602 McKinley Court	B	1.05263
	37003	6.823	603 McKinley Court	D	1.05263
	37003	6.824	604 McKinley Court	B	1.05263
	37003	6.825	605 McKinley Court	D	1.05263
	37003	6.826	606 McKinley Court	D	1.05263
	37003	6.827	607 McKinley Court	E	1.05263
	37003	6.830	620 McKinley Court	D	1.05263
	37003	6.831	621 McKinley Court	E	1.05263
	37003	6.832	622 McKinley Court	B	1.05263
	37003	6.833	623 McKinley Court	D	1.05263
	37003	6.834	624 McKinley Court	B	1.05263
	37003	6.835	625 McKinley Court	D	1.05263
	37003	6.836	626 McKinley Court	D	1.05263
	37003	6.837	627 McKinley Court	E	1.05263
Bldg #04	37003	6.780	800 McKinley Court	F	1.05263
	37003	6.781	801 McKinley Court	E	1.05263
	37003	6.783	803 McKinley Court	D	1.05263
	37003	6.784	804 McKinley Court	B	1.05263
	37003	6.785	805 McKinley Court	D	1.05263
	37003	6.786	806 McKinley Court	B	1.05263
	37003	6.787	807 McKinley Court	E	1.05263
	37003	6.788	808 McKinley Court	B	1.05263
	37003	6.789	810 McKinley Court	F	1.05263
	37003	6.790	820 McKinley Court	F	1.05263
	37003	6.791	821 McKinley Court	E	1.05263
	37003	6.792	822 McKinley Court	B	1.05263
	37003	6.793	823 McKinley Court	D	1.05263
	37003	6.794	824 McKinley Court	B	1.05263
	37003	6.795	825 McKinley Court	D	1.05263
	37003	6.796	826 McKinley Court	B	1.05263
	37003	6.797	827 McKinley Court	E	1.05263
	37003	6.798	828 McKinley Court	B	1.05263
	37003	6.799	830 McKinley Court	F	1.05263

EXHIBIT A

DISCLOSURE STATEMENT FOR AFFORDABLE UNITS MCKINLEY COMMONS CONDOMINIUM

The home which you are considering purchasing is an "Affordable Unit" as discussed in instruments entitled "The First Amendment to the Public Offering Statement of Montgomery Hills" and the "Master Deed for McKinley Commons Condominium", collectively referred to as the "Affordable Housing Documents" for the development know as "McKinley Commons". The "Affordable Housing Documents" were prepared for Town Homes at Montgomery L.L.C. in accordance with the requirements of Township of Montgomery and were a requirement of the Township of Montgomery in its approval of the development known as "Montgomery Hills". A complete reading of the "Affordable Housing Documents" is necessary to fully understand and be aware of all the restrictions contained in the documents which affect the home you are considering purchasing. By way of a brief summary, the following restrictions are contained in the "Affordable Housing Documents":

1. Purchasers of these "Affordable Units" are limited to "low" and "moderate' income families. These "Affordable Units" may be occupied only as permitted by the Township of Montgomery and the duly designated Housing Authority of the Township. The restrictions on the occupancy of the "Affordable Units" shall continue for the period of time noted in the "Affordable Housing Documents", and apply to the initial sale of the unit and any subsequent resale;

2. These "Affordable Units" may not be resold at a price greater than the initial sales price, plus a percentage increase based on the annual "Median Regional Income" figures issued by the U.S. Department of Housing and Urban Development for the Somerset-Hunterdon-Middlesex County region as well as in consideration of some other factors as specified in the "Affordable Housing Ordinance of the Township of Montgomery";

3. Owners of the "Affordable Units" may add amenities or improvements to the "Affordable Units", but the cost of such amenities or improvements must have been previously approved by the Montgomery Township Housing Authority or its designee, if they are to be included in any resale price;

4. These "Affordable Units" shall pay Master Association and Condominium Association assessments. Owners of these "Affordable Units" have the very same rights, privileges, duties and obligations as the owners of "Market Rate Units" within the same Master Association. The owners of these "Affordable Units" are entitled to participate fully in the affairs of the Master Association on an equal basis with any other member of the Master Association; and

5. The terms, restrictions, provisions and covenants of the "Affordable Housing Documents", including the provisions of the Master Deed referring to and incorporating the "Affordable Housing Documents", shall expire and terminate no earlier than the time period specified in the "Affordable Housing Documents", i.e., thirty (30) years from the date of the first purchase of an "Affordable Unit", and shall only expire and terminate in accordance with Section 15-110, "Recapture of Affordable Units", in the Affordable Housing Ordinance of the Township of Montgomery.

The above are the limitations and restrictions which most greatly affect the "Affordable Units" in the development know as "McKinley Commons"; however, a full understanding of the "Affordable Housing Documents" requires a thorough and complete reading of the documents.

Statement of Understanding

I/we have read the contents of this Disclosure Statement and understand same. I/we have been instructed that a thorough reading of the "Affordable Housing Documents" in their entirety is necessary to understand their requirements and limitations. I/we have further been instructed to seek the assistance and advise of an attorney in reviewing the "Affordable Housing Documents".

Date: _____ _____
Buyer

Building No.: _____ Unit: _____ _____
Buyer

EXHIBIT "B"

PREPARED BY:

BY:_____

AFFORDABLE HOUSING AGREEMENT
~~RENTAL PROPERTIES~~

A DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

This AGREEMENT ("Agreement") is entered into this 1st day of August 2002, between McKinley Court, L.L.C., the owner of the properties designated in Section II, PROPERTY DESCRIPTION ("Owner"), and the HOUSING AUTHORITY OF THE TOWNSHIP OF MONTGOMERY ("Authority"), which Housing Authority is an instrumentality of the Township of Montgomery ("Township"), both parties having agreed that the covenants, conditions and restrictions contained herein shall be imposed on the Affordable Housing Unit(s) described in Section II PROPERTY DESCRIPTION for a period of thirty (30) years and shall expire thirty (30) years from the date of the first rental of an Affordable Housing Unit by either a Low Income Household or a Moderate Income Household.

WHEREAS, pursuant to the Fair Housing Act, (P.L. 1985 c.222) ("Act"), the Affordable Housing Units ("Affordable Units") described in Section II PROPERTY DESCRIPTION hereafter and/or an attached EXHIBIT A of this Agreement, have been designated as low and moderate income rental housing as defined by the Act; and

WHEREAS, municipalities within the State of New Jersey are required by the Act to provide for their fair share of housing that is affordable to households with low or moderate incomes in accordance with the provisions of this Act; and

WHEREAS, the Act requires that municipalities ensure that such Affordable Housing Units remain affordable to low and moderate income households for a minimum period of at least six (6) years; and

WHEREAS, the Act establishes the Council on Affordable Housing ("Council") to assist municipalities in determining a realistic opportunity for the planning and development of such affordable housing; and

WHEREAS, the purpose of this Agreement is to ensure that the herein described Affordable Units remain affordable for rental by low and moderate income eligible households, with certain units being further restricted to rental by senior citizen households, for that period of time described in Section III TERM OF RESTRICTION;

NOW, THEREFORE, it is the intent of this Agreement to insure that affordability controls are contained directly in the property Deed for the premises and incorporated into and recorded with the property Deed so as to bind the owner of the described premises, its heirs and assigns as their interests may appear, and notify all future purchasers and renters of an Affordable Unit that all Affordable Units are encumbered with affordable controls; and by entering into this Agreement, the Owner of the described premises agrees to restrict the rental of Affordable Units to low and moderate income eligible households and to rental by senior citizen households, at a maximum adjusted rent determined by the Authority for the specified period of time.

I. DEFINITIONS

All terms and phrases used in this Agreement shall have the same meanings as set forth in and shall be interpreted to fulfill the intent and purpose of the Affordable Housing Ordinance of the Township of Montgomery (Chapter XV of the code of the Township of Montgomery) ("Ordinance"). Any definition pertaining to affordable housing not contained in the Ordinance shall be intended to have the meaning as defined in the New Jersey Fair Housing Act (N.J.S.A. 52:270-301, et seq.) or the "Procedural Rules of the New Jersey Council on Affordable Housing" (N.J.A.C. 5:91) or the "Substantive Rules of the New Jersey Council on Affordable Housing" (N.J.A.C. 5:92 or N.J.A.C. 5:93, as appropriate).

II. PROPERTY DESCRIPTION

This Agreement applies to the Owner's interest in the sixty (60) Affordable Units located in the "Montgomery Hills" development and being known as "McKinley Commons Condominium" and more particularly described in the property description attached as Exhibit A. Owner acknowledges that occupancy of these Affordable Units shall be limited to rental by low and moderate income-eligible Senior Citizen Households, defined in the Ordinance as household(s) with at least one (1) person fifty-five (55) years of age or older and with no person less than nineteen (19) years of age, provided that visitors less than nineteen (19) years of age are permitted for no more than eight (8) weeks during any twelve (12) month time period.

III. TERM OF RESTRICTION

A. The terms, restrictions and covenants of this Agreement shall begin on the date of the first rental of an Affordable Unit by either a Low Income Household, Moderate Income Household or Senior Citizen Household.

B. Subject to the "Recapture" provisions of this ordinance, the terms, restrictions and covenants of this Agreement shall terminate thirty (30) years after the commencement date (provided, however, any Affordable Unit occupied by an income-eligible house upon the expiration of the thirty-year period shall remain restricted until that Affordable Unit is vacated).

C. Upon termination of restrictions as they apply to each Affordable Unit(s) within the property described in Exhibit A, the Authority shall execute a document in recordable form evidencing that such Affordable Unit(s) has been forever released from the restrictions of this Agreement.

IV. RESTRICTIONS

A. The Owner of a rental Affordable Unit shall not rent the Affordable Unit for rent that is greater than the maximum rental charge allowed by the Ordinance and annual rental charge increases allowed by the Ordinance. Prior to the rental or re-rental of an Affordable Unit, the Authority shall determine the maximum rent to be charged for said Unit. Rental charge increases shall be effective as of the Lease anniversary date and shall remain in effect for at least a one (1) year period.

B. The Owner shall not rent an Affordable Unit to other than a Low Income Renter or Moderate Income Renter ("Renter") who is determined to be a "Certified Household" by the Housing Authority pursuant to the Ordinance.

C. A "Certified Household" determination shall be valid for One Hundred Twenty (120) Days and shall thereafter expire unless a valid Lease has been executed, provided:

(1) If a valid Lease has been executed within the One Hundred Twenty (120) Day time period, the certification shall remain valid unless the Lease is ruled invalid and no occupancy of the Affordable Unit has occurred; and

(2) Upon the written request of a "Certified Household", the certification may be renewed in writing by the authority, at its discretion, for no more than an additional One Hundred Twenty (120) Days.

D. The Owner of an Affordable Unit shall sell the Unit in accordance with and subject to any rules and regulations duly promulgated by the Council (N.J.A.C. 5:93-9) and the Ordinance to ensure that the Affordable Unit shall remain affordable for rental and occupation by Certified Households throughout the duration of this Agreement.

V. REQUIREMENTS

A. This Agreement shall be recorded with the Somerset County Clerk. The Agreement shall be recorded prior to the date of the first rental of an Affordable Unit by either a Low Income Household, Moderate Income Household or Senior Citizen Household.

B. When a single Agreement is used to govern more than one Affordable Unit, the Agreement shall contain a description of each Affordable Unit governed by the Agreement as described in Section II, PROPERTY DESCRIPTION and/or EXHIBIT A of the Agreement and an ending date to be imposed on the Affordable Unit as described

in Section III, TERM OF RESTRICTIONS of the Agreement. The Deed of each and every individual Affordable Unit governed by such a single Agreement shall contain the recording information of the Agreement applicable to such Affordable Unit.

C. This Agreement shall be executed by the Owner or the then current title holder of record of the Property upon which the Affordable Units are to be situated prior to its recording.

VI. DEEDS OF CONVEYANCE AND LEASE PROVISIONS

A. All Deeds of Conveyance and Contracts to Purchase from all Owners to Purchasers of Affordable Units shall include the following clause in a conspicuous place:

"The Owner's right, title and interest in this unit and the use, sale, resale, and rental of this property are subject to the terms, conditions, restrictions, limitations and provisions as set forth in an AFFORDABLE HOUSING AGREEMENT which has been filed in the Office of the Clerk of Somerset County in Misc. Book _____ at Page _____ on _____, 2002 and is on file with the Montgomery Township Municipal Clerk."

Any Master Deed which includes Affordable Unit(s) shall also reference the Affordable Units(s) and this Agreement and any variation in services, fees or other terms of the Master Deed that differentiate the Affordable Unit(s) from all other unit(s) covered in the Master Deed.

B. The Owner of Affordable Units shall provide a Disclosure Statement to all Renters of Affordable Units prior to the execution of any Lease, and such Disclosure Statement shall be included in any applicable Public Offering Statement. A sample copy of the Disclosure Statement is attached hereto as Exhibit B. All Owners of Affordable Units shall provide copies of the Disclosure Statement to subsequent Renters prior to the execution of Leases with such Renters.

VII. COVENANTS RUNNING WITH LAND

The provisions of this Agreement shall constitute covenants running with the land with respect to each Affordable Unit affected hereby, and shall bind all Purchasers, Owners and Renters of Affordable Units, their heirs, assigns and all persons claiming by, through or under their heirs, executors, administrators and assigns for the duration of this Agreement as set forth herein. Ownership or rental of an Affordable Unit shall be deemed to be an acceptance and ratification of all of the applicable provisions of this Agreement.

VIII. OWNER/RENTER RESPONSIBILITIES

In addition to fully complying with the terms and provisions of this Affordable Housing Agreement, the Owner acknowledges the following responsibilities:

A. The Affordable Unit shall at all times remain the primary residence of the Renter. The Owner shall not rent, nor the Renter sublet, any Affordable Unit to any party whether or not that party is qualified as a Low or Moderate Income Household (or Senior Citizen Household, where applicable) without prior written approval from the Authority.

B. All home improvements made to an Affordable Unit shall be at the Owner's expense except that the expenditures for any alterations that allows an Affordable Unit to be rented to a larger household size because of an increased capacity for occupancy shall be considered by the Authority for a recalculation of rent. Owners must obtain prior approval from the Authority for such alteration to qualify for this recalculation.

C. The Owner of an Affordable Unit shall keep the Affordable Unit in good repair.

D. Owners of Affordable Units shall pay all taxes, charges, assessments or levies, both public and private, assessed against such unit, or any part thereof, as and when the same becomes due and before penalties are imposed. This shall include, but not be limited to, any and all assessments by the Montgomery Hills Master Association and the McKinley Commons Condominium Association.

E. Owners and Renters of Affordable Units shall be responsible for compliance with the documents governing the McKinley Commons Condominium Association and the Montgomery Hills Master Association and for fines, penalties or changes assessed against said Renters pursuant thereto.

F. Owners and Renters of Affordable Units shall be subject to the terms, restrictions and provisions of the Master Deed, the Ordinance, this Agreement and/or the rules and regulations of the Authority, which shall be considered a material element of each Renter's Lease. Violation of any such terms, restrictions and provisions shall be cause for eviction pursuant to N.J.S.A. 2A:18-61.1d and/or 2A:18-61.1e. In the event of violation by the Owner or Renter of any of the terms or restrictions of any Master Deed, the Ordinance, this Agreement or the Rules and Regulations of the Authority, the Owner of said Unit(s) shall be responsible for curation of said violation and payment of all penalties in accordance with applicable law and to the reasonable satisfaction of any and all government entities. The Owner shall further agree to indemnify and hold harmless the Township and Authority for any and all damages caused by the violation and expenses of curation, including, but not limited to, judgments, fines or penalties which may be imposed upon the Township or Authority.

G. Owners of Affordable Units shall notify the Authority in writing ninety (90) days prior to a rental vacancy. Owners shall not lease or otherwise deliver possession of the Affordable Unit without the prior written approval of the Authority.

H. An Owner shall request referrals of Certified Households from the pre-screened established referral list maintained by the Authority.

I. If the Authority does not refer a Certified Household within sixty (60) days of the notice of rental vacancy, the Owner may rent the property to an eligible household not referred by the Authority. The proposed Renter must complete all required household eligibility forms and submit gross annual income information (and, where necessary, proof of age) for verification by the Authority and issuance of written certification as an eligible rental transaction. This shall not limit Owner's right to petition COAH for relief pursuant to the Ordinance.

J. The Owner shall have responsibility for forwarding copies of all documents filed with the applicable county recording office to the Authority after they have been signed, dated and recorded.

K. The Owner shall be obligated to pay a service fee to the Authority at the time of initial purchase of a unit, initial occupancy and at the time of each new rental occupancy.

L. In the event of issuance by the Authority of a notice of violation to an Owner or Renter, said Owner or its heirs and assigns shall cure said violation(s) to the reasonable satisfaction of the Authority.

M. The Owner shall not permit any lien, other than the First Purchase Money Mortgage and/or any Authority approved second mortgages, to attach and remain on the property for more than sixty (60) days.

IX. FORECLOSURE

A. This Agreement shall not be terminated in the event of Judgement of Foreclosure on Properties that include Affordable Housing Units that are designated as rental units unless the rental unit is located within an owner-occupied property containing four or less units.

B. If the rental unit is located within an owner-occupied property containing four or less units, the terms and restrictions of this Agreement shall be subordinate only to the First Purchase Money Mortgage lien on the Affordable Housing property and in no way shall impair the First Purchase Money Mortgagee's ability to exercise the contract remedies available to it in the event of any default of such mortgage as such remedies are set forth in the First Purchase Money Mortgage documents for the Affordable Housing Unit.

C. Upon a Judgment of Foreclosure of an owner-occupied unit containing an affordable rental housing unit, the Authority shall execute a document in recordable form evidencing that such Affordable Housing Unit has been forever released from the restrictions of the Agreement. Execution of foreclosure sales by any other class of creditor of mortgagee shall not result in a release of the Affordable Housing Unit from the provisions and restrictions of this Agreement.

X. VIOLATION, DEFAULTS AND REMEDIES

In the event of a threatened breach of any of the terms of this Agreement by an Owner or Renter, the Authority shall have all remedies provided at law or equity, including the right to seek injunctive relief or specific performance, it being recognized by both parties to this Agreement that a breach will cause irreparable harm to the Authority, in light of the public policies set forth in the Fair Housing Act and the obligation for the provisions of low and moderate income housing. Upon the occurrence of a breach of any of the terms of the Agreement by an Owner or Renter, the Authority shall have all remedies provided at law or equity, including, but not limited to, recoupment of any funds from a rental in violation of the Agreement, injunctive relief to prevent further violation of the Agreement, entry on the premises and specific performance.

XI. RIGHT TO ASSIGN

The Authority may assign from time to time, its rights, and delegate its obligations hereunder without the consent of the Owner or Renter. Upon such assignment, the Authority, and/or its successors or assigns, shall provide written notice to the Owner.

XII. INTERPRETATION OF THIS AGREEMENT

The terms of this Agreement shall be interpreted so as to avoid financial speculation or circumvention of the purposes of the Fair Housing Act for the duration of this Agreement and to ensure, to the greatest extend possible, that the rents of designated Affordable Units remain affordable to Low Income Households and Moderate Income Households (and Senior Citizen Households, where applicable) as defined herein.

XIII. NOTICE

All notices required herein shall be sent by Certified mail, return receipt requested, as follows:

To the Owner: McKinley Court, L.L.C.
c/o The Matzel & Mumford Organization, Inc.
100 Village Court
Hazlet, New Jersey 07730

Attention: Roger Mumford

To the Authority: Housing Authority of the Township of Montgomery
Township of Montgomery Municipal Building
2261 Route 206
Belle Mead, New Jersey 08502

Attention: Affordable Housing Administrator

Or such other address that the Authority, Owner or Township may subsequently designated in writing and mail to the other parties.

XIV. SUPERIORITY OF AGREEMENT

Owner warrants that no other agreement with provisions contradictory of, or in opposition to, the provisions hereof has been, or will be, executed, and that, in any event, the requirements of the Agreement are paramount and controlling as to the rights and obligations between and among the Owner, the Authority, and their respective successors. This Agreement shall be interpreted in accordance with and is intended to fulfill the intentions of the Ordinance and Council rules and regulations.

XV. SEVERABILITY

It is the intention of all parties that the provisions of this Agreement are severable so that if any provisions, conditions, covenants or restrictions thereof shall be invalid or void under any applicable federal, state or local law, the remainder shall be unaffected thereby.

In the event that any provision, condition, covenant or restriction hereof, is at the time of recording of this Agreement, void, voidable or unenforceable as being contrary to any applicable federal, state or local law, both parties, their successors and assigns, and all persons claiming by, through or under this Agreement, agree that any future amendments or supplements to the said laws having the effect of removing said invalidity, voidability or unenforceability, shall be deemed to apply retrospectively to this Agreement thereby operating to validate the provisions of this Agreement which otherwise might be invalid and it is covenanted and agreed that such amendments and supplements to the said laws shall have the effect herein described as fully as if they had been in effect at the time of the execution of this Agreement.

XVI. CONTROLLING LAW

The terms of this Agreement shall be interpreted under the laws of the State of New Jersey.

XVII CERTIFICATIONS

A. The Owner certifies that all information provided herein is true and correct as of the date of the signing of this Agreement.

B. The Authority certifies that this Agreement is consistent with the Ordinance.

XVIII. AGREEMENT

The Owner and Authority hereby agree that all Affordable Units described herein shall be marketed and occupied in accordance with the provisions of this Agreement, the Ordinance and the Council rules and regulations. Neither the Owner nor Authority shall amend or alter the provisions of this Agreement without first obtaining the approval of the other party. Any such approved amendments or modifications of this Agreement shall be in writing and shall contain proof of approval from the other parties and shall not be effective unless and until it is recorded with the Somerset County Clerk.

DATED: August 1, 2002

WITNESS:

Richard Justus, Asst. Sec

McKINLEY COURT, L.L.C.
By The Matzel & Mumford Organization, Inc.,
Managing Member

By: _____
Roger Mumford, President

HOUSING AUTHORITY OF THE TOWNSHIP OF MONTGOMERY

By The Township of Montgomery

By: _____
Louise Wilson, Mayor

STATE OF NEW JERSEY, COUNTY OF MONMOUTH, SS.:

I CERTIFY that on July 23, 2002, ROGER MUMFORD personally came before me and this person acknowledged under oath to my satisfaction, that:

(a) this person signed, sealed and delivered the attached document as the President of The Matzel & Mumford Organization, Inc., which is the Managing Member of the Limited Liability Company named in this document and was fully authorized to and did execute this document on its behalf; and;

(b) this document was signed and delivered by the company as its voluntary act duly authorized by a proper resolution of its Members.

Signed and sworn to before me on
this 23rd day of July, 2002

Patricia A. DeLuco

PATRICIA A. DELUCO
A Notary Public of New Jersey
My Commission Expires 2/22/2006

STATE OF NEW JERSEY, COUNTY OF SOMERSET, SS.:

I CERTIFY that on August 1, 2002, LOUISE WILSON personally came before me and this person acknowledged under oath to my satisfaction, that:

(a) this person signed, sealed and delivered the attached document as the Mayor of the Township of Montgomery, the municipal corporation named in this document;

(b) the proper corporate seal was affixed; and

(c) this document was signed and made by the municipal corporation as its voluntary act and deed.

Signed and sworn to before me on
this 1st day of August, 2002

Donna Kukla

DONNA KUKLA
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 10/30/2006

MCKINLEY COURT

MOUNT LAUREL SENIOR RENTAL CONDOMINIUMS

TOWNSHIP OF MONTGOMERY, COUNTY OF SOMERSET, STATE OF NEW JERSEY

	Block	Lot	Street Address	Model Type	% Interest
Bldg #01					
	37003	6.861	201 McKinley Court	D	1.05263
	37003	6.862	202 McKinley Court	B	1.05263
	37003	6.863	203 McKinley Court	D	1.05263
	37003	6.864	204 McKinley Court	B	1.05263
	37003	6.870	220 McKinley Court	B	1.05263
	37003	6.871	221 McKinley Court	D	1.05263
	37003	6.872	222 McKinley Court	B	1.05263
	37003	6.873	223 McKinley Court	D	1.05263
Bldg #02	37003	6.840	400 McKinley Court	C	1.05263
	37003	6.841	401 McKinley Court	C	1.05263
	37003	6.842	402 McKinley Court	B2	1.05263
	37003	6.843	403 McKinley Court	D2	1.05263
	37003	6.844	404 McKinley Court	B2	1.05263
	37003	6.845	405 McKinley Court	D2	1.05263
	37003	6.846	406 McKinley Court	C	1.05263
	37003	6.847	407 McKinley Court	C	1.05263
	37003	6.850	420 McKinley Court	C	1.05263
	37003	6.851	421 McKinley Court	C	1.05263
	37003	6.852	422 McKinley Court	B2	1.05263
	37003	6.853	423 McKinley Court	D2	1.05263
	37003	6.854	424 McKinley Court	B2	1.05263
	37003	6.855	425 McKinley Court	D2	1.05263
	37003	6.856	426 McKinley Court	C	1.05263
	37003	6.857	427 McKinley Court	C	1.05263

EXHIBIT "A"

	Block	Lot	Street Address	Model Type	% Interest
Bldg #05	37003	6.910	1000 McKinley Court	A	1.05263
	37003	6.911	1001 McKinley Court	D	1.05263
	37003	6.912	1002 McKinley Court	B	1.05263
	37003	6.913	1003 McKinley Court	D	1.05263
	37003	6.914	1004 McKinley Court	B	1.05263
	37003	6.915	1005 McKinley Court	D	1.05263
	37003	6.916	1006 McKinley Court	B	1.05263
	37003	6.917	1007 McKinley Court	D	1.05263
	37003	6.918	1008 McKinley Court	B	1.05263
	37003	6.919	1010 McKinley Court	A	1.05263
	37003	6.920	1020 McKinley Court	A	1.05263
	37003	6.921	1021 McKinley Court	D	1.05263
	37003	6.922	1022 McKinley Court	B	1.05263
	37003	6.923	1023 McKinley Court	D	1.05263
	37003	6.924	1024 McKinley Court	B	1.05263
	37003	6.925	1025 McKinley Court	D	1.05263
	37003	6.926	1026 McKinley Court	B	1.05263
	37003	0.006	1027 McKinley Court	D	1.05263
	37003	6.928	1028 McKinley Court	B	1.05263
	37003	6.929	1030 McKinley Court	A	1.05263
Bldg #06	37003	6.880	1200 McKinley Court	C	1.05263
	37003	6.881	1201 McKinley Court	C	1.05263
	37003	6.882	1202 McKinley Court	B2	1.05263
	37003	6.883	1203 McKinley Court	D2	1.05263
	37003	6.884	1204 McKinley Court	B2	1.05263
	37003	6.885	1205 McKinley Court	D2	1.05263
	37003	6.886	1206 McKinley Court	C	1.05263
	37003	6.887	1207 McKinley Court	C	1.05263
	37003	6.890	1220 McKinley Court	C	1.05263
	37003	6.891	1221 McKinley Court	C	1.05263
	37003	6.892	1222 McKinley Court	B2	1.05263
	37003	6.893	1223 McKinley Court	D2	1.05263
	37003	6.894	1224 McKinley Court	B2	1.05263
	37003	6.895	1225 McKinley Court	D2	1.05263
	37003	6.896	1226 McKinley Court	C	1.05263
	37003	6.897	1227 McKinley Court	C	1.05263

DISCLOSURE STATEMENT FOR AFFORDABLE RENTAL UNITS MCKINLEY COMMONS CONDOMINIUM

The home which you are considering renting is an "Affordable Unit" as defined in instruments entitled "The First Amendment to the Public Offering Statement of Montgomery Hills" and the "Master Deed for McKinley Commons Condominium", collectively referred to as the "Affordable Housing Documents" for the development know as "McKinley Commons". The "Affordable Housing Documents" were prepared for Town Homes at Montgomery L.L.C. in accordance with the requirements of Township of Montgomery and were a requirement of the Township of Montgomery in its approval of the development known as "Montgomery Hills". A complete reading of the "Affordable Housing Documents" is necessary to fully understand and be aware of all the restrictions contained in the documents which affect the home you are considering. By way of a brief summary, the following restrictions are contained in the "Affordable Housing Documents":

1. Tenants of these "Affordable Units" are limited to "low" and "moderate' income families. These "Affordable Units" may be occupied only as permitted by the Township of Montgomery and the duly designated Housing Authority of the Township. The restrictions on the occupancy of the "Affordable Units" shall continue for the period of time noted in the "Affordable Housing Documents", and apply to the initial rental of the unit and any subsequent re-rental; and

2. The terms, restrictions, provisions and covenants of the "Affordable Housing Documents", including the provisions of the Master Deed referring to and incorporating the "Affordable Housing Documents", shall expire and terminate no earlier than the time period specified in the "Affordable Housing Documents", i.e., thirty (30) years from the date of the first purchase of a sales "Affordable Unit" or thirty (30) years from the date of the first rental of a rental "Affordable Unit", and shall only expire and terminate in accordance with Section 15-110, "Recapture of Affordable Units", in the Affordable Housing Ordinance of the Township of Montgomery.

The above are the limitations and restrictions which most greatly affect the "Affordable Units" in the development know as "McKinley Commons"; however, a full understanding of the "Affordable Housing Documents" requires a thorough and complete reading of the documents.

Statement of Understanding

I/we have read the contents of this Disclosure Statement and understand same. I/we have been instructed that a thorough reading of the "Affordable Housing Documents" in their entirety is necessary to understand their requirements and limitations. I/we have further been instructed to seek the assistance and advise of an attorney in reviewing the "Affordable Housing Documents".

Date: _____ _____
Tennant

Building No.: _____ Unit: _____ _____
Tennant

8. Prior Round: Montgomery Glen

AFFORDABLE HOUSING AGREEMENT

Prepared by:

L. Stephen Pastor, Esquire

A DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

This AGREEMENT is entered into on this 1st day of August 2002 between Calton Homes, Inc., owner of the properties designated in Section II PROPERTY DESCRIPTION, hereafter "OWNER", and
hereafter "AUTHORITY", both parties having agreed that the covenants, conditions and restrictions contained herein shall be imposed on the Affordable Housing unit described in Section II PROPERTY DESCRIPTION for a period of at least thirty (30) years beginning on September 15, 2002 and ending at the first non-exempt transfer of title after thirty (30) years unless extended by municipal resolution as described in Section III TERM OF RESTRICTION.

WHEREAS, municipalities within the State of New Jersey are required by the Fair Housing Act (P.L.1985, c.222) hereinafter "Act", to provide for their fair share of housing that is affordable to households with low or moderate incomes in accordance with provisions of the Act; and

WHEREAS, the Act requires that municipalities ensure that such designated housing remains affordable to low and moderate income households for a minimum period of at least 6 years; and

WHEREAS, the Act establishes the Council on Affordable Housing (hereinafter "Council") to assist municipalities in determining a realistic opportunity for the planning and development of such affordable housing; and

WHEREAS, pursuant to the Act, the housing unit (units) described in Section II PROPERTY DESCRIPTION hereafter and/or an attached Exhibit A of this Agreement has (have) been designated as low and moderate income housing as defined by the Act; and

WHEREAS, the purpose of this Agreement is to ensure that the described housing units (unit) remain(s) affordable to low and moderate income-eligible households for that period of time described in Section III TERM OF RESTRICTIONS.

NOW, THEREFORE, it is the intent of this Agreement to ensure that the affordability controls are contained directly in the property deed for the premises and incorporated into and recorded with the property deed so as to bind the owner of the described premises and notify all future purchasers of the housing unit that the housing unit is encumbered with affordability

controls; and by entering into this Agreement, the Owner of the described premises agrees to restrict the sale of the housing unit to low and moderate income-eligible households at a maximum resale price determined by the Authority for the specified period of time.

I. DEFINITIONS

For purposes of this Agreement, the following terms shall be defined as follows:

"Affordable Housing" shall mean residential units that have been restricted for occupancy by Households whose total Gross Annual Income is measured at less than 80% of the median income level established by an authorized income guideline for geographic region and family size.

"Agency" shall mean the New Jersey Housing and Mortgage Finance Agency established by L. 1983, c.530 (C. 55:14K-1 et seq.).

"Agreement" shall mean this written Affordable Housing Agreement between the Authority and the owner of an Affordable Housing unit which places restrictions on Affordable Housing units so that they remain affordable to and occupied by Low and Moderate Income-Eligible Households for the period of time specified in this agreement.

"Assessments" shall mean all taxes, levies or charges, both public and private, including those charges by any condominium, cooperative or homeowner's association as the applicable case may be, imposed upon the Affordable Housing unit.

"Authority" shall mean the administrative organization designated by municipal ordinance for the purpose of monitoring the occupancy and resale restrictions contained in this Affordable Housing Agreement. The Authority shall serve as an instrument of the municipality in exercising the municipal rights to the collection of funds as contained in this Agreement.

"Base Price" shall mean the initial sales price of a unit produced for or designated as owner-occupied Affordable Housing.

"Council" shall mean the Council on Affordable Housing (COAH) established pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301 et seq.

"Certified Household" shall mean any eligible Household whose estimated total Gross Annual Income has been verified, whose financial references have been approved and who has received written certification as a Low or Moderate Income-Eligible Household from the Authority.

"Department" shall mean the New Jersey State Department of Community Affairs.

"Exempt Transaction" shall mean the following "non-sales" title transactions: (1) Transfer of ownership between husband and wife; (2) Transfer of ownership between former

spouses ordered as a result of a judicial decree of divorce or judicial separation (but not including sales to third parties); (3) Transfer of ownership through an Executor's deed to a Class A Beneficiary; and, (4) Transfer of ownership by court order. All other title transfers shall be deemed non-exempt.

"Fair Market Price" shall mean the unrestricted price of a low or moderate income housing unit if sold at a current real estate market rate.

"First Purchase Money Mortgage" shall mean the most senior mortgage lien to secure repayment of funds for the purchase of an Affordable Housing unit providing that such mortgage is not in excess of the applicable maximum allowable resale price and is payable to a valid First Purchase Money Mortgagee.

"First Purchase Money Mortgagee" shall mean an institutional lender or investor, licensed or regulated by the Federal or a State government or any agency thereof, which is the holder and/or assigns of the First Money Mortgage.

"Foreclosure" shall mean the termination through legal processes of all rights of the mortgagor or the mortgagor's heirs, successors, assigns or grantees in a restricted Affordable Housing unit covered by a recorded mortgage.

"Gross Annual Income" shall mean the total amount of all sources of a Household's income including, but not limited to salary, wages, interest, tips, dividends, alimony, pensions, social security, business and capital gains, tips and welfare benefits. Generally, gross annual income will be based on those sources of income reported to the Internal Revenue Service (IRS) and/or that can be utilized for the purpose of mortgage approval.

"Hardship Waiver" shall mean an approval by the Authority at a non-exempt transfer of title to sell an affordable unit to a household that exceeds the income eligibility criteria after the Owner has demonstrated that no Certified Household has signed an agreement to purchase the unit. The Owner shall have marketed the unit for 90 days after a Notice of Intent to Sell has been received by the Authority and the Authority shall have 30 days thereafter to approve a Hardship Waiver. The Hardship Waiver shall permit a low income unit to be sold to a moderate income household or a moderate income unit to be sold to a household whose income is at 80% or above the applicable median income guide. The Hardship Waiver is only valid for a single sale.

"Household" shall mean the person or persons occupying a housing unit.

"Index" shall mean the measured percentage of change in the median income for a Household of four by geographic region using the income guideline approved for use by Council.

"Low Income Household" shall mean a Household whose total Gross Annual Income is equal to 50% or less of the median gross income figure established by geographic region and household size using the income guideline approved for use by Council.

"Moderate Income Household" shall mean a Household whose total Gross Annual Income is equal to more than 50% but less than 80% of the median gross income established by geographic region and household size using the income guideline approved for use by Council.

"Owner" shall mean the title holder of record as same is reflected in the most recently dated and recorded deed for the particular Affordable Housing unit. For purposes of the initial sales or rentals of any Affordable Housing unit, Owner shall include the developer/owner of such Affordable Housing units. Owner shall not include any co-signer or co-borrower on any First Purchase Money Mortgage unless such co-signer or co-borrower is also a named title holder of record of such Affordable Housing unit.

"Price Differential" shall mean the total amount of the restricted sales price that exceeds the maximum restricted resale price as calculated by the Index after reasonable real estate broker fees have been deducted. The unrestricted sales price shall be no less than a comparable fair market price as determined by the Authority at the time a Notice of Intent to Sell has been received from the Owner.

"Primary Residence" shall mean the unit wherein a Certified Household maintains continuing residence for no less than nine months of each calendar year.

"Purchaser" shall mean a Certified Household who has signed an agreement to purchase an Affordable Housing unit subject to a mortgage commitment and closing.

"Repayment" shall mean the Owner's obligation to the municipality for payment of 95% of the price differential between the maximum allowable resale price and the fair market selling price which has accrued to the Affordable unit during the restricted period of resale at the first non-exempt sale of the property after restrictions have ended as specified in the Affordable Housing Agreement.

"Repayment Mortgage" shall mean the second mortgage document signed by the Owner that is given to the municipality as security for the payment due under the Repayment Note.

"Repayment Note" shall mean the second mortgage note signed by the owner that requires the repayment to the municipality of 95% of the price differential which has accrued to the low or moderate income unit during the period of resale controls at the first non-exempt sale of the property after restrictions have ended as specified in the Affordable Housing Agreement.

"Resale Price" shall mean the Base Price of a unit designated as owner-occupied affordable housing as adjusted by the Index. The resale price may also be adjusted to accommodate an approved home improvement.

"Total Monthly Housing Costs" shall mean the total of the following monthly payments associated with the cost of an owner-occupied Affordable Housing unit including the mortgage payment (principal, interest, private mortgage insurance), applicable assessments by any

homeowners, condominium, or cooperative associations, real estate taxes, and fire, theft and liability insurance.

II. PROPERTY DESCRIPTION

This agreement applies to the Owner's interest in the real property commonly known as:

Block _____ Lot _____ Municipality: Montgomery

County: Somerset # of Bedrooms

Complete Street Address & Unit #

City: Montgomery, State: New Jersey; Zip

If additional Affordable Housing units are to be covered by this Agreement, a description of each additional unit is attached as Exhibit A and is incorporated herein.

III. TERM OF RESTRICTIONS

A. The terms, restrictions and covenants of this Affordable Housing Agreement shall begin on the later of the date a Certificate of Occupancy is issued or the date on which closing and transfer of title takes place for initial ownership.

B. The terms, restrictions and covenants of this Affordable Housing Agreement shall terminate upon the occurrence of either of the following events:

1. At the first non-exempt sale after 10 (ten) years from the beginning date established pursuant to Paragraph A above for units located in municipalities receiving State Aid pursuant to P.L.1978, L.14 (N.J.S.A. 52:27D-178 et seq.) that exhibit one of the characteristics delineated in N.J.A.C. 5:92-5.3(b); or at the first non-exempt sale after thirty (30) years from the beginning date established pursuant to Paragraph A above for units located in all other municipalities; or

2. The date upon which the event set forth in Section IX FORECLOSURE herein shall occur.

C. The terms, restrictions and covenants of this Affordable Housing Agreement may be extended by municipal resolution as provided for in N.J.A.C. 5:92.1 et seq. Such municipal resolution shall provide for a period of extended restrictions and shall be effective upon filing with the Council and the Authority. The municipal resolution shall specify the extended time period by providing for a revised ending date. An amendment to the Affordable Housing Agreement shall be filed with the recording office of the county in which the Affordable Housing unit or units is/are located.

D. At the first non-exempt title transaction after the established ending date, the Authority

shall execute a document in recordable form evidencing that the Affordable Housing unit has been released from the restrictions of this Affordable Housing Agreement.

IV. RESTRICTIONS

A. The Owner of an owner-occupied Affordable Housing unit for sale shall not sell the unit at a Resale Price greater than an established Base Price plus the allowable percentage of increase as determined by the Index applicable to the municipality in which the unit is located. However, in no event shall the maximum allowable price established by the authority be lower than the last recorded purchase price.

B. The Owner shall not sell the Affordable Housing unit to anyone other than a Purchaser who has been certified utilizing the income verification procedures established by the Authority to determine qualified Low and Moderate Income-Eligible Households.

C. An Owner wishing to enter a transaction that will terminate controls as specified heretofore in Section III TERM OF RESTRICTIONS shall be obligated to provide a Notice of Intent to Sell to the Authority and the Council. An option to buy the unit at the maximum restricted sales price as calculated by the Index shall be made available to the Municipality, the Department, the Agency, or a qualified non-profit organization as determined by the Council for a period of ninety (90) days from the date of delivery of the Notice of Intent to Sell. The option to buy shall be by certified mail and shall be effective on the date of mailing to the Owner.

1. If the option to buy is not exercised within ninety (90) days pursuant to Paragraph C above, the Owner may elect to sell the unit to a certified income-eligible household at the maximum restricted sales price as calculated by the Index provided the unit continues to be restricted by an Affordable Housing Agreement and a Repayment Lien for a period of up to thirty (30) years.

2. Alternately, the Owner may also elect to sell to any purchaser at a fair market price. In this event, the Owner shall be obligated to pay the municipality 95% of the Price Differential generated at the time of closing and transfer of title of the Affordable Housing unit after restrictions have ended as specified heretofore in Section III TERM OF RESTRICTIONS.

3. If the Owner does not sell the unit within one (1) year of the date of delivery of the Notice of Intent to Sell, the option to buy shall be restored to the municipality and subsequently to the Department, the Agency or a Non-Profit approved by the Council. The Owner shall then be required to submit a new Notice of Intent to Sell the affordable unit to the Authority.

D. The Affordable Housing unit shall be sold in accordance with all rules, regulations, and requirements duly promulgated by the Council (N.J.A.C. 5:92-1 et seq.), the intent of which is to ensure that the Affordable Housing unit remains affordable to and occupied by Low and Moderate Income-Eligible Households throughout the duration of this Agreement.

V. REQUIREMENTS

A. This Agreement shall be recorded with the recording office of the county in which the Affordable Housing unit or units are located. The Agreement shall be filed no earlier than the recording of an applicable Master Deed and no later than the closing date of the initial sale.

B. When a single Agreement is used to govern more than one Affordable Housing unit, the Agreement shall contain a description of each Affordable Housing unit governed by the Agreement as described in Section II PROPERTY DESCRIPTION and/or Exhibit A of the Agreement and an ending date to be imposed on the unit as described in Section III TERM OF RESTRICTIONS of the Agreement.

C. A Repayment Mortgage and a Repayment Note shall be executed between the Owner and the municipality wherein the unit(s) is (are) located at the time of closing and transfer of title to any purchaser of an Affordable Housing unit. The Repayment Mortgage shall provide for the repayment of 95% of the Price Differential at the first non-exempt transfer of title after the ending date of restrictions as specified in Section III TERM OF RESTRICTIONS. The Repayment Mortgage shall be recorded with the records office of the County in which the unit is located.

VI. DEEDS OF CONVEYANCE AND LEASE PROVISIONS

All Deeds of Conveyance and Contracts to Purchase from all Owners to Certified Purchasers of Affordable Housing units shall include the following clause in a conspicuous place:

"The Owner's right, title and interest in this unit and the use, sale, resale and rental of this property are subject to the terms, conditions, restrictions, limitations and provisions as set forth in the AFFORDABLE HOUSING AGREEMENT dated _____ which was filed in the Office of the Clerk of Somerset County in Misc. Book _____ at Page _____ on _____ and is also on file with the Authority".

Any Master Deed that includes an Affordable Housing unit shall also reference the affordable unit and the Affordable Housing Agreement and any variation in services, fees, or other terms of the Master Deed that differentiates the affordable unit from all other units covered in the Master Deed.

VII. COVENANTS RUNNING WITH LAND

The provisions of this Affordable Housing Agreement shall constitute covenants running with the land with respect to each Affordable Housing unit affected hereby, and shall bind all Purchasers and Owners of each Affordable Housing unit, their heirs, assigns and all persons claiming by, through or under their heirs, executors, administrators and assigns for the duration of this Agreement as set forth herein.

VIII. OWNER RESPONSIBILITIES

In addition to fully complying with the terms and provisions of this Affordable Housing Agreement, the Owner acknowledges the following responsibilities:

A. Affordable Housing units shall at all times remain the Primary Residence of the Owner. The Owner shall not rent any Affordable Housing unit to any party whether or not that party qualifies as a Low or Moderate income household without prior written approval from the Authority.

B. All home improvements made to an Affordable Housing unit shall be at the Owner's expense except that expenditures for any alteration that allows a unit to be resold to a larger household size because of increased capacity for occupancy shall be considered for a recalculation of Base Price. Owners must obtain prior approval for such alteration from the Authority to qualify for this recalculation.

C. The Owner of an Affordable Housing unit shall keep the Affordable Housing unit in good repair.

D. Owners of Affordable Housing units shall pay all taxes, charges, assessments or levies, both public and private, assessed against such unit, or any part thereof, as and when the same become due.

E. Owners of Affordable Housing units shall notify the Authority in writing no less than ninety (90) days prior to any proposed sale of an intent to sell the property. Owners shall not execute any purchase agreement, convey title or otherwise deliver possession of the Affordable Housing unit without the prior written approval of the Authority.

F. An Owner shall request referrals of eligible households from pre-established referral lists maintained by the Authority.

G. If the Authority does not refer an eligible household within sixty (60) days of the Notice of Intent to Sell the unit or no Agreement to Purchase the unit has been executed, the Owner may propose a Contract to Purchase the unit to an eligible household not referred through the Authority. The proposed Purchaser must complete all required Household Eligibility forms and submit Gross Annual Income Information for verification to the Authority for written certification as an eligible sales transaction.

H. At resale, all items of property which are permanently affixed to the unit and/or were included when the unit was initially restricted (e.g. refrigerator, range, washer, dryer, dishwasher, wall to wall carpeting) shall be included in the maximum allowable Resale Price. Other items of property may be sold to the Purchaser at a reasonable price that has been approved by the Authority at the time of signing the Agreement to Purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the Base Price may be made a condition of the unit resale provided the price has been approved by the

Authority. Unless otherwise permitted by the Council, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The Owner and the Purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at Resale.

I. The Owner shall not permit any lien, other than the First Purchase Money Mortgage, second mortgages approved by the Authority and liens of the Authority to attach and remain on the property for more than sixty (60) days.

J. If an Affordable Housing unit is part of a condominium, homeowner's or cooperative association, the Owner, in addition to paying any assessments required by the Master Deed of the Condominium or By-laws of an Association, shall further fully comply with all of the terms, covenants or conditions of said Master Deed or By-Laws, as well as fully comply with all terms, conditions and restrictions of this Affordable Housing Agreement.

K. The Owner shall have responsibility for fulfilling all requirements in accordance with and subject to any rules and regulations duly promulgated by the Council (N.J.A.C. 5:92-1 et seq.), for determining that a resale transaction is qualified for a Certificate of Exemption. The Owner shall notify the Authority in writing of any proposed Exempt Transaction and supply the necessary documentation to qualify for a Certificate of Exemption. An Exempt Transaction does not terminate the resale restrictions or existing liens and is not considered a certified sales transaction in calculating subsequent resale prices. A Certificate of Exemption shall be filed with the deed at the time of title transfer.

L. The Owner shall have responsibility for fulfilling all requirements in accordance with and subject to any rules and regulations duly promulgated by the Council (N.J.A.C. 5:92-1 et seq.), for determining that a resale transaction is qualified for a Hardship Waiver. The Owner may submit a written request for a Hardship Waiver if no Certified Household has executed an agreement to purchase within ninety (90) days of notification of an approved resale price and referral of potential purchasers. Prior to issuing a Hardship Waiver, the Municipality shall have 30 days in which to sign an agreement to purchase the unit at the approved resale price and subsequently rent or convey it to a Certified Household. The Municipality may transfer this option to the Department, the Agency, or a qualified non-profit organization as determined by the Council. For approval of a Hardship Waiver, an Owner must document efforts to sell the unit to an income eligible household. If the waiver is granted, the Owner may offer a low income unit to a moderate income household or a moderate income unit to a household whose income exceeds 80% of the applicable median income guide. The Hardship Waiver shall be filed with the deed at the time of closing and is only valid for the designated resale transaction. It does not affect the resale price. All future resales are subject to all restrictions stated herein.

M. The Owner shall be obligated to pay a reasonable service fee to the Authority at the time of closing and transfer of title in the amount specified by the Authority at the time a restricted resale price has been determined after receipt of a Notice of Intent to Sell. Such fee shall not be included in the calculation of the maximum resale price.

IX. FORECLOSURE

The terms and restrictions of this Agreement shall be subordinated only to the First Purchase Money Mortgage lien on the Affordable Housing property and in no way shall impair the First Purchase Money Mortgagee's ability to exercise the contract remedies available to it in the event of any default of such mortgage as such remedies are set forth in the First Purchase Money Mortgage documents for the Affordable Housing unit.

Any Affordable Housing owner-occupied property that is acquired by a First Purchase Money Mortgagee by Deed in lieu of Foreclosure, or by a Purchaser at a Foreclosure sale conducted by the holder of the First Purchase Money Mortgagee shall be permanently released from the restrictions and covenants of this Affordable Housing Agreement. All resale restrictions shall cease to be effective as of the date of transfer of title pursuant to Foreclosure with regard to the First Purchase Money Mortgagee, a lender in the secondary mortgage market including but not limited to the FNMA, Federal Home Loan Mortgage Corporation, GNMA, or an entity acting on their behalf and all subsequent purchasers, Owners and mortgagees of that particular Affordable Housing unit (except for the defaulting mortgagor, who shall be forever subject to the resale restrictions of this Agreement with respect to the Affordable Housing unit owned by such defaulting mortgagor at time of the Foreclosure sale).

Upon a judgment of Foreclosure, the Authority shall execute a document to be recorded in the county recording office as evidence that such Affordable Housing unit has been forever released from the restrictions of this Agreement. Execution of foreclosure sales by any other class of creditor or mortgagee shall not result in a release of the Affordable Housing unit from the provisions and restrictions of this Agreement.

In the event of a Foreclosure sale by the First Purchase Mortgagee, the defaulting mortgagor shall be personally obligated to pay to the Authority any excess funds generated from such Foreclosure sale. For purposes of this agreement, excess funds shall be the total amount paid to the sheriff by reason of the Foreclosure sale in excess of the greater of (1) the maximum permissible Resale Price of the Affordable Housing unit as of the date of the Foreclosure sale pursuant to the rules and guidelines of the Authority and (2) the amount required to pay and satisfy the First Money Mortgage, including the costs of Foreclosure plus any second mortgages approved by the Authority in accordance with this Agreement. The amount of excess funds shall also include all payments to any junior creditors out of the Foreclosure sale proceeds even if such were to the exclusion of the defaulting mortgagor.

The Authority is hereby given a first priority lien, second only to the First Purchase Money Mortgagee and any taxes or public assessments by a duly authorized governmental body, equal to the full amount of such excess funds. This obligation of the defaulting mortgagor to pay the full amount of excess funds to the Authority shall be deemed to be a personal obligation of the Owner of record at time of the Foreclosure sale surviving such sale. The Authority shall be empowered to enforce the obligation of the defaulting mortgagor in any appropriate court of law or equity as though same were a personal contractual obligation of the defaulting mortgagor. Neither the First Purchase Money Mortgagee nor the purchaser at the Foreclosure sale shall be

responsible or liable to the Authority for any portion of this excess.

No part of the excess funds, however, shall be part of the defaulting mortgagor's equity.

The defaulting mortgagor's equity shall be determined to be the difference between the maximum permitted Resale Price of the Affordable Housing unit as of the date of the Foreclosure sale as calculated in accordance with this Agreement and the total of the following sums: First Purchase Money Mortgage, prior liens, costs of Foreclosure, assessments, property taxes, and other liens which may have been attached against the unit prior to Foreclosure, provided such total is less than the maximum permitted Resale Price.

If there are Owner's equity sums to which the defaulting mortgagor is properly entitled, such sums shall be turned over to the defaulting mortgagor or placed in an escrow account for the defaulting mortgagor if the defaulting mortgagor cannot be located. The First Purchase Money Mortgagee shall hold such funds in escrow for a period of two years or until such earlier time as the defaulting mortgagor shall make a claim for such. At the end of two years, if unclaimed, such funds, including any accrued interest, shall become the property of the Authority to the exclusion of any other creditors who may have claims against the defaulting mortgagor.

Nothing shall preclude the municipality wherein the Affordable Housing unit is located from acquiring an affordable property prior to foreclosure sale at a negotiated price not to exceed the maximum Resale Price and holding, renting or conveying it to a Certified Household if such right is exercised within 90 days after the property is listed for sale and all outstanding obligations to the First Purchase Money Mortgagee are satisfied.

X. VIOLATION, DEFAULTS AND REMEDIES

In the event of a threatened breach of any of the terms of this agreement by an Owner, the Authority shall have all remedies provided at law or equity, including the right to seek injunctive relief or specific performance, it being recognized by both parties to this Agreement that a breach will cause irreparable harm to the Authority, in light of the public policies set forth in the Fair Housing Act and the obligation for the provision of low and moderate income housing. Upon the occurrence of a breach of any of the terms of the Agreement by an Owner, the Authority shall have all remedies provided at law or equity, including but not limited to foreclosure, acceleration of all sums due under the mortgage, recoupment of any funds from a sale in violation of the Agreement, injunctive relief to prevent further violation of the Agreement, entry on the premises, and specific performance.

XI. RIGHT TO ASSIGN

The Authority may assign from time to time its rights, and delegate its obligations hereunder without the consent of the Owner. Upon such assignment, the Authority, its successors or assigns shall provide written notice to the Owner.

XII. INTERPRETATION OF THIS AGREEMENT

The terms of this Agreement shall be interpreted so as to avoid financial speculation or circumvention of the purposes of the Fair Housing Act for the duration of this Agreement and to ensure, to the greatest extent possible, that the purchase price, mortgage payments and rents of designated Affordable Housing units remain affordable to Low and Moderate Income-Eligible Households as defined herein.

XIII. NOTICES

All notices required herein shall be sent by certified mail, return receipt requested as follows:

To the Owner:

At the address of the property stated in SECTION II PROPERTY DESCRIPTION hereof.

To the Authority:

At the address stated below:

Attention:

Or such other address that the Authority, Owner, or municipality may subsequently designate in writing and mail to the other parties.

XIV. SUPERIORITY OF AGREEMENT

Owner warrants that no other Agreement with provisions contradictory of, or in opposition to, the provisions hereof has been or will be executed, and that, in any event, the requirements of this Agreement are paramount and controlling as to the rights and obligations between and among the Owner, the Authority, and their respective successors.

XV. SEVERABILITY

It is the intention of all parties that the provisions of this instrument are severable so that if any provisions, conditions, covenants or restrictions thereof shall be invalid or void under any applicable federal, state or local law, the remainder shall be unaffected thereby.

In the event that any provision, condition, covenant or restriction hereof, is at the time of recording of this instrument, void, voidable or unenforceable as being contrary to any applicable federal, state or local law, both parties, their successors and assigns, and all persons claiming by, through or under them covenant and agree that any future amendments or supplements to the said laws having the effect of removing said invalidity, voidability or unenforceability, shall be deemed to apply retrospectively to this instrument thereby operating to validate the provisions of this instrument which otherwise might be invalid and it is covenanted and agreed that any such amendments and supplements to the said laws shall have the effect herein described as fully as if

they had been in effect at the time of the execution of this instrument.

XVI. CONTROLLING LAW

The terms of this Agreement shall be interpreted under the laws of the State of New Jersey.

XVII. OWNER'S CERTIFICATION

The Owner certifies that all information provided in order to qualify as the owner of the property or to purchase the property is true and correct as of the date of the signing of this Agreement.

XVIII. AGREEMENT

A. The Owner and the Authority hereby agree that all Affordable Housing units described herein shall be marketed, sold, and occupied in accordance with the provisions of this Agreement. Neither the Owner nor the Authority shall amend or alter the provisions of this Agreement without first obtaining the approval of the other party except as described in Section III, Paragraph C, TERM OF RESTRICTION. Any such approved amendments or modifications of this Agreement shall be in writing and shall contain proof of approval from the other parties and shall not be effective unless and until recorded with the County Clerk for the County in which the Affordable Housing units are situated.

Dated:
ATTEST:

Owner:
CALTON HOMES, INC.

By: Robert Fourniadis, Senior Vice President

Dated:
ATTEST:

Authority:

Signature (Authority)

STATE OF NEW JERSEY
COUNTY OF SS:

BE IT REMEMBERED, that on this ___ day of _____, 2002, before me, the subscriber _____, personally appeared Robert Fourniadis who, being by me duly sworn on his oath, deposes and makes proof to my satisfaction, that he is the Senior Vice President of Calton Homes, Inc., the Owner named in the within instrument; that is the Affordable Housing Agreement of the described Property; that the execution, as well as the making of this instrument, has been duly authorized and is the voluntary act and deed of said Owner.

Sworn to and subscribed before me,
the date aforesaid.

Maureen Kohler

MAUREEN KOHLER
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Dec. 11, 2003

STATE OF NEW JERSEY :
: ss:
COUNTY OF SOMERSET :

I certify that on August 1, 2002, before me, the subscribed, an attorney-at-law of New Jersey, personally appeared Donna Kukla, who, being by me sworn on her oath, does depose and make proof to my satisfaction that she is the Township Clerk of the Township of Montgomery, Somerset County, a party named in the foregoing Affordable Housing Agreement; that she well knows the corporate seal of the said corporation; that the seal affixed to said Instrument is the seal of said municipal corporation; that the said seal was so affixed and the said Instrument signed and delivered by Louise Wilson who was at the date thereof the Mayor of said Township, in the presence of this deponent, and said Mayor, at the same time acknowledged that she signed, sealed and delivered the same as her voluntary act and deed, and as the voluntary act and deed of said municipal corporation, by virtue of authority from its Governing Body, and that deponent, at the same time, subscribed her name to said Instrument as an attesting witness to the execution thereof.

Signed and sworn to before me
on Aug. 1st, 2002

Edmond M. Konin
Attorney-at-Law of New Jersey

EXHIBIT A

Seq. #	Street Address	City	State Zip	Lot	Block	No. of Bedrooms
77	29 River Birch Circle	Princeton	NJ 08540	20.01	37006	2
78	31 River Birch Circle	Princeton	NJ 08540	20.02	37006	2
79	33 River Birch Circle	Princeton	NJ 08540	20.03	37006	1
80	35 River Birch Circle	Princeton	NJ 08540	20.04	37006	1
81	37 River Birch Circle	Princeton	NJ 08540	20.05	37006	2
82	39 River Birch Circle	Princeton	NJ 08540	20.06	37006	2
83	41 River Birch Circle	Princeton	NJ 08540	20.07	37006	2
84	43 River Birch Circle	Princeton	NJ 08540	20.08	37006	2
85	45 River Birch Circle	Princeton	NJ 08540	20.09	37006	3
86	47 River Birch Circle	Princeton	NJ 08540	20.10	37006	3
87	49 River Birch Circle	Princeton	NJ 08540	20.11	37006	3
88	51 River Birch Circle	Princeton	NJ 08540	20.12	37006	3
89	53 River Birch Circle	Princeton	NJ 08540	20.13	37006	2
90	55 River Birch Circle	Princeton	NJ 08540	20.14	37006	2
91	57 River Birch Circle	Princeton	NJ 08540	20.15	37006	2
92	59 River Birch Circle	Princeton	NJ 08540	20.16	37006	2
93	61 River Birch Circle	Princeton	NJ 08540	20.17	37006	1
94	63 River Birch Circle	Princeton	NJ 08540	20.18	37006	1
95	65 River Birch Circle	Princeton	NJ 08540	20.19	37006	Storage Unit
96	67 River Birch Circle	Princeton	NJ 08540	20.20	37006	2

STATE OF NEW JERSEY
COUNCIL ON AFFORDABLE HOUSING
REPAYMENT MORTGAGE

Prepared by:

_____

This Mortgage made on _____, 2002 between _____ (referred to as "Borrower") and _____ (referred to as the "Authority"), which Authority is an instrumentality of Montgomery Township, Somerset County, New Jersey (referred to as the "Municipality")

REPAYMENT MORTGAGE NOTE

In consideration of value received by the Borrower in connection with the Property (described below) purchased by the Borrower, the Borrower has signed a note dated _____. The Borrower promises to pay the amounts due under the Note and to abide by all promises contained in the Note.

MORTGAGE AS SECURITY

This Mortgage is given to the Authority as security for the payment due and the performance of all promises under the Note. The Borrower mortgages the real estate owned by the Borrower described as follows (referred to as the "Property"):

All of the land located in the Township of Montgomery, County of Somerset and State of New Jersey, specifically described as follows:

Street Address:

Lot No.:
Block No.:

Also more particularly described as:

Together with:

1. All buildings and other improvements that now are or will be located on the Property.

2. All fixtures, equipment and personal property that now are or will be attached to or used with the land, buildings and improvements of or on the Property.

3. All rights which the Borrower now has or will acquire with regard to the Property.

BORROWER'S ACKNOWLEDGMENTS

1. The Borrower acknowledges and understands that:

(a) Municipalities within the State of New Jersey are required under the Fair Housing Act and regulations adopted under the authority of the Act to provide for their fair share of housing that is affordable to households of low and moderate income; and

(b) The Property which is subject to this Mortgage has been designated as housing which must remain affordable to low and moderate income households for at least thirty (30) years unless a shorter time period is authorized in accordance with rules established by any agency having jurisdiction (the "restricted period"); and

(c) To ensure that such housing, including this Property, remains affordable to low and moderate income households during the restricted period, an Affordable Housing Agreement has been executed by the Borrower that constitutes covenants running with the land with respect to the Property and the Municipality has adopted procedures and restrictions governing the resale of the Property; and

(d) The Authority to which the Property is mortgaged has been designated by the Municipality to administer the procedures and restrictions governing such housing.

2. The Borrower also acknowledges and understands that the Property has been purchased at a restricted sales price that is less than the fair market value of the Property.

BORROWER'S PROMISES

In consideration for the value received in connection with the purchase of the Property at a restricted sales price, the Borrower agrees as follows:

1. The Borrower will comply with all of the terms of the Note and this Mortgage which includes:

(a) Within the restricted period starting with the date the Borrower obtained title to the Property, the Borrower shall not sell or transfer title to the Property for an amount that exceeds the maximum allowable resale price as established by the Authority. In the event of breach of this promise, Borrower hereby assigns all proceeds in excess of the maximum allowable resale price to the Authority, said assignment to be in addition to any and all rights and remedies the Authority has upon default.

(b) At the first non-exempt transfer of title of the Property after the ending date of the restricted period, the Borrower agrees to repay 95% of the incremental amount between the maximum allowable resale price and the fair market selling price which has accrued to the

Property during the restricted period to the Authority.

2. The Borrower warrants title to the premises (N.J.S.A. 46:9-2). This means the Borrower owns the Property and will defend its ownership against all claims.

3. The Borrower shall pay all liens, taxes, assessments and other governmental charges made against the Property when due. The Borrower will not claim any credit against the principal and interest payable under the Note and this Mortgage for any taxes paid on the Property.

4. The Borrower shall keep the Property in good repair, neither damaging nor abandoning it. The Borrower will allow the Authority to inspect the Property upon reasonable notice.

5. The Borrower shall use the Property in compliance with all laws, ordinances and other requirements of any governmental authority.

CONTROLS ON AFFORDABILITY

The procedures and restrictions governing resale of the Property have been established pursuant to the Fair Housing Act and the regulations adopted under the authority of the Act (all collectively referred to as "Controls on Affordability"). Reference is made to the Controls on Affordability for the procedure in calculating the maximum allowable resale price, the method of repayment described in item 1(b) of the section entitled "Borrower's Promises", and the definition of a "restricted sale" for purposes of determining when the Affordability Controls are applicable, and the determination of the restricted period of time.

RIGHTS GIVEN TO LENDER

The Borrower, by mortgaging the Property to the Authority, gives the Authority those rights stated in this Mortgage, all rights the law gives to lenders, who hold mortgages, and also all rights the law gives to the Authority and/or Municipality under the Affordability Controls. The rights given to the Authority and the restrictions upon the Property are covenants running with the land. The rights, terms and restrictions in this Mortgage shall bind the Borrower and all subsequent purchasers and owners of the Property, and the heirs and assigns of all of them. Upon performance of the promises contained in the Note and Mortgage, the Authority will cancel this Mortgage at its expense.

DEFAULT

The Authority may declare the Borrower in default on the Note and this Mortgage if:

1. The Borrower fails to comply with the provisions of the Affordable Housing Agreement;

2. The Borrower fails to make any payment required by the Note and this Mortgage;

3. The Borrower fails to keep any other promise made in this Mortgage;

4. The ownership of the Property is changed for any reason without compliance with the terms of the Note and Mortgage;

5. The holder of any lien on the Property starts foreclosure proceedings; or

6. Bankruptcy, insolvency or receivership are started by or against any of the Borrowers.

AUTHORITY'S RIGHTS UPON DEFAULT

If the Authority declares that the Note and this Mortgage are in default, the Authority shall have, subject to the rights of the First Mortgage, all rights given by law or set forth in this Mortgage.

NOTICES

All notices must be in writing and personally delivered or sent by certified mail, return receipt requested, to the addresses given in this Mortgage. Address changes may be made upon notice to the other party.

NO WAIVER BY AUTHORITY

The Authority may exercise any right under this Mortgage or under any law, even if the Authority has delayed in exercising that right or has agreed in an earlier instance not to exercise that right. The Authority does not waive its right to declare the Borrower is in default by making payments or incurring expense on behalf of the Borrower.

EACH PERSON LIABLE

This Mortgage is legally binding upon each Borrower and all who succeed to their responsibilities (such as heirs and executors). The Authority may enforce any of the provisions of the Note and this Mortgage against any one or more of the Borrowers who sign this Mortgage.

SECOND MORTGAGE

The lien on this Mortgage is inferior to and subject to the terms and provisions of the First Purchase Money Mortgage executed contemporaneously herewith or any subsequent refinancing.

NO ORAL CHANGES

This Mortgage can only be changed by an agreement in writing signed by both the Borrower and the Authority.

SIGNATURES

The Borrower agrees to the terms of this Mortgage by signing below.

ACKNOWLEDGMENT:

The Borrower acknowledges receipt of a true copy of this mortgage at no charge.

WITNESS:

_____ _____

TO THE REGISTER OR CLERK OF SOMERSET COUNTY:

Record and return to:

This mortgage is fully paid and satisfied.
I authorize you to cancel it of Record.

Lender:

I certify that the Lender's signature is genuine.

_____

STATE OF NEW JERSEY
COUNCIL ON AFFORDABLE HOUSING
REPAYMENT MORTGAGE NOTE

_____, 2002 _____, New Jersey

FOR VALUE RECEIVED _____ (referred to as the "Borrower") promises to pay to _____ (referred to as the "Authority") an instrumentality of Montgomery Township, Somerset County, New Jersey (the "Municipality") the amounts specified in this Note and promises to abide by the terms contained below. This mortgage is subordinate to the first mortgage executed contemporaneously herewith, or any subsequent financing.

REPAYMENT MORTGAGE

As security for the payment of amounts due under this Note and the performance of all promises contained in this Note, the Borrower is giving the Authority a Repayment Mortgage, dated _____. The Repayment Mortgage covers real estate (the "Property") owned by the Borrower, the legal description of such real estate being contained in the Repayment Mortgage.

BORROWER'S PROMISE TO PAY AND OTHER TERMS

1. The Property is subject to terms, restrictions and conditions that prohibit its sale at a fair market price for an established period of time. Within the restricted period, starting with the date the Borrower obtains title to the Property, the Borrower shall not sell or transfer title to the Property for an amount that exceeds a maximum allowable resale price established by the Authority.

(a) All proceeds received during the restricted period in excess of the restricted amount shall be paid to the Authority.

(b) At the first non-exempt sale of the Property after restrictions have ended, the Borrower agrees to repay 95% of the incremental amount between the maximum allowable resale price and the fair market selling price which has accrued to the Property during the restricted period of resale (the "Price Differential") to the Authority.

2. The amount due and payable to the Authority shall be calculated as follows:

STEP I.

FAIR MARKET PRICE

- less-

MAXIMUM ALLOWABLE RESALE PRICE

equals

PRICE DIFFERENTIAL

STEP II.

BORROWER'S PROCEEDS

equals

MAXIMUM ALLOWABLE RESALE PRICE

- plus -

5% of PRICE DIFFERENTIAL

STEP III.

AMOUNT OF NOTE

equals

FAIR MARKET PRICE

- less -

BORROWER'S PROCEEDS

WAIVER OF FORMAL ACTS

The Borrower waives its right to require the Authority to do any of the following before enforcing its rights under this Note:

1. To demand payment of amount due (known as Presentment).

2. To give notice that amounts due have not been paid (known as Notice of Dishonor).

3. To obtain an official certificate of non-payment (known as Protest).

RESPONSIBILITY UNDER NOTE

All Borrowers signing this Note are jointly and individually obligated to pay the amounts due and to abide by the terms under this Note. The Authority may enforce this Note against any one or more of the Borrowers or against all Borrowers together.

SIGNATURES

The Borrower agrees to the terms of this Note by signing below.

WITNESSED:

_____ _____

548647

9. Prior Round: Pike Run (Bellemead)

RECEIVED
JUN 26 1997
PLANNING/ZONING BOARD

file PUR

Richard Coppola

Prepared by:
HUTT & BERKOW, P.C.

BY:_____
Ronald L. Shimanowitz, Esq.

State of New Jersey
Council on Affordable Housing
NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS
AFFORDABLE HOUSING AGREEMENT
RENTAL PROPERTIES

A DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

This AGREEMENT is entered into on this 13th day of June, 1997 between Pike Run II, L.L.C. owner of the properties designated in Section II PROPERTY DESCRIPTION, hereafter "Owner" and the HOUSING AUTHORITY OF TOWNSHIP OF MONTGOMERY (referred to as the "Housing Authority,") which Housing Authority is an instrumentality of the Township of Montgomery (referred to as the ""Municipality") both parties having agreed that the covenants, conditions and restrictions contained herein shall be imposed on the Affordable Housing Unit(s) described in Section II PROPERTY DESCRIPTION for a period of thirty (30) years and shall expire thirty (30) years from the date of the first rental of an Affordable Housing Unit by either a Low Income Household or by a Moderate Income Household.

WHEREAS, pursuant to the Fair Housing Act, (P.L. 1985 c. 222) hereinafter the "Act," the Affordable Housing Units described in Section II PROPERTY DESCRIPTION hereafter and/or an attached **EXHIBIT A** of this Agreement have been designated as low and moderate income rental housing as defined by the Act; and

WHEREAS, municipalities within the State of New Jersey are required by the Act, to provide for their fair share of housing that is affordable to households with low or moderate incomes in accordance with provisions of the Act, and

WHEREAS, the Act requires that municipalities ensure that such Affordable Housing Units remain affordable to low and moderate income households for a minimum period of at least six years; and

WHEREAS, the Act establishes the Council on Affordable Housing (hereinafter "Council") to assist municipalities in determining a realistic opportunity for the planning and development of such affordable housing; and

C. Upon termination of restrictions as they apply to each Affordable Housing Unit within the Property described in Exhibit A, the Housing Authority shall execute a document in recordable form evidencing that such Affordable Housing Unit has been forever released from the restrictions of this Affordable Housing Agreement.

IV. RESTRICTIONS

A. The Owner of a rental Affordable Housing Unit shall not rent the Affordable Housing Unit for rent that is greater than the maximum rental charge allowed by the Ordinance and annual rental charge increases allowed by the Ordinance. Prior to the rental or re-rental of an Affordable Housing Unit(s), the Housing Authority shall determine the maximum rent to be charged for said Unit(s). Rental change increases shall be effective as of the lease anniversary date and shall remain in effect for at least a one year period.

B. The Owner shall not rent the Affordable Housing Unit other than to a Low Income Renter or Moderate Income Renter who is determined to be a "certified household" by the Housing Authority pursuant to the Ordinance.

C. A "Certified Household" determination shall be valid for One Hundred Twenty (120) Days and shall thereafter expire unless a valid Lease has been executed, provided:

(1) If a valid Lease has been executed within the One Hundred Twenty (120) Day time period, the certification shall remain valid unless the Lease is ruled invalid and no occupancy of the affordable housing unit has occurred; and

(2) Upon the written request of the "Certified Household", the certification may be reviewed in writing by the Housing Authority, at its discretion, for an additional period not exceeding One Hundred Twenty (120) Days.

D. The Owner of the Affordable Housing Units shall sell the unit(s) in accordance with and subject to any rules and regulations duly promulgated by the Council (N.J.A.C. 5:93-9) and the Ordinance to ensure that the Affordable Housing Units remain affordable for rental and occupation by Low Income Households and Moderate Income Households throughout the duration of this Agreement.

V. REQUIREMENTS

A. This Agreement shall be recorded with the recording office of the county in which the Affordable Housing Unit(s) are located. The Agreement shall be recorded prior to the date of the first rental of an Affordable Housing Unit by either a Low Income Household or Moderate Income Household.

this Agreement as set forth herein. Ownership or rental of an Affordable Housing Unit shall be deemed to be an acceptance and ratification of all of the applicable provisions of this Affordable Housing Agreement.

VIII. OWNER RESPONSIBILITIES

In addition to fully complying with the terms and provisions of this Affordable Housing Agreement, the Owner acknowledges the following responsibilities:

A. Affordable Housing Units designated as rental units shall at all times remain the primary residence of the renter and shall not be sublet to any party whether or not that party is qualified as a Low Income Renter or Moderate Income Renter without prior written approval from the Housing Authority.

B. All home improvements made to an Affordable Housing Unit shall be at the Owner's expense except that the expenditures for any alteration that allows an Affordable Housing Unit to be rented to a larger household size because of an increased capacity for occupancy shall be considered by the Housing Authority for recalculation of rent. Owners must obtain prior approval from the Housing Authority for such alteration to qualify for this recalculation.

C. The Owner of an Affordable Housing Unit shall keep the Affordable Housing Unit in good repair.

D. Owners of Affordable Housing Units shall pay all taxes, charges, assessments or levies, both public and private, assessed against such unit, or any part thereof, as and when the same become due and before penalties are imposed. This shall include but not be limited to any and all assessments by a Homeowner's Association.

E. Tenants of Affordable Housing Units shall be responsible for compliance with the Homeowners Association Documents of the Pike Run Master Association, Inc., and for any fines, penalties or changes assessed against tenants pursuant thereto.

F. All renters of Affordable Housing Units shall be subject to the terms, restrictions and provisions of the Master Deed, the Ordinance, this Agreement and/or the rules and regulations of the Housing Authority, which shall be considered a material element of each renter's Lease. Violation of any such terms, restrictions and provisions shall be cause for eviction pursuant to N.J.S.A. 2A:18-61.1d and/or 2A:18-61.1e. In the event of violation by the owner or renter of any of the terms or restrictions of any Master Deed, the Ordinance, this Agreement or the Rules and Regulations of the Housing Authority, the Owner of said unit(s) shall be responsible for curation of said violation and payment of all penalties in accordance with applicable law and to the reasonable satisfaction of any and all governmental entities. The Owner shall further agree to indemnify and hold harmless the Municipality for any and all damages caused by the violation, including, but not

C. Upon a judgment of Foreclosure of an owner-occupied unit containing an Affordable Housing Unit, the Housing Authority shall execute a document in recordable form evidencing that such Affordable Housing Unit has been forever released from the restrictions of the Agreement. Execution of foreclosure sales by any other class of creditor of mortgagee shall not result in a release of the Affordable Housing Unit from the provisions and restrictions of this Agreement.

X. VIOLATION, DEFAULTS AND REMEDIES

In the event of a threatened breach of any of the terms of this Agreement by an Owner, the Housing Authority shall have all remedies provided at law or equity, including the right to seek injunctive relief or specific performance, it being recognized by both parties to this Agreement that a breach will cause irreparable harm to the Housing Authority, in light of the public policies set forth in the Fair Housing Act and the obligation for the provision of low and moderate income housing. Upon the occurrence of a breach of any of the terms of the Agreement by an Owner, the Housing Authority shall have all remedies provided at law or equity, including but not limited to recoupment of any funds from a rental in violation of the Agreement, injunctive relief to prevent further violation of the Agreement, entry on the premises, and specific performance.

XI. RIGHT TO ASSIGN

The Housing Authority may assign from time to time its rights, and delegate its obligations hereunder without the consent of the Owner. Upon such assignment, the Housing Authority, its successors or assigns shall provide written notice to the Owner.

XII. INTERPRETATION OF THIS AGREEMENT

The terms of this Agreement shall be interpreted so as to avoid financial speculation or circumvention of the purposes of the Fair Housing Act for the duration of this Agreement and to ensure, to the greatest extent possible, that the rents of designated Affordable Housing Units remain affordable to Low Income Households and Moderate Income Households as defined herein.

XIII. NOTICES

All notices required herein shall be sent by certified mail, return receipt requested as follows:

To the Owner: Pike Run II, L.L.C.
c/o Atlantic Realty
90 Woodbridge Center Drive, 6th Floor
Woodbridge, New Jersey 07095

B. The Housing Authority certifies that this Affordable Housing Agreement is consistent with the Ordinance.

XVIII. AGREEMENT

The Owner and the Housing Authority hereby agree that all Affordable Housing Units described herein shall be marketed, rented, and occupied in accordance with the provisions of this Agreement, the Ordinance and the Council rules and regulations. Neither the Owner nor the Housing Authority shall amend or alter the provisions of this Agreement without first obtaining the approval of the other party. Any such approved amendments or modifications of this Agreement shall be in writing and shall contain proof of approval from the other parties and shall not be effective unless and until recorded with the Somerset County Clerk.

Dated: JUNE 13th, 1997

ATTEST:

W. Kevin Hayes
W KEVIN HAYES MANAGING MEMBER

PIKE RUN II, L.L.C.
A New Jersey Limited Liability Company

By: _____
HENRY STERN
Managing Member

Housing Authority of the
Township of Montgomery
BY: Somerset County Coalition
on Affordable Housing

Jo Anne Stubenrauch
Secretary

By: _____
President

EXHIBIT A

BUILDING #	UNIT TYPE	UNIT NO.	ADDRESS	# BED RMS.
1	D	113	PARSONS CT	3 BED RM.
1	B-1	111	PARSONS CT	1 BED RM
1	B-3	127	PARSONS CT	1 BED RM.
1	B-2	109	PARSONS CT	1 BED RM.
1	C	125	PARSONS CT	2 BED RM.
1	B-2	107	PARSONS CT	1 BED RM.
1	C	123	PARSONS CT	2 BED RM.
1	B-2	105	PARSONS CT	1 BED RM.
1	C	121	PARSONS CT	2 BED RM.
1	D	103	PARSONS CT	3 BED RM.
1	A-1	101	PARSONS CT	1 BED RM.
1	A-2	120	PARSONS CT	1 BED RM.
1	D	102	PARSONS CT	3 BED RM.
1	B-2	104	PARSONS CT	1 BED RM.
1	C	122	PARSONS CT	2 BED RM.
1	B-2	106	PARSONS CT	1 BED RM.
1	C	124	PARSONS CT	2 BED RM.
1	B-2	108	PARSONS CT	1 BED RM.
1	C	126	PARSONS CT	2 BED RM.
1	B-1	110	PARSONS CT	1 BED RM.
1	B-3	128	PARSONS CT	1 BED RM.
1	D	112	PARSONS CT	3 BED RM.
1	A-1	114	PARSONS CT	1 BED RM.
1	A-2	129	PARSONS CT	1 BED RM.

* UNIT #'S READ RIGHT TO LEFT FROM PARKING LOT

The above described twenty-four (24) Affordable Housing Units are within Phase XB of the Pike Run development located at Parsons Court, Montgomery Township, Somerset County, New Jersey and being Lot 2, Block 5021 on the Township of Montgomery Tax Map and being also known as Lot 2, Block 5021 as shown on map entitled "Pike Run Development Tract 3" prepared by Paulus-Sokolowski & Sartor dated 7/17/95 and filed in the Office of the Somerset County Clerk on 9/14/95 as Filed Map No. 3128.

BUILDING #	UNIT TYPE	UNIT NO.	ADDRESS	# BED RMS.
12	D	1203	DUNN CT	3 BED RM.
12	B-1	1205	DUNN CT	1 BED RM
12	B-3	1221	DUNN CT	1 BED RM.
12	B-2	1207	DUNN CT	1 BED RM.
12	C	1223	DUNN CT	2 BED RM.
12	B-2	1209	DUNN CT	1 BED RM.
12	C	1225	DUNN CT	2 BED RM.
12	B-2	1211	DUNN CT	1 BED RM.
12	C	1227	DUNN CT	2 BED RM.
12	D	1213	DUNN CT	3 BED RM.
12	A-1	1214	DUNN CT	1 BED RM.
12	A-2	1229	DUNN CT	1 BED RM.
12	D	1212	DUNN CT	3 BED RM.
12	B-2	1210	DUNN CT	1 BED RM.
12	C	1228	DUNN CT	2 BED RM.
12	B-2	1208	DUNN CT	1 BED RM.
12	C	1226	DUNN CT	2 BED RM.
12	B-2	1206	DUNN CT	1 BED RM.
12	C	1224	DUNN CT	2 BED RM.
12	B-1	1204	DUNN CT	1 BED RM.
12	B-3	1222	DUNN CT	1 BED RM.
12	D	1202	DUNN CT	3 BED RM.
12	A-1	1201	DUNN CT	1 BED RM.
12	A-2	1220	DUNN CT	1 BED RM.

* UNIT #'S READ RIGHT TO LEFT FROM PARKING LOT

The above described twenty-four (24) Affordable Housing Units are within Phase XB of the Pike Run development located at Dunn Court, Montgomery Township, Somerset County, New Jersey and being Lot 3, Block 5022 on the Township of Montgomery Tax Map and being also known as Lot 3, Block 5022 as shown on map entitled "Pike Run Development Tract 3" prepared by Paulus-Sokolowski & Sartor dated 7/17/95 and filed in the Office of the Somerset County Clerk on 9/14/95 as Filed Map No. 3128.

EXHIBIT A CONTINUED

BUILDING #	UNIT TYPE	UNIT NO.	ADDRESS	# BED RMS.
4	D	413	DONIMICUS	3 BED RM.
	B-1	411	COURT	1 BED RM
4	B-3	427	DONIMICUS CT	1 BED RM.
4	B-2	409	DONIMICUS CT	1 BED RM.
4	C	425	DONIMICUS CT	2 BED RM.
4	B-2	407	DONIMICUS CT	1 BED RM.
4	C	423	DONIMICUS CT	2 BED RM.
4	B-2	405	DONIMICUS CT	1 BED RM.
4	C	421	DONIMICUS CT	2 BED RM.
4	D	403	DONIMICUS CT	3 BED RM.
4	A-1	401	DONIMICUS CT	1 BED RM.
4	A-2	420	DONIMICUS CT	1 BED RM.
4	D	402	DONIMICUS CT	3 BED RM.
4	B-2	404	DONIMICUS CT	1 BED RM.
4	C	422	DONIMICUS CT	2 BED RM.
4	B-2	406	DONIMICUS CT	1 BED RM.
4	C	424	DONIMICUS CT	2 BED RM.
4	B-2	408	DONIMICUS CT	1 BED RM.
4	C	426	DONIMICUS CT	2 BED RM.
4	B-1	410	DONIMICUS CT	1 BED RM.
4	B-3	428	DONIMICUS CT	1 BED RM.
4	D	412	DONIMICUS CT	3 BED RM.
4	A-1	414	DONIMICUS CT	1 BED RM.
4	A-2	429	DONIMICUS CT	1 BED RM.

* READ RIGHT TO LEFT FROM PARKING LOT

The above described twenty-four (24) Affordable Housing Units are within Phase XC of the Pike Run development located at Donimicus Ct., Montgomery Township, Somerset County, New Jersey and being Lot 1, Block 5023 on the Township of Montgomery Tax Map and being also known as Lot 1, Block 5023 as shown on map entitled "Pike Run Development Tract 3" prepared by Paulus-Sokolowski & Sartor dated 7/17/95 and filed in the Office of the Somerset County Clerk on 9/14/95 as Filed Map No. 3128.

EXHIBIT A CONTINUED

BUILDING #	UNIT TYPE	UNIT NO.	ADDRESS	# BED RMS.
7	D	703	DONIMICUS	3 BED RM.
	B-1	705	CT.	1 BED RM
7	B-3	721	DONIMICUS CT	1 BED RM.
7	B-2	707	DONIMICUS CT	1 BED RM.
7	C	723	DONIMICUS CT	2 BED RM.
7	B-2	709	DONIMICUS CT	1 BED RM.
7	C	725	DONIMICUS CT	2 BED RM.
7	B-2	711	DONIMICUS CT	1 BED RM.
7	C	727	DONIMICUS CT	2 BED RM.
7	D	713	DONIMICUS CT	3 BED RM.
7	A-1	714	DONIMICUS CT	1 BED RM.
7	A-2	729	DONIMICUS CT	1 BED RM.
7	D	712	DONIMICUS CT	3 BED RM.
7	B-2	710	DONIMICUS CT	1 BED RM.
7	C	728	DONIMICUS CT	2 BED RM.
7	B-2	708	DONIMICUS CT	1 BED RM.
7	C	726	DONIMICUS CT	2 BED RM.
7	B-2	706	DONIMICUS CT	1 BED RM.
7	C	724	DONIMICUS CT	2 BED RM.
7	B-1	704	DONIMICUS CT	1 BED RM.
7	B-3	722	DONIMICUS CT	1 BED RM.
7	D	702	DONIMICUS CT	3 BED RM.
7	A-1	701	DONIMICUS CT	1 BED RM.
7	A-2	720	DONIMICUS CT	1 BED RM.

* READ RIGHT TO LEFT FROM PARKING LOT

The above described twenty-four (24) Affordable Housing Units are within Phase XC of the Pike Run development located at Donimicus Ct., Montgomery Township, Somerset County, New Jersey and being Lot 1, Block 5023 on the Township of Montgomery Tax Map and being also known as Lot 1, Block 5023 as shown on map entitled "Pike Run Development Tract 3" prepared by Paulus-Sokolowski & Sartor dated 7/17/95 and filed in the Office of the Somerset County Clerk on 9/14/95 as Filed Map No. 3128.

BUILDING #	UNIT TYPE	UNIT NO.	ADDRESS	# BED RMS.
2	B-1	205	Whitlock	1 BED RM
	B-2	207	Court	1 BED RM.
2	C	223	WHITLOCK CT	2 BED RM
2	B-2	209	WHITLOCK CT	1 BED RM
2	C	225	WHITLOCK CT	2 BED RM
2	B-2	211	WHITLOCK CT	1 BED RM
2	C	227	WHITLOCK CT	2 BED RM
2	D	213	WHITLOCK CT	3 BED RM
2	A-1	214	WHITLOCK CT	1 BED RM
2	A-2	229	WHITLOCK CT	1 BED RM
2	D	212	WHITLOCK CT	3 BED RM
2	B-2	210	WHITLOCK CT	1 BED RM
2	C	228	WHITLOCK CT	2 BED RM
2	B-2	208	WHITLOCK CT	1 BED RM
2	C	226	WHITLOCK CT	2 BED RM
2	B-2	206	WHITLOCK CT	1 BED RM
2	C	224	WHITLOCK CT	2 BED RM
2	B-1	204	WHITLOCK CT	1 BED RM

* READ LEFT TO RIGHT FROM ADJACENT LOT

The above described eighteen (18) Affordable Housing Units are within Phase XA of the Pike Run development located at Whitlock Ct., Montgomery Township, Somerset County, New Jersey and being Lot 1, Block 5023 on the Township of Montgomery Tax Map and being also known as Lot 1, Block 5023 as shown on map entitled "Pike Run Development Tract 3" prepared by Paulus-Sokolowski & Sartor dated 7/17/95 and filed in the Office of the Somerset County Clerk on 9/14/95 as Filed Map No. 3128.

10. Prior Round: Crawford Transitional Housing

Council on Affordable Housing (COAH)
Alternative Living Arrangement Survey

Municipality: Skillman County: Somerset

Sponsor: _____ Developer: _____

Block: 1500 Lot: 6 Street Address 362 Sawmill Road

Facility Name: Crawford House Inc.

Type of Facility:

- ☐ Group Home for developmentally disabled as licensed and/or regulated by the NJ Dept. of Human Services (Division of Developmental Disabilities (DDD))
- ☐ Group Home for mentally ill as licensed and/or regulated by the NJ Dept. of Human Services (Division of Mental Health Services) (DMHS))
- ☐ Transitional facility for the homeless
- ☑ Residential health care facility (licensed by NJ Dept. of Community Affairs or NJ Dept. of Human Services)
- ☐ Congregate living arrangement
- ☐ Other – Please Specify: _____

# of bedrooms occupied by low-income residents 7

# of bedrooms occupied by moderate-income residents ___

Separate bedrooms? ___Yes ✓No

Affordability Controls? ___Yes ___No

Length of Controls: _____ years

Effective Date of Controls: __/__/__

Expiration Date of Controls: __/__/__

Average Length of Stay: 6 months (transitional facilities only)

For proposed new construction projects only:

Sources of funding committed to the project (check all that apply):
- ☐ Capital funding from State – Amount $_____
- ☐ Balanced Housing – Amount $_____
- ☐ HUD – Amount $_____
- ☐ Federal Home Loan Bank – Amount $_____
- ☐ Farmers Home Administration – Amount $_____
- ☐ Development fees – Amount $_____
- ☐ Bank financing – Amount $_____
- ☐ Other – Please specify: _____

Are funding sources sufficient to complete project?
___ Yes ___ No

Residents qualify as low or moderate income? 22

___ Yes ___ No

☐ CO Date: __/__/__

Indicate licensing agency:

☐ DDD ☐ DMHS ☑ DHSS ☐ DCA

Initial License Date: 8/__/05

Current License Date: __/__/__

The following verification is attached:

- ☐ Copy of deed restriction (30-year minimum, HUD, FHA, FHLB, BHP deed restriction, etc.)
- ☐ Copy of Capital Application Funding Unit (CAFU) Letter (20-year minimum, no deed restriction required)
- ☐ Award letter/financing commitment (proposed new construction projects only)

Residents 18 yrs or older? ✓Yes ___No

Age-restricted? ___Yes ___No

Population Served (describe): Females

Accessible (in accordance with NJ Barrier Free Subcode)? ✓Yes ___No

Affirmative Marketing Strategy (check all that apply):

- ☐ DDD/DMHS/DHSS/DCA waiting list
- ☐ Other (please specify): _____

CERTIFICATIONS

I certify that the information provided is true and correct to the best of my knowledge and belief.

Certified by: _____ 3/28/06
Project Administrator — Date

Certified by: _____ 12/26/08
Municipal Housing Liaison — Date

CERTIFICATE

Permit # 04-0118
Date Issued 2/23/04
-or-
Control #
Certificate Issued Date: 2/8/05

IDENTIFICATION

Block 15001 Lot 6 Qualification Code

Work Site Location 362 Sunset Road
Skillman, NJ 08558

Owner in Fee Crawford House Inc.

Address 362 Sunset Road
Skillman, NJ 08558

Tel. (908) 874 5153

Contractor Costanza Builders of NJ

Address 1256 Marlkress Rd.
Cherry Hill, NJ 08034

Tel. (856) 489 1850 FAX ( )

Lic. No. or Bldrs. Reg. No. 2741

Federal Employer No. 223788015

Home Warranty No. n/a

Type of Warranty Plan: [ ] State [ ] Private

Use Group I-1 and B

Maximum Live Load Floors = 100 psf, roof = 30psf

Construction Classification VB

Maximum Occupancy Load 44

Description of Work/Use:

Residential Treatment Facility - fully sprinklered
8730 sq. ft., 2 story wood frame building.
7 Bedrooms, 5 Baths, 5 Offices

☒ **CERTIFICATE OF OCCUPANCY**

This serves notice that said building or structure has been construced in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

☐ **CERTIFICATE OF APPROVAL**

This serves notice that the work completed has been construced or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of the inspection.

☐ **TEMPORARY CERTIFICATE OF OCCUPANCY/COMPLIANCE**

If this is a temporary Certificate of Occupancy or Compliance, the following conditions must be met no later than _____ or will be subject to fine or order to vacate:

☐ **CERTIFICATE OF CLEARANCE — LEAD ABATEMENT 5:17**

This serves notice that based on written certification, lead abatement was performed as per NJAC 5:17, to the following extent:

[ ] Total removal of lead-based paint hazards in scope of work

[ ] Partial or limited time period (_____ years); see file

☐ **CERTIFICATE OF CONTINUED OCCUPANCY**

This serves notice that based on a general inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

☐ **CERTIFICATE OF COMPLIANCE**

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until _____.

John H. Arnold

CONSTRUCTION OFFICIAL DATE

Fee $ PAID

Paid [ ] Check No. _____

Collected by: _____

U.C.C. F260
(rev. 5/03)

1 WHITE — APPLICANT 2 CANARY — OFFICE 3 PINK — TAX ASSESSOR

2p NO FEE

somerset*.*\deed.wps

SOMERSET COUNTY, NEW JERSEY

HOME INVESTMENT PARTNERSHIP PROGRAM

DEED COVENANT

The purpose of the within deed covenant is to establish certain restrictions upon the within property in accordance with an agreement between Somerset County, New Jersey and Crawford House, Inc., 362 Sunset Road, PO Box 255, Skillman, NJ 08558 dated MARCH 30, 2004; a Repayment Mortgage dated MARCH 30, 2004; and a Mortgage Repayment Note dated MARCH 30, 2004. Specifically, the property described herein is to be acquired and/or rehabilitated and leased or sold to qualifying low or very low income households for use as a principal residence and shall qualify as an affordable housing unit pursuant to the provisions of the National Affordable Housing Act of 1990 (NAHA) and the act's implementing Federal Regulations. Funds have been provided by Somerset County as the recipient of HOME Investment Partnerships Program funds pursuant to NAHA which funds are to be used to finance affordable housing pursuant to the terms and requirements of NAHA and the act's implementing Federal Regulations which have been adopted by the United States Department of Housing and Urban Development (HUD). The affordable housing unit financed in the within property must comply with the affordability requirements of the NAHA and the implementing regulations as found in 24 C.F.R. 92, et. seq., 24 C.F.R. 92.252, 24 C.F.R. 92.254, 24 C.F.R. 85.43, 24 C.F.R. 85.44 and 24 C.F.R. 92.504 (13).

These restrictions shall run with the land and be enforceable against the heirs and assigns of the grantor unless and until (1) the restriction is removed by written consent of Somerset County, New Jersey and/or (2) the Agreement; Repayment Mortgage and Mortgage Repayment Note referenced above between the Somerset County, New Jersey and Crawford House, Inc. are terminated or expire pursuant to the terms of those documents.

The property to which this deed covenant applies is located in the Montgomery Township, County of Somerset and State of New Jersey and described as follows:

Street Address: 362 Sunset Road Lot No.: 6.01 Block No.: 15001

Also more particularly described as setforth in a certain deed for said property issued to the grantee, Crawford House, Inc., by the grantor. A copy of that deed is attached to this deed covenant and by this reference is incorporated in its entirety as part of this agreement.

UNOFFICIAL COPY

2004029558

BRETT A. RADI COUNTY CLERK
SOMERSET COUNTY, NJ
2004 APR 15 11:09:33 AM
BK:5570 PG:141-143
INSTRUMENT # 2004029558

The Owner agrees to the terms of this Deed Covenant by signing below.

Dated:

Attest:

Crawford House, Inc.

Linda Leyhane, Executive Director

State of New Jersey
SS:
County of Somerset

BE IT REMEMBERED, that on this 25 day of March, 2004, before me the subscriber, personally appeared Linda Leyhane, Executive Director who I am satisfied is the authorized representative of the Owner mentioned in the within instrument and thereupon signed this document. The person acknowledged signing, sealing and delivering this document as his own voluntary act and deed for the uses and purposes therein expressed.

Notary MONICA J. PYLE

MONICA J. PYLE
Notary Public of New Jersey
My Commission Expires on September 7, 2004
9-7-04

TO THE CLERK OF THE
County of Somerset

This deed restriction is fully satisfied.
I authorize you to cancel it of Record.

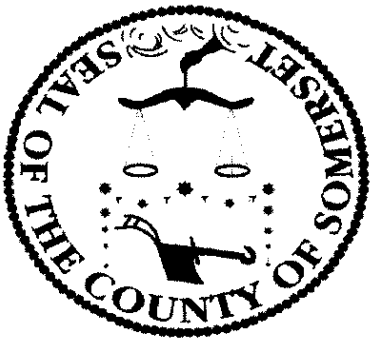
Lender: I certify that the Lender's signature is genuine.

Record and return to:

Record and Return to:
Somerset County
Community Development Office
PO Box 3000
Somerville, NJ 08876

UNOFFICIAL COPY

Unofficial Copy



BRETT A. RADI
SOMERSET COUNTY CLERK
20 GROVE STREET
P.O. BOX 3000
SOMERVILLE, NJ 08876-1262

****

Recorded: 04/15/2004 11:09:33 AM

Book: OPR 5570 **Page:** 141-143

Instrument No.: 2004029558

AGTDEED 3 PGS $40.00

Recorder: ADAMUS

****

DO NOT DISCARD



2004029558

11. Prior Round: Devereux Group Home

Council on Affordable Housing (COAH)
Alternative Living Arrangement Survey

Municipality: Montgomery County: Somerset

Sponsor: _____ Developer: _____

Block: 15024 Lot: 7 Street Address 797 County Rd 601

Facility Name: Developmental Home

Type of Facility:

- ☑ Group Home for developmentally disabled as licensed and/or regulated by the NJ Dept. of Human Services (Division of Developmental Disabilities (DDD))
- ☐ Group Home for mentally ill as licensed and/or regulated by the NJ Dept. of Human Services (Division of Mental Health Services) (DMHS))
- ☐ Transitional facility for the homeless
- ☐ Residential health care facility (licensed by NJ Dept. of Community Affairs or NJ Dept. of Human Services)
- ☐ Congregate living arrangement
- ☐ Other – Please Specify: _____

# of bedrooms occupied by low-income residents 4

# of bedrooms occupied by moderate-income residents ___

Separate bedrooms? X Yes ___ No

Affordability Controls? ___ Yes X No

Length of Controls: ___ years

Effective Date of Controls: __/__/__

Expiration Date of Controls: __/__/__

Average Length of Stay: _____ months (transitional facilities only)

For proposed new construction projects only:

Sources of funding committed to the project (check all that apply):

- ☐ Capital funding from State – Amount $_____
- ☐ Balanced Housing – Amount $_____
- ☐ HUD – Amount $_____
- ☐ Federal Home Loan Bank – Amount $_____
- ☐ Farmers Home Administration – Amount $_____
- ☐ Development fees – Amount $_____
- ☐ Bank financing – Amount $_____
- ☐ Other – Please specify: _____

Are funding sources sufficient to complete project?
___ Yes ___ No

Residents qualify as low or moderate income?

X Yes ___ No

☐ CO Date: 04/03/00

Indicate licensing agency:

☒ DDD ☐ DMHS ☐ DHSS ☐ DCA

Initial License Date: 05/12/00

Current License Date: 04/1/2005

The following verification is attached:

- ☐ Copy of deed restriction (30-year minimum, HUD, FHA, FHLB, BHP deed restriction, etc.)
- ☒ Copy of Capital Application Funding Unit (CAFU) Letter (20-year minimum, no deed restriction required)
- ☐ Award letter/financing commitment (proposed new construction projects only)

Residents 18 yrs or older? ✓ Yes ___ No Age-restricted? ___ Yes ✓ No

Population Served (describe): Dually Diagnosed Developmentally Disabled

Accessible (in accordance with NJ Barrier Free Subcode)? ___ Yes ___ No

Affirmative Marketing Strategy (check all that apply):

- ☐ DDD/DMHS/DHSS/DCA waiting list
- ☐ Other (please specify): _____

CERTIFICATIONS

I certify that the information provided is true and correct to the best of my knowledge and belief.

Certified by: _____ 4/9/07
Project Administrator — Date

Certified by: _____ 12/26/08
Municipal Housing Liaison — Date

12. Prior Round: Delta Community Support Group Home

Council on Affordable Housing (COAH)
Alternative Living Arrangement Survey

Municipality: Montgomery Township County: Somerset

Sponsor: Developmental Resources Corporation Developer:

Block: 11 Lot: 19001 Street Address: 174 Opossum Rd., Skillman, NJ.

Facility Name: Killman Group home

Type of Facility:

- [X] Group Home for developmentally disabled as licensed and/or regulated by the NJ Dept. of Human Services (Division of Developmental Disabilities (DDD))
- [ ] Group Home for mentally ill as licensed and/or regulated by the NJ Dept. of Human Services (Division of Mental Health Services) (DMHS))
- [ ] Transitional facility for the homeless
- [ ] Residential health care facility (licensed by NJ Dept. of Community Affairs or NJ Dept. of Human Services)
- [ ] Congregate living arrangement
- [ ] Other - Please Specify: _____

# of bedrooms occupied by low-income residents 4

# of bedrooms occupied by moderate-income residents 0

Separate bedrooms? [✓] Yes [ ] No

Affordability Controls? [ ] Yes [ ] No N/A [ ] CO Date: __/__/__

Length of Controls: _____ years

Effective Date of Controls: __/__/__

Expiration Date of Controls: __/__/__

Average Length of Stay: _____ months (transitional facilities only) N/A

For proposed new construction projects only:

Sources of funding committed to the project (check all that apply):
- [ ] Capital funding from State – Amount $_____
- [ ] Balanced Housing – Amount $_____
- [ ] HUD – Amount $_____
- [ ] Federal Home Loan Bank – Amount $_____
- [ ] Farmers Home Administration – Amount $_____
- [ ] Development fees – Amount $_____
- [ ] Bank financing – Amount $_____
- [ ] Other – Please specify: _____

Are funding sources sufficient to complete project?
___ Yes ___ No

Residents qualify as low or moderate income? yes
[✓] Yes [ ] No

Indicate licensing agency:
[ ] DDD [ ] DMHS [ ] DHSS [ ] DCA

Initial License Date: __/__/__

Current License Date: __/__/__

The following verification is attached:
- [ ] Copy of deed restriction (30-year minimum, HUD, FHA, FHLB, BHP deed restriction, etc.)
- [X] Copy of Capital Application Funding Unit (CAFU) Letter (20-year minimum, no deed restriction required)
- [ ] Award letter/financing commitment (proposed new construction projects only)

Residents 18 yrs or older? [✓] Yes [ ] No

Age-restricted? [✓] Yes [ ] No

Population Served (describe): developmentally disabled

Accessible (in accordance with NJ Barrier Free Subcode)? [ ] Yes [✓] No

Affirmative Marketing Strategy (check all that apply):

- [X] DDD/DMHS/DHSS/DCA waiting list
- [ ] Other (please specify): ___ _____

CERTIFICATIONS

I certify that the information provided is true and correct to the best of my knowledge and belief.

Certified by: _____ Project Administrator — Date: 4/5/06

Certified by: _____ Municipal Housing Liaison — Date: 12/26/08

RECEIVED MAY 1 2 1997

State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES

CHRISTINE TODD WHITMAN
Governor

WILLIAM WALDMAN
Commissioner

ROBERT B. NICHOLAS, PH.D.
Director

May 8, 1997

John McCune, Exe. Director
Developmental Resources Corporation
1130 Route 202 South
Raritan, NJ 08869

Re: 174 Opossum Road, Montgomery Twp
New Jersey

Dear Mr.McCune:

I am pleased to inform you that the New Jersey Department of Human Services has approved your application for Capital funding for the purchase and renovation of the above property as a community residence for the developmetally disabled. You will be receiving a check within 5 weeks.

Sincerely,

Anthony Anzivino, CAI
Office of the Assistant Director, DDD
Lower Central Region

AA:cz

Council on Affordable Housing (COAH)
Supportive and Special Needs Housing Survey

Municipality: Montgomery Township County: Somerset

Sponsor: Delta Community Supports Developer: _____

Block: 21 Lot: 19001 Street Address 174 Opossum Rd., Skillman NJ

Facility Name: Skillman GH

Section 1: Type of Facility:

- ☑ Licensed Group Home
- ☐ Transitional facility for the homeless (**not eligible** for COAH credit after June 2, 2008)
- ☐ Residential health care facility (licensed by NJ Dept. of Community Affairs or DHSS)
- ☐ Permanent supportive housing
- ☐ Supportive shared housing
- ☐ Other – Please Specify: _____

Section 2: Sources and amount of funding committed to the project :

- ☐ Capital Application Funding Unit $_____
- ☐ HMFA Special Needs Housing Trust Fund $_____
- ☐ Balanced Housing – Amount $_____
- ☐ HUD – Amount $_____ Program_____
- ☐ Federal Home Loan Bank – Amount $_____
- ☐ Farmers Home Administration – Amount $_____
- ☐ Development fees – Amount $_____
- ☐ Bank financing – Amount $_____
- ☐ Other – Please specify: _____

☐ For proposed projects, please submit a pro forma
☐ Municipal resolution to commit funding, if applicable
☐ Award letter/financing commitment (proposed new construction projects only)

Section 3: For all facilities other than permanent supportive housing:

Total # of bedrooms reserved for:

Very low-income clients/households ____
Low-income clients/households ____
Moderate-income clients/households ____
Market-income clients/households ____

Section 4: For permanent supportive housing:

Total # of units 4, including:

# of very low-income units ____
# of low-income units 4
# of moderate-income units ____
# of market-income units ____

Section 5:

Length of Controls: _____ years

Effective Date of Controls: __/__/__

Expiration Date of Controls: __/__/__

Average Length of Stay: _____ months (transitional facilities only)

Section 6:

☐ CO Date: __/__/__ N/A

For licensed facilities, indicate licensing agency:

☐ DDD ☐ DMHS ☐ DHSS ☐ DCA ☐ DCF

☐ Other _____

Initial License Date: __/__/__

Current License Date: __/__/__

Section 7:

Has the project received project-based rental assistance? ___Yes ___No; Length of commitment: _____

Other operating subsidy sources: _____; Length of commitment: _____

Is the subsidy renewable? ___Yes ___No

Section 8: The following verification is attached:

- ☑ Copy of deed restriction or mortgage and/or mortgage note with deed restriction (30-year minimum, HUD, FHA, FHLB, UHAC deed restriction, etc.)
- ☐ Copy of Capital Application Funding Unit (CAFU) or DHS Capital Application Letter (20 year minimum, no deed restriction required)

Section 9:

Residents 18 yrs or older? ✓ Yes ___No
Population Served (describe): [illegible]

Age-restricted? ✓ Yes ___No

Accessible (in accordance with NJ Barrier Free Subcode)? ___Yes ✓ No

Section 10: Affirmative Marketing Strategy (check all that apply):

- ☑ DDD/DMHS/DHSS waiting list
- ☐ Affirmative Marketing Plan approved by the Council's Executive Director

CERTIFICATIONS

I certify that the information provided is true and correct to the best of my knowledge and belief.

Certified by: _____ 1/6/08
Project Administrator — Date

Certified by: _____
Municipal Housing Liaison — Date

FAX TRANSMITTAL

Delta Community Supports, Inc.

Delta Community Supports, Inc.
Community Living - Suite 700
720 Johnsville Blvd.
Warminster, PA. 18974

FAX
215-953-9207

215-953-9255

To: Lori Seurrun

From: John Kenneth Komisor

Date: 1/6/08

Fax #: 908.359 2006

# of Pages: 3

(including cover sheet)

Regarding:

Comments: Sorry for the delay. I did not receive the capital approval until it was sent previously. Please call w/ questions

Thanks

John

Oct 14
1997
[redacted]
Cert. of Approval
for interior
renovations

CONFIDENTIALITY NOTICE – This fax message and all documents which accompany it contain information intended solely for the use of the individual to whom it is addressed, and may contain information that is privileged, confidential and/or otherwise exempt from disclosure. If the reader is not the intended recipient, any disclosure, dissemination, distribution, copying or other use of this fax or its substance is prohibited. If you have received this fax in error, please notify the sender immediately. Thank you.

jKomisor@deltaweb.org

License No. GH548

State of New Jersey

Department of Human Services

Office of Licensing

LICENSE

DELTA COMMUNITY SUPPORTS, INC.

1130 Route 202
Raritan, NJ 08869

Having met the requirements of the New Jersey Statute, P.L. 1977, c. 448, and the regulations of this Department, is hereby licensed as a

Group Home Developmental Disability

for 3 individuals

at
174 OPOSSUM RD
SKILLMAN, NJ 08558

This License is effective from 05/31/2015 to 05/31/2016

Elizabeth Connolly, Acting Commissioner
Department of Human Services

Township of Montgomery

MUNICIPAL BUILDING
2261 Rt. 206
BELLE MEAD, NJ 08502
PHONE (908) 359-8211

NEW JERSEY UNIFORM CONSTRUCTION CODE

CERTIFICATE

Date Issued 10-14-97
Control #
Permit # 97-0766

IDENTIFICATION

Block 19001 Lot 21
Work Site Location 174 Opossum Road
Skillman, NJ 08558
Owner in Fee/Occupant Developmental Resources corp.
Address 174 Opossum Rd.
Skillman, NJ 08558
Tele. (_____)
Contractor E & H Contracting
Address _____
Tele. (908) 873 2100 Fax (_____)
Lic. No. or Bldrs. Reg. No. _____
Federal Emp. No. _____

Home Warranty No. n/a
Type of Warranty Plan: [ ] State [ ] Private
Use Group R3
Maximum Live Load n/a
Construction Classification n/a
Maximum Occupancy Load n/a
Description of Work/Use:

Interior alteration

☐ **CERTIFICATE OF OCCUPANCY**

This serves notice that said building or structure has been constructed in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

☒ **CERTIFICATE OF APPROVAL**

This serves notice that the work completed has been constructed or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of inspection.

☐ **TEMPORARY CERTIFICATE OF OCCUPANCY/COMPLIANCE**

If this is a temporary Certificate of Occupancy or Compliance, the following conditions must be met no later than _____, 19____ or the owner will be subject to fine or order to vacate:

☐ **CERTIFICATE OF CLEARANCE — LEAD ABATEMENT 5:17**

This serves notice that based on written certification, lead abatement was performed as per NJAC 5:17, to the following extent:

[ ] Total removal of lead-based paint hazards in scope of work
[ ] Partial or limited time period (_____ years); see file

☐ **CERTIFICATE OF CONTINUED OCCUPANCY**

This serves notice that based on a general inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

☐ **CERTIFICATE OF COMPLIANCE**

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until _____

F. Wayne Beach
CONSTRUCTION OFFICIAL

Fee $ n/a
Paid [ ] Check No. _____
Collected by: _____

U.C.C. F260
(rev. 3/96)

1 WHITE — APPLICANT 2 CANARY — OFFICE 3 PINK — TAX ASSESSOR

13. Third Round: The Willows at Orchard (JER Herring)

1105AV-01

7P103CKJE

RECORD & RETURN TO:
Surety Title Co., LLC
11 Eves Drive, Suite 150
Marlton, NJ 08053

-2-

HMFA Board Approved Revision 11/18/04

LIHTC #1456

Prepared By: Joyce Lini
Joyce Lini



BRETT A. RADI COUNTY CLERK
SOMERSET COUNTY, NJ
2015 JAN 12 11:27:42 AM
BK:6766 PG:2481-2488
INSTRUMENT # 2015001320

DEED OF EASEMENT AND RESTRICTIVE COVENANT FOR EXTENDED LOW-INCOME OCCUPANCY

THIS DEED OF EASEMENT and RESTRICTIVE COVENANT (the "Covenant") dated as of January 9, 2015, shall run with the land and is granted by Orchard Road LIHTC, LLC and its successors and assigns (the "Project Owner") whose principal address is 5 Powell Lane, Collingswood, New Jersey 08108, to the New Jersey Housing and Mortgage Finance Agency, its successors and assigns, (the "Agency") acting as the housing credit agency for the State of New Jersey as described in Section 42(h)(3) of the Internal Revenue Code as amended, and to income eligible members of the public as defined below. As conditioned below this Covenant restricts occupancy of the described premises to income eligible occupants for a specified period of time. This Covenant is made in satisfaction of the requirements of Section 42 of the Federal Tax Reform Act of 1986, P.L. 99-514, as amended, (the "Code").

As indicated on the Determination Letter or the IRS Form(s) 8609 for the building(s) described below, the Agency has determined the eligibility for and issued Low Income Housing Tax Credits ("LIHTC") authorized under the Code in an estimated annual amount of $226,529 to be claimed by the Project Owner over a 10 or 15 year period pursuant to the Code. In consideration of the receipt of the benefit of the LIHTC, the Project Owner hereby agrees to the following restrictive covenants, which are made in satisfaction of the requirements contained in Section 42(h)(6) of the Code.

(1) The two buildings, which consist of a total of 40 residential rental units, of which 40 are LIHTC units, and which will constitute a qualified low-income housing project as defined in Section 42(g) (1) of the Code and regulations promulgated thereunder, the rental units which will be rented or available for rental on a continuous basis to members of the general public, shall be known as (the "Project"). The Project is located at Willows at Orchard Road, Municipal Tax Map Block No. 28001, Lot No.5.04, 5.05 in Montgomery Township, County of Somerset, New Jersey, and title to which has been recorded in the County Clerk or Register's Office being more fully described as set forth in Attachment "A" hereto.

(2) The applicable fraction, as defined in Section 42(c)(1)(B) of the Code (the smaller of the low-income unit fraction or the low-income floor space fraction), and as provided by the Project Owner in its low income housing tax credit application (the "Application") is 100 percent. This fraction shall not be decreased during any taxable year of the compliance period or extended use period unless terminated in accordance with the provisions enumerated at Section 42(h)(6)(E) of the Code.

(3) This Covenant and the Section 42 occupancy and rent restrictions shall commence on the first day of the compliance period as defined in section 42 of the Code, and shall end on the date which is fifteen (15) years after the close of the initial fifteen (15) year compliance period, unless terminated by foreclosure or instrument in lieu of foreclosure, pursuant to the provisions of the Code, and any regulations promulgated thereunder.

(4) The extended use period shall terminate, subject to the provisions regarding low-income tenancy and gross rent restrictions, on the date the buildings are acquired by foreclosure (or an instrument in lieu of foreclosure), or on the last day of the one year period beginning on the date after the fourteenth (14^{th}) year of the initial compliance period that the Project Owner submits a written request to the Agency to present a qualified contract (as defined at Section 42(h)(6)(F) of the Code) for the acquisition of the buildings, if, and only if, the Agency is unable to present within that year's time, a qualified contract from a purchaser who will continue to operate such buildings as a qualified low-income project.

(5) The compliance period begins at the same time as the credit period. The Project Owner elects when to begin the credit period at the time the Project Owner's first tax return is filed with the Internal Revenue Service. It is expected that the Project Owner will begin the credit period in 2016.

(6) The federal set-aside, as defined by section 42(g)(1) of the Tax Code, which was selected by the Project Owner in its Application requires that 40 percent or more of the residential units in the Project are both rent restricted and occupied by individuals whose income is 60 percent or less of area median gross income (AMGI) ("income eligible members of the public"). The selection of this federal set-aside is irrevocable and is binding on the Project Owner and all successors in interest to the Project through the end of the extended use period.

(7) [ ] If this box is checked, the Project is a Special Needs Project as defined in the _____ Qualified Allocation Plan, and as selected by the Project Owner in its Application and as such, the Project Owner must BOTH restrict 25% of the LIHTC units in the Project for occupancy by one or more special needs population through the end of the compliance period AND make available at a reasonable cost to all tenants with special needs a minimum of three appropriate and accessible social services throughout the compliance period. One of the social services must be a social service coordinator. With written approval from the Agency, the Project Owner may substitute another special needs population for the one(s) identified in its Application and may substitute services to better address the needs of the tenants with special needs. Notwithstanding the above, if after a period of sixty (60) days of a unit described in this paragraph becoming unoccupied the Project cannot identify an eligible person within the special needs population selected by the Project Owner in its Application to rent the unoccupied unit, such unit may be leased to any low income housing tax credit eligible person or family, with a preference given first to eligible persons in other special needs populations. The next unit of similar size in the Project that becomes unoccupied shall be rented to an eligible person within the

special needs population selected by the Project Owner in its Application on the same terms set forth herein.

(8) Pursuant to section 42(h)(6)(B)(iii) of the Code, this Covenant prohibits the disposition to any person of any portion of a building to which this Covenant applies unless all of the building to which such Covenant applies is disposed of to such person.

(9) Pursuant to Revenue Ruling 2004-82, this Covenant prohibits (i) the eviction or termination of tenancy (other than for good cause) of an existing tenant of any low-income unit or (ii) any increase in the gross rent with respect to the unit not otherwise permitted under section 42 of the Code for the term of the extended use period and a period of three (3) years following any termination of this Covenant, including any termination by foreclosure or instrument in lieu of.

(10) Pursuant to section 42(h)(6)(B)(iv) of the Code, this Covenant prohibits the refusal to lease to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 of the status of the prospective tenant as such a holder.

(11) This Covenant shall constitute an agreement between the Agency and the Project Owner which is enforceable in the courts of the State of New Jersey by the Agency or by individual(s), whether prospective, present, or former occupants of the Project, who meet the income limitations applicable to the Project under Section 42(g) of the Code, said individual(s) being express beneficiaries of this Covenant.

(12) The Project Owner agrees to comply with the requirements of the federal Fair Housing Act as it may from time to time be amended.

(13) The Project Owner agrees (i) to obtain the consent of any recorded lien holder on the Project to the terms and conditions of this Covenant and (ii) it will not grant to any lien holder an interest in the Project that is superior to the terms and conditions of this Covenant. Such consent and subordination of the interests of all recorded lien holders on the Project shall be conditions precedent to the issuance of IRS Form(s) 8609.

(14) The Project Owner agrees to employ throughout the compliance period a staff person who has successfully completed a NJHMFA-approved tax credit certification program with a continuing education component prior to the project being placed in service. The staff person responsible for verification of tenant income must be the person to successfully pass the certification examination and maintain the certification for the term of the compliance and extended use periods.

(15) This Covenant is binding on all successors in interest to the Project and shall run with the land until the end of the extended use period, unless terminated prior to said date in accordance with all provisions of the Code and the regulations promulgated thereunder.

(16) These covenants may, from time to time, be amended only with the written consent of the Agency, to reflect changes to the Code or regulations promulgated thereunder. Project Owner expressly agrees to enter into such amendments as may be necessary to maintain compliance under section 42 of the Code.

(17) In order to enable the Agency to monitor the Project Owner's compliance with these use and occupancy restrictions pursuant to the Code, Project Owner covenants and agrees that the Agency and its agents or employees shall be allowed to enter and inspect the Project during business hours and to inspect and copy all books and records pertaining to the Project.

(18) The Project Owner covenants and agrees to comply and cooperate with the Code and all Agency tax credit compliance monitoring procedures including but not limited to completing and sending to the Agency an annual status report, or, if requested by an authorized official of the Agency, more frequent reports, in form and content acceptable to the Agency, which shall demonstrate ongoing compliance with this Covenant.

(19) The Project Owner covenants and agrees that in the event it files for bankruptcy, liquidates, sells or otherwise transfers ownership of the Project, it will notify the Agency in writing, and further, that as a condition precedent to any sale or transfer it will enter into such agreements with the purchaser or transferee as may be prescribed by the Agency, which have the effect of causing such purchaser or transferee to be bound by these use and occupancy restrictions, as they may be amended or supplemented.

(20) The terms of this Covenant shall be interpreted, conditioned and supplemented in accordance with and by section 42 of the Code and regulations promulgated thereunder, all of which are incorporated herein by reference, whether or not such provisions of the Code or regulations are expressed or referenced herein. In the event of any conflict between this Covenant and the requirements of the Code, the Code shall prevail. The Agency reserves the right to set conditions for the allocation of LIHTC by regulation that may be more stringent than the Code.

(21) The invalidity of any clause, part, or provision of this Agreement shall not affect the validity of the remaining provisions.

(22) This Covenant may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.

[SIGNATURES ON NEXT PAGE]

Signatures: This Covenant is granted by the Project Owner whose duly authorized representative's signature appears below.

PROJECT OWNER:

ORCHARD ROAD LIHTC, LLC, a
New Jersey limited liability company

By: Orchard Road Ingerman, LLC, a New Jersey limited liability company and its sole managing member

By: _____
M. Brad Ingerman
President

STATE OF NEW JERSEY :
: SS
COUNTY OF CAMDEN :

On this, the 9th day of January, 2015, before me, a Notary Public in and for the State of New Jersey, personally appeared M. Brad Ingerman, who acknowledged himself to be the President of Orchard Road Ingerman, LLC, which is a New Jersey limited liability company and the sole managing member of Orchard Road LIHTC, LLC, a New Jersey limited liability company, and that he, as such officer, being authorized to do so, executed the foregoing instrument on behalf of such limited liability companies for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_____
Notary Public
My Commission Expires:

KRISTINE E. DONOHUE
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 2/8/2017

EXHIBIT "A"
REVISED (1/15/15)
LEGAL DESCRIPTION

File No.: 1105AV-01

ALL THAT CERTAIN tract or parcel of land and premises lying, being and situate in Montgomery Township, County of Somerset, and State of New Jersey being more particularly described as follows:

TRACT #1:

METES AND BOUNDS DESCRIPTION
OF LOT 5.04 IN BLOCK 28001 ON THE
MONTGOMERY TOWNSHIP TAX MAP

BEGINNING at a point on the Southerly sideline and 33 feet from the centerline of Orchard Road, said point being the Northwest corner of Lot 5.02 in Block 28001, and having New Jersey Plane Coordinate (NAD83) (NJPCS) values of N 576354.3113 feet and E 449012.5989 feet, and from said point of beginning running; thence

1. Along the lands of Lot 5.02 in Block 28001 South 03 degrees 22 minutes 52 seconds West a distance of 263.99 feet to a point; thence

2. Along the lands of Lot 5.05 in Block 28001 North 86 degrees 37 minutes 08 seconds West a distance of 150.00 feet to a point; thence

3. Along the lands of Lot 5.03 in Block 28001 North 03 degrees 22 minutes 52 seconds East a distance of 237.70 feet to a point; thence

4. Still along the lands of Lot 5.03 in Block 28001 along a curve to the right having a radius of 24.00 feet an arc length of 14.42 feet with a chord bearing of North 20 degrees 35 minutes 58 seconds East and a chord distance of 14.21 feet to a point on the Southerly sideline of Orchard Road; thence

5. Along the Southerly sideline of Orchard Road along a curve to the left having a radius of 851.51 feet an arc length of 146.53 feet with a chord bearing of North 88 degrees 23 minutes 46 seconds East and a chord distance of 146.35 feet to the point and place of BEGINNING.

THE herein described lands are known as Lot 5.04 in Block 28001 on the Montgomery Township Tax Map. These lands are further shown on a plan entitled "Final Plat - Phase 1 prepared for Lot 5.01 in Block 28001 situated in Montgomery Township, Somerset County, New Jersey" as prepared by Van Cleef Engineering Associates as revised February 25, 2013 and filed 2/12/2014 in Book 6700, Page 2350, Instrument No. 2014005407.

Together with the benefits of and subject to the terms and conditions as contained in a certain Deed of Cross Easements and Rights of Way as contained in Deed Book 6692, page 495.

TRACT #2:

METES AND BOUNDS DESCRIPTION
OF LOT 5.05 IN BLOCK 28001 ON THE
MONTGOMERY TOWNSHIP TAX MAP

BEGINNING at a point being the Southeast corner of Lot 5.04 in Block 28001 and a point on the Westerly property line on Lot 5.02 in Block 28001, said point being the following tie from a point on the Southerly sideline and 33 feet from the centerline of Orchard Road and being the Northeast corner of Lot 5.04 in Block 28001 and the Northwest corner of Lot 5.02 in Block 28001, said corner having New Jersey Plane Coordinate (NAD 83) (NJPCS) values of N 576354.3113 feet and E 449012.5989 feet, and from said tie being South 03 degrees 22 minutes 52 seconds West a distance of 263.99 feet, and from said point of beginning running; thence

1. Along the lands of Lot 5.02 in Block 28001 South 03 degrees 22 minutes 52 seconds West a distance of 254.00 feet to a point; thence

2. Along the lands of Lot 5.03 in Block 28001 North 86 degrees 37 minutes 08 seconds West a distance of 150.00 feet to a point; thence

3. Still along the lands of Lot 5.03 in Block 28001 North 03 degrees 22 minutes 52 seconds East a distance of 254.00 feet to a point; thence

4. Along the lands of Lot 5.04 in Block 28001 South 86 degrees 37 minutes 08 seconds East a distance of 150.00 feet to the point and place of BEGINNING.

THE herein described lands are known as Lot 5.05 in Block 28001 on the Montgomery Township Tax Map. These lands are further shown on a plan entitled "Final Plat - Phase I prepared for Lot 5.01 in Block 28001 situated in Montgomery Township, Somerset County, New Jersey" as prepared by Van Cleef Engineering Associates as revised February 25, 2013 and filed 2/12/2014 in Book 6700, Page 2350, Instrument No. 2014005407.

Together with the benefits of and subject to the terms and conditions as contained in a certain Deed of Cross Easements and Rights of Way as contained in Deed Book 6692, page 495.

BEING premises No. Orchard Road.

Block: 28001, Lots: 5.04 and 5.05

BEING the same land and premises which became vested in K. Hovnanian at Montgomery, LLC, a New Jersey limited liability company, by deed from HP Montgomery Residential, LLC, a New Jersey limited liability company, and James P. Herring, an individual, dated 2/14/2014, recorded 3/12/2014, in the Somerset County Clerk/Register's Office in Deed Book 6705, Page 812. (Covers premises in question with other lands)

BRETT A. RADI
SOMERSET COUNTY CLERK
20 GROVE STREET
P.O. BOX 3000
SOMERVILLE, NJ 08876-1262

****

Recorded: 01/12/2015 11:27:42 AM

Book: OPR 6766 Page: 2481-2488

Instrument No.: 2015001320

EASEMT 8 PGS $103.00

Recorder: ECKLES

****

DO NOT DISCARD



2015001320

AGREEMENT TO PROVIDE AFFORDABLE HOUSING INFRASTRUCTURE ASSISTANCE IN AN AMOUNT UP TO $306,000.00
J.E.R. Herring Orchard, L.L.C.

THIS AGREEMENT TO PROVIDE AFFORDABLE HOUSING INFRASTRUCTURE ASSISTANCE IN AN AMOUNT UP TO $306,000.00 ("**Agreement**") is made this 21 day of ~~May~~ June, 2012, by and between J.E.R. Herring Orchard, L.L.C., a limited liability company of the State of Delaware, having an address of 23 Orchard Road, Skillman, New Jersey 08558 ("**Affordable Housing Developer**") and the Township of Montgomery, in Somerset County, a municipal corporation of the State of New Jersey, having an address of Municipal Building, 2261 Van Horne Road, Belle Mead, New Jersey 08502 ("**Township**").

WHEREAS, the Township of Montgomery was granted second round substantive certification by the Council on Affordable Housing ("**COAH**") on March 5, 1997, and an extension of substantive certification was granted by COAH on February 9, 2005;

WHEREAS, the Township received approval from COAH for its development fee ordinance on March 5, 1997, which was adopted by the Township Committee on April 17, 1997;

WHEREAS, an updated development fee ordinance ("**Development Fee Ordinance**") creating a dedicated revenue source for affordable housing was approved more recently by COAH on December 5, 2008 and adopted by the Township Committee on December 18, 2008;

WHEREAS, the development fee ordinance establishes an affordable housing trust fund that addresses, among other matters, development fees, payments from developers in lieu of constructing affordable units on-site, barrier free escrow funds, rental income, repayments from affordable housing program loans, recapture funds, proceeds from the sale of affordable units, and/or affordable housing enforcement fines and application fees;

WHEREAS, the Township Committee of the Township of Montgomery, Somerset County, petitioned COAH for third round substantive certification on December 30, 2008;

WHEREAS, on October 8, 2010, the Appellate Division in its decision in *In re Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, et al.*, 416 *N.J.Super.* 462 (App. Div. 2010), invalidated portions of COAH's revised Third Round Rules, including those portions of the rules that utilized a growth share methodology in determining prospective need for affordable housing, thereby precluding the ability of COAH to act upon and approve third round petitions until such time as new rules could again be promulgated to enable municipalities to determine their third round fair share obligation;

WHEREAS, in light of the Appellate Division's invalidation of COAH's third round growth share methodology, on December 9, 2010, COAH granted the Township a stay of further COAH proceedings involving its third round prospective obligation based upon its finding that the Township had not only already fully satisfied its entire first and second round obligations, but also has additional credits for the third round;

WHEREAS, notwithstanding the December 9, 2010 stay of further COAH proceedings, the Township has continued to move forward with implementation of its third round plan in order to create and foster the production of new affordable housing opportunities in the Township;

WHEREAS, as recognized by the New Jersey Legislature and set forth in the express language of the Economic Stimulus Act of 2009, *P.L.* 2009, c. 90, which amended certain development fee provisions of the FHA, the "State of New Jersey is confronting a fiscal and economic crisis more severe than any experienced since the Great Depression . . . [which] compels bold and timely action" such as the "use of tax increment financing, tax credits, development fee suspensions, and dedicated economic development revenues . . . to restore [the] economy to economic health and create good-paying jobs for its residents [and] assist the private development of affordable housing," *P.L.* 2009, c. 90, Section 1;

WHEREAS, the Township has been approached by developers of new inclusionary affordable housing projects requesting financial assistance to help reduce infrastructure costs associated with their

proposed affordable housing projects, such as sewer infrastructure costs and/or connection fees, in order to enable them to move forward and produce new affordable housing opportunities in the Township;

WHEREAS, the Township has affordable housing funds available that it can and does wish to commit to such projects, thereby fostering the very purposes for which the funds were collected and furthering the aims of the Economic Stimulus Act by making those funds available to developers of affordable housing in order to stimulate the economy, create jobs and develop affordable housing opportunities in the Township;

WHEREAS, N.J.A.C. 5:97-8.7(a) specifies that a municipality may use affordable housing trust funds for the new construction of affordable housing units and related development costs and for infrastructure directly serving affordable housing developments;

WHEREAS, the Township has filed an updated spending plan with the Department of Community Affairs - Local Planning Services / COAH, dated April 5, 2012, that includes payment of sewer capacity hook-up fees for the development of new affordable housing opportunities contained in in the Township's Housing Element and Fair Share Plan as an anticipated use of its affordable housing funds;

WHEREAS, using affordable housing funds to pay the sewer capacity hook-up fees for affordable housing units identified in the Township's submitted Housing Element and Fair Share Plan ("**Fair Share Plan**") and included in the Township's companion spending plan are permissible and appropriate uses under COAH's rules;

WHEREAS, Affordable Housing Developer is building an inclusionary affordable housing project identified in the Township's Fair Share Plan on property located on Orchard Road, specifically Block 28001, new Lot 5.01 ("**Affordable Housing Project**"), said inclusionary affordable housing project to include a total of forty COAH-qualified and credited deed-restricted affordable housing units, and has requested financial assistance towards the reduction of development and infrastructure costs;

WHEREAS, sanitary sewer service in Affordable Housing Developer's project will be provided by the Montgomery Township sanitary sewer utility ("Utility");

WHEREAS, any new connection to the Utility's sanitary sewer system is subject to a connection fee or capacity charge in accordance with subsection 12-7.4 of the Code of the Township of Montgomery (1984) ("**Code**");

WHEREAS, based on the rates established for the Utility for 2012, the sewer connection fees for the COAH-qualified and credited deed-restricted affordable units in Affordable Housing Developer's project are anticipated to be $306,000.00;

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the mutual receipt and sufficiency of which are hereby acknowledged, Affordable Housing Developer and Township agree as follows:

1. **Inclusionary Development New Construction Assistance**. The Utility's sanitary sewer connection charges established pursuant to subsection 12-7.4 of the Code for the new COAH-qualified and credited deed-restricted affordable housing units in the Affordable Housing Project shall be paid from affordable housing trust funds collected by the Township pursuant to the Development Fee Ordinance, rather than paid by the Affordable Housing Developer. The amount to be paid shall be equivalent to the Utility's fee as established by subsection 12-7.4 of the Code, provided same shall not exceed either $306,000.00 or $34.00/gallon of capacity required for the new COAH-qualified and credited deed-restricted affordable housing units being constructed. Affordable Housing Developer shall be solely responsible for payment of the sanitary sewer connection charges for the market units in the Affordable Housing Project. In addition, if there is any shortfall in amount paid for the new COAH-qualified and credited deed-restricted affordable housing units out of affordable housing trust funds and the actual amount owed the Utility pursuant to subsection 12-7.4 of the Code, said shortfall shall be the sole responsibility of the Affordable Housing Developer.

2. **Compliance with Chapter XII. Sewer and Water of the Montgomery Township Code (1984).** Affordable Housing Developer hereby acknowledges its familiarity with an agreement to abide by Chapter XII, Sewer and Water, of the Code also known as the "Sewer Rate and Regulation Ordinance of the Township of Montgomery," and as the same may be amended from time to time. Accordingly, and as may be applicable, Affordable Housing Developer agrees to obtain at its expense: (a) a sewer connection permit; and (b) a street opening and/or excavation permit as may be required to effect the connection of the new COAH-qualified and credited deed-restricted affordable housing units to the Utility's sanitary sewer system. In addition, and without limitation, Affordable Housing Developer agrees to pay annual sewer user charges.

3. **Successors and Assigns Bound.** The provisions of this Agreement shall inure to the benefit of and be obligatory upon the respective parties hereto and their successors and assigns.

4. **Waiver.** The waiver of any provision of this Agreement shall only be effective if made in writing.

5. **Construction of Agreement.** This Agreement was prepared jointly and shall be construed on parity between the parties.

6. **Notice of Third Party Actions.** The parties agree to provide each other with immediate notice of any lawsuits, action or governmental declaration, threatened or pending of which they are actually aware which may affect the provisions of this Agreement or implementation thereof.

7. **Authority.** Each party represents that it has the authority from its governing body, board or member, as the case may be, to enter into this Agreement.

8. **Invalidity.** If any provision of this Agreement is determined by a court, COAH, the New Jersey Department of Community Affairs Division of Local Planning Services and/or any successor agency to be invalid, void or unenforceable, either party may, by written notice to the other party,

terminate this Agreement, in which event, neither party shall have any further responsibility to the other with respect to the terms and conditions of this Agreement.

9. **Notices.** All notices required under this Agreement shall be in writing and shall be served upon the respective parties by certified mail, return receipt requested, or by recognized overnight or personal carrier. In addition, where feasible (for example, transmittals of less than fifty pages), copies shall be served by facsimile or e-mail. All notices shall be received upon the date of delivery. In addition, copies of any notice shall be sent to each Party's respective counsel, addressed as follows:

a. Copies of notices to the Township shall be sent to the Township Clerk, Planning Director and Township Attorney serving in such capacity as of the date of such notice. As of the date of this Agreement and effective until changed, such notices shall be sent to: Donna Kukla, Township Clerk, Montgomery Township Municipal Building, 2261 Van Horne Road, Belle Mead, New Jersey 08502, fax 908-359-3051, e-mail: dkukla@twp.montgomery.nj.us; Lori Savron, Planning Director, Montgomery Township Municipal Building, 2261 Van Horne Road, Belle Mead, New Jersey 08502, fax 908-359-2006, e-mail: lsavron@twp.montgomery.nj.us; and Kristina P. Hadinger, Township Attorney, Mason, Griffin & Pierson, PC, 101 Poor Farm Road Princeton, New Jersey 08540, fax 609-683-7978, e-mail k.hadinger@mgplaw.com.

b. Copies of notices to the Affordable Housing Developer shall be sent to Richard Schatzman, Esq., Schatzman Baker, 731 Alexander Road, Princeton, New Jersey 08540, fax: 609-683-5251; e-mail: aslimak@schatzmanbaker.com.

10. **Affordable Housing Agreement.** This Agreement supplements the Affordable Housing Agreement entered into between the parties, and the Township Planning Board on May 14, 2010.

11. **Captions.** The captions in this Agreement are inserted for convenience of reference only, and are not to be construed as defining, limiting or modifying the scope and intent of the various provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year set forth above.

ATTEST:

J.E.R. Herring Orchard, L.L.C.

By: _____
James P. Herring

TOWNSHIP OF MONTGOMERY

_____
Donna Kukla, Clerk

By: _____
Edward Trzaska, Mayor

CERTIFICATE

NEW JERSEY UNIFORM CONSTRUCTION CODE

Permit # 15-0013
Date Issued 1/5/15
- or -
Control #
Certificate Issued Date: 10/30/15

IDENTIFICATION

Block 28001 Lot 5.04 Qualification Code

Work Site Location 5 Autumn Lane
Skillman, NJ 08558

Owner in Fee Orchard Road LIHTC LLC
Address 5 Powell Lane
Collingswood, NJ 08108

Tel. (856) 662 1730

Contractor Ingerman
Address 5 Powell Lane
Collingswood, NJ 08108

Tel. (856) 662 1730 FAX ( )

Lic. No. or Bldrs. Reg. No. 043282

Federal Employer No.

Home Warranty No. n/a

Type of Warranty Plan: [ ] State [ ] Private

Use Group R2

Maximum Live Load Roof = 27, Floor = 40psf, Decks = 60psf

Construction Classification VB

Maximum Occupancy Load Total building = 94

Description of Work/Use:

20 Unit Apartment Building
Fully sprinklered

☒ **CERTIFICATE OF OCCUPANCY**

This serves notice that said building or structure has been constructed in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

☐ **CERTIFICATE OF APPROVAL**

This serves notice that the work completed has been constructed or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of the inspection.

☐ **TEMPORARY CERTIFICATE OF OCCUPANCY/COMPLIANCE**

If this is a temporary Certificate of Occupancy or Compliance, the following conditions must be met no later than _____ or will be subject to fine or order to vacate:

☐ **CERTIFICATE OF CLEARANCE — LEAD ABATEMENT 5:17**

This serves notice that based on written certification, lead abatement was performed as per NJAC 5:17, to the following extent:

[ ] Total removal of lead-based paint hazards in scope of work

[ ] Partial or limited time period (_____ years); see file

☐ **CERTIFICATE OF CONTINUED OCCUPANCY**

This serves notice that based on a general inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

☐ **CERTIFICATE OF COMPLIANCE**

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until _____.

Roy Monk
CONSTRUCTION OFFICIAL

10-30-2015
DATE

Fee $ PAID
Paid [ ] Check No.
Collected by:

U.C.C. F260
(rev. 8/05)

1 WHITE — APPLICANT 2 CANARY — OFFICE 3 PINK — TAX ASSESSOR

FINAL

CERTIFICATE

NEW JERSEY UNIFORM CONSTRUCTION CODE

Permit # 15-0015
Date Issued 1/6/15
- or -
Control #
Certificate Issued Date: 10/27/16

IDENTIFICATION

Block 28001 Lot 5.05 Qualification Code

Work Site Location 19 Autumn Lane
Skillman, NJ 08558

Owner in Fee Orchard Road LIHTC, LLC

Address 5 Powell Lane
Collingswood, NJ 08108

Tel. (856) 662 1730

Contractor Ingerman Construction Co.

Address 5 Powell Lane
Collingswood, NJ 08108

Tel. (856) 662 1730 FAX ( )

Lic. No. or Bldrs. Reg. No. 43282

Federal Employer No.

Home Warranty No. n/a

Type of Warranty Plan: [ ] State [ ] Private

Use Group R5

Maximum Live Load Roof = 27 psf, floor = 40 psf, decks 60 psf

Construction Classification VB

Maximum Occupancy Load n/a

Description of Work/Use:

20 Unit Apartment Building
Fully sprinklered.

☒ **CERTIFICATE OF OCCUPANCY**

This serves notice that said building or structure has been constructed in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

☐ **CERTIFICATE OF APPROVAL**

This serves notice that the work completed has been constructed or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of the inspection.

☐ **TEMPORARY CERTIFICATE OF OCCUPANCY/COMPLIANCE**

If this is a temporary Certificate of Occupancy or Compliance, the following conditions must be met no later than _____ or will be subject to fine or order to vacate:

☐ **CERTIFICATE OF CLEARANCE — LEAD ABATEMENT 5:17**

This serves notice that based on written certification, lead abatement was performed as per NJAC 5:17, to the following extent:

[ ] Total removal of lead-based paint hazards in scope of work

[ ] Partial or limited time period (_____ years); see file

☐ **CERTIFICATE OF CONTINUED OCCUPANCY**

This serves notice that based on a general inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

☐ **CERTIFICATE OF COMPLIANCE**

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until _____.

Ray Mond 10-27-2016

CONSTRUCTION OFFICIAL DATE

Fee $ PAID

Paid [ ] Check No.

Collected by:

U.C.C. F260
(rev. 8/05)

1 WHITE — APPLICANT 2 CANARY — OFFICE 3 PINK — TAX ASSESSOR

14. Third Round: Hillside at Montgomery (Sharbell-Hillside)

CERTIFICATE

NEW JERSEY UNIFORM CONSTRUCTION CODE

Permit # 13-0791
Date Issued 6/6/13
-or-
Control #
Certificate Issued Date: 10/28/14

IDENTIFICATION

Block 28003 Lot 161 Qualification Code

Work Site Location 145 Hartwick Dr.
Skillman, NJ 08558

Owner in Fee Sharbell Plainsboro Inc.

Address 1 Washington Blvd.
Robbinsville, NJ 08691

Tel. (609) 918 2400

Contractor Sharbell Plainsboro, Inc.

Address 1 Washington Blvd.
Robbinsville, NJ 08691

Tel. (609) 918 2400 FAX ( )

Lic. No. or Bldrs. Reg. No. 40361

Federal Employer No.

Home Warranty No. n/a

Type of Warranty Plan: [ ] State [ ] Private

Use Group R2

Maximum Live Load Roof = 40 psf

Construction Classification VA

Maximum Occupancy Load n/a

Description of Work/Use:

23 Unit Apartment Building
fully sprinklered.

☒ **CERTIFICATE OF OCCUPANCY**

This serves notice that said building or structure has been constructed in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

☐ **CERTIFICATE OF APPROVAL**

This serves notice that the work completed has been constructed or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of the inspection.

☐ **TEMPORARY CERTIFICATE OF OCCUPANCY/COMPLIANCE**

If this is a temporary Certificate of Occupancy or Compliance, the following conditions must be met no later than _____ or will be subject to fine or order to vacate:

☐ **CERTIFICATE OF CLEARANCE — LEAD ABATEMENT 5:17**

This serves notice that based on written certification, lead abatement was performed as per NJAC 5:17, to the following extent:

[ ] Total removal of lead-based paint hazards in scope of work

[ ] Partial or limited time period (_____ years); see file

☐ **CERTIFICATE OF CONTINUED OCCUPANCY**

This serves notice that based on a general inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

☐ **CERTIFICATE OF COMPLIANCE**

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until _____.

Kevin Marsh
CONSTRUCTION OFFICIAL

10-28-2014
DATE

Fee $ PAID
Paid [ ] Check No.
Collected by:

U.C.C. F260
(rev. 8/05)

1 WHITE — APPLICANT 2 CANARY — OFFICE 3 PINK — TAX ASSESSOR

SOMERSET COUNTY

DOCUMENT COVER SHEET

RECEIVED/FILED
SOMERSET COUNTY CLERK
STEVE PETER

2018 JUN 20 P 1:

HON. STEVE PETER
SOMERSET COUNTY CLERK
PO BOX 3000
20 GROVE STREET
SOMERVILLE, NJ 08876

WWW.CO.SOMERSET.NJ.US

CONFORMED COPY

INSTRUMENT # 2018022556

BOOK: 7050 PAGE: 2963 - 2972

(Official Use Only)

DATE OF DOCUMENT: June 19, 2018	TYPE OF DOCUMENT: Deed Restriction
FIRST PARTY *(Grantor, Mortgagor, Seller or Assignor)*	SECOND PARTY *(Grantee, Mortgagee, Buyer, Assignee)*
Township of Montgomery	Sharbell Plainsboro, Inc.
ADDITIONAL PARTIES:	

THE FOLLOWING SECTION IS REQUIRED FOR DEEDS ONLY	
MUNICIPALITY: Township of Montgomery	MAILING ADDRESS OF GRANTEE: Sharbell Plainsboro, Inc. 1 Washington Boulevard, Suite 9 Robbinsville, New Jersey 08691
BLOCK: 28003	
LOT: 161	
CONSIDERATION:	

THE FOLLOWING SECTION IS FOR ORIGINAL MORTGAGE BOOKING & PAGING INFORMATION FOR ASSIGNMENTS, RELEASES, SATISFACTIONS, DISCHARGES & OTHER ORIGINAL MORTGAGE AGREEMENTS ONLY			
BOOK	PAGE	INSTRUMENT #	DOCUMENT TYPE

DO NOT REMOVE THIS PAGE

THIS DOCUMENT COVER SHEET IS PART OF THE SOMERSET COUNTY FILING RECORD

RETAIN THIS PAGE FOR FUTURE REFERENCE

APPENDIX E-2

MANDATORY DEED RESTRICTION FOR RENTAL PROJECTS

Deed Restriction

DEED-RESTRICTION FOR AFFORDABLE HOUSING RENTAL UNITS LOCATED WITHIN HILLSIDE AT MONTGOMERY

To Rental Property
With Covenants Restricting Rentals, Conveyance and Improvements
And Requiring Notice of Foreclosure and Bankruptcy

MONTGOMERY TOWNSHIP

SOMERSET COUNTY, NEW JERSEY

THIS DEED RESTRICTION entered into as of this 19th day of June 2018, by and between the **TOWNSHIP OF MONTGOMERY,** or its successor and assigns, with offices at 2261 Route 206, Belle Mead, New Jersey 08502, ("**Township**"), and **SHARBELL PLAINSBORO, INC.**, a New Jersey company, or its successor and assigns, with offices at One Washington Boulevard, Suite 9, Robbinsville, New Jersey 08691, (the "**Owner**"), which Owner is the sponsor of a residential very-low, low- and moderate-income rental project (the "**Project**").

W I T N E S S E T H:

I. Consideration.

In consideration of benefits and/or rights to develop received by the Owner from the Township regarding this Project, the Owner hereby agrees to abide by the covenants, terms and conditions set forth in this Deed Restriction, with respect to the Property more specifically described in Section II hereof.

II. Description of Property.

Owner is the title holder to Property designated as Block 28003, Lot 161 on the Township of Montgomery Tax Maps, more commonly known as 145 Hartwick Drive in the development known as Hillside at Montgomery, located in the municipality of the Township of Montgomery, County of Somerset, State of New Jersey ("Property"). The legal description of the Property is attached hereto as Exhibit A. Located on the Property is a building containing

twenty-three (23) affordable family rental units ("Rental Units"), more specifically listed in Exhibit B attached hereto and made a part hereof.

III. Affordable Housing Covenants.

A. The following covenants (the "**Covenants**") shall run with Property for the period of time (the "**Control Period**"), determined separately with respect for each Rental Unit, commencing upon the latter of (1) the date hereof or (2) the date on which the first certified household occupies a Rental Unit, and shall expire as determined under the Uniform Controls, as defined below.

B. In accordance with N.J.A.C. 5:80-26.11, the Property shall remain subject to the requirements of this subchapter titled "Control Periods for rental units," until the Township elects to release the Property from such requirements. Prior to such a municipal election, the Property must remain subject to the requirements of this subchapter for a period of at least 30 years.

C. Sale and use of the Rental Units is governed by regulations known as the Uniform Housing Affordability Controls, which are found in New Jersey Administrative Code at Title 5, chapter 80, subchapter 26 (N.J.A.C. 5:80-26.1, et seq., the "**Uniform Controls**").

D. The Property shall be used solely for the purpose of providing rental dwelling units for very-low, low- or moderate-income households, and no commitment for any such Rental Unit shall be given or implied, without exception, to any person who has not been certified for that Rental Unit in writing by the Township. So long as the Property remains within its Control Period, sale of the Property must be expressly subject to this Deed Restriction, deeds of conveyance must have this Deed Restriction appended thereto, and no sale of the Property shall be lawful unless approved in advance and in writing by the Township.

E. No improvements may be made to the Rental Units that would affect the bedroom configuration, and any improvements to the Rental Units must be approved in advance and in writing by the Township.

F. The Owner shall notify the Township of any foreclosure actions filed with respect to the Property within five (5) business days of service upon Owner.

G. The Owner shall notify the Township within three (3) business days of the filing of any petition for protection from creditors or reorganization filed by or on behalf of the Owner.

IV. Remedies for Breach of Affordable Housing Covenants.

A breach of the Covenants will cause irreparable harm to the Township and to the public in light of the public policies set forth in the New Jersey Fair Housing Act, the Uniform Housing Affordability Control rules found at N.J.A.C. 5:80-26, and the obligation for the provision of very-low, low and moderate-income housing.

A. In the event of a threatened breach of any of the Covenants set forth in Section III hereof by the Owner, or any successor in interest of the Property, the Township shall have all

remedies provided at law or equity, including the right to seek injunctive relief or specific performance.

B. Upon the occurrence of a breach of any Covenants set forth in Section III hereof by the Owner, or any successor in interest of the Property, the Township shall have all remedies provided at Law or equity including but not limited to forfeiture, foreclosure, acceleration of all sums due under any mortgage, recouping of any funds from a sale in violation of the Covenants, diverting of rent proceeds from illegal rentals, injunctive relief to prevent further violation of said Covenants, entry on the premises, those provided under Title 5, Chapter 80, Subchapter 26 of the New Jersey Administrative Code and specific performance.

IN WITNESS WHEREOF, the Township and the Owner have executed this Deed Restriction in duplicate as of the date first above written.

MONTGOMERY TOWNSHIP

By:_____
Name: Mark Conforti
Title: Mayor

SHARBELL PLAINSBORO, INC.

By:_____
Name: Thomas F. Troy
Title: President

STATE OF NEW JERSEY :
: SS.
COUNTY OF SOMERSET :

I CERTIFY that on June 19, 2018, Mark Conforti personally came before me and acknowledged under oath, to my satisfaction, that:

(a) he signed, sealed and delivered the attached instrument as Township Mayor of Montgomery Township, the Township named in this instrument;

(b) she is authorized by the Township to sign and deliver this instrument on behalf of the Township; and

(c) this instrument was signed and made by the Township as its voluntary act and deed.

Signed and sworn to before me
on June 19, 2018

Margaret M Crawford
Notary Public of New Jersey

MARGARET M. CRAWFORD
NOTARY PUBLIC
STATE OF NEW JERSEY
MY COMMISSION EXPIRES JULY 13, 2020

STATE OF NEW JERSEY :
: SS.
COUNTY OF MERCER :

I CERTIFY that on JUNE 15, 2018, Thomas F. Troy personally came before me and acknowledged under oath, to my satisfaction, that:

(a) he signed, sealed and delivered the attached instrument as President of Sharbell Plainsboro, Inc., the corporation named in this instrument;

(b) he is authorized by the corporation to sign and deliver this instrument on behalf of the corporation; and

(c) this instrument was signed and made by the corporation as its voluntary act and deed.

Signed and sworn to before me
on JUNE 15, 2018

Notary Public of New Jersey

JEFFREY SCHECTEL
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 2/20/2022

EXHIBIT A

van note - harvey

103 College Road East
Princeton, New Jersey 08540
609.987.2323 Fax: 609.987.0005
NJ Authorization #24GA27913300

www.vannoteharvey.com

van note-harvey associates

Since 1891

Order No. 36605-910-11
Montgomery Township Tax Map
Sheet 55
Block 28003
Lot 161
COAH Lot

DESCRIPTION OF LOT 161 IN BLOCK 28003 AS SHOWN ON SHEET 55 OF THE MONTGOMERY TOWNSHIP TAX MAP BEING COMMONLY KNOWN AS **145 HARTWICK DRIVE** SITUATE LYING AND BEING IN THE TOWNSHIP OF MONTGOMERY, COUNTY OF SOMERSET, STATE OF NEW JERSEY.

June 18, 2018

BEGINNING at a **POINT** in a easterly line of Hartwick Drive, a 50-foot wide, private roadway access, egress, utility and sanitary easement, said point being the common corner of a southwesterly corner of Lot 162, Block 28003 (Open Space) with the northwesterly corner of the lands herein described and from said **BEGINNING POINT,** running, thence;

(1) Along the aforementioned Lot 162, Block 28003 (Open Space) the following (4) courses: N 87 degrees 00 minutes 13 seconds E, 335.39 feet a point, thence;

(2) S 31 degrees 13 minutes 46 seconds E, 127.30 feet to a point, thence;

(3) Along a curve bearing to the right in a southwesterly direction have a radius of 58.00 feet, an arc length of 188.98 feet, a delta angle of said curve being 186 degrees 41 minutes 01 seconds, having a chord bearing of S 22 degrees 15 minutes 58 seconds E, a chord distance of 115.80 feet to a point, thence;

(4) S 02 degrees 59 minutes 47 seconds E, 26.75 feet to a point in the northerly line of Lot 65, Block 28001 lands N/F Village Shopper III, LLC, thence;

(5) Along the northerly line of said Lot 65, Block 28001 lands N/F Village Shopper III, LLC and continuing along the northerly line of Lot 66, Block 28001 lands N/F KT Capital, LLC, S 87 degrees 00 minutes 13 seconds W, 318.79 feet a point corner to Lot 162, Block 28003 (Open Space), thence;

(6) Along an easterly line of the aforementioned Lot 162, Block 28003 (Open Space), N 02 degrees 59 minutes 47 seconds W, 114.97 feet to a point in the northeasterly line of Lot 162, Block 28003 (Open Space), thence;

(7) Along said Lot 162, Block 28003 (Open Space) and along Hartwick Drive, a 50-foot private roadway access, egress utility and sanitary easement, the following (2) courses: along a curve bearing to the right in a northerly direction having a radius of 125.00 feet an arc length of 186.37 feet the delta angle of said curve being 85 degrees 25 minutes 39 seconds having a chord bearing of N 45 degrees 42 minutes 37 seconds W, a chord distance of 169.58 feet to a point, thence;

(8) S 02 degrees 59 minutes 47 seconds W, 8.65 feet to the **POINT and PLACE of BEGINNING.**

Containing 1.999 acres or 87,077 square feet of land more or less.

The above described premises being subject to a variable width, ingress, egress & regress easement running over and through the above described premises as more particularly shown on the hereinafter referenced final plat.

The above described premises being further subject to a variable width, pedestrian public access easement running over and through the above described premises as more particularly shown on the hereinafter referenced final plat.

The above described premises being further subject to a 20-foot wide, sanitary sewer easement running over the above described premises as more particularly shown on the hereinafter referenced final plat.

The above described premises being further subject to a 20-foot wide, storm sewer easement running over the above described premises as more particularly shown on the hereinafter referenced final plat.

The above described premises being further subject to an existing 20-foot wide, waterline easement as per deed book 1147 page 45 running parallel and adjoining course 5 as described above and as more particularly shown on the hereinafter referenced final plat.

The above described premises being subject to and/or together with any easements, restrictions and/or declarations of record.

The above described premises also being known and designated as Lot 161 in Block 28003 as shown and set forth on a certain map entitled, "Final Subdivision Plat – Section I of Hillside prepared for Sharbell Plainsboro, Inc., Montgomery Township, Somerset County, New Jersey, scale 1" = 80'," prepared by Van Note-Harvey Associates on April 26, 2012, last revised December 18, 2012." , Filed in the Somerset County Clerk's office on Jan. 8, 2013 as Book No. 6593, pages 935-937, Instrument No. 2013001520.

6/18/13

VAN NOTE-HARVEY ASSOCIATES, INC.
KENNETH R. RAIKE
NEW JERSEY PROFESSIONAL LAND SURVEYOR #GS36753

EXHIBIT B

HILLSIDE AT MONTGOMERY
AFFORDABLE HOUSING APARTMENT BUILDING
UNIT BREAKDOWN

June 15, 2018

Unit Address	Number of Bedrooms	Income Level
145 Hartwick Dr., Apt. 11, Skillman, NJ 08558	2	Moderate
145 Hartwick Dr., Apt. 12, Skillman, NJ 08558	2	Low
145 Hartwick Dr., Apt. 13, Skillman, NJ 08558	3	Low
145 Hartwick Dr., Apt. 14, Skillman, NJ 08558	1	Low
145 Hartwick Dr., Apt. 15, Skillman, NJ 08558	1	Low
145 Hartwick Dr., Apt. 16, Skillman, NJ 08558	2	Moderate
145 Hartwick Dr., Apt. 17, Skillman, NJ 08558	2	Moderate
145 Hartwick Dr., Apt. 21, Skillman, NJ 08558	3	Low
145 Hartwick Dr., Apt. 22, Skillman, NJ 08558	2	Moderate
145 Hartwick Dr., Apt. 23, Skillman, NJ 08558	2	Very Low
145 Hartwick Dr., Apt. 24, Skillman, NJ 08558	1	Moderate
145 Hartwick Dr., Apt. 25, Skillman, NJ 08558	2	Very Low
145 Hartwick Dr., Apt. 26, Skillman, NJ 08558	2	Very Low
145 Hartwick Dr., Apt. 27, Skillman, NJ 08558	3	Low
145 Hartwick Dr., Apt. 28, Skillman, NJ 08558	2	Moderate
145 Hartwick Dr., Apt. 31, Skillman, NJ 08558	3	Moderate
145 Hartwick Dr., Apt. 32, Skillman, NJ 08558	2	Moderate
145 Hartwick Dr., Apt. 33, Skillman, NJ 08558	2	Low
145 Hartwick Dr., Apt. 34, Skillman, NJ 08558	1	Moderate
145 Hartwick Dr., Apt. 35, Skillman, NJ 08558	2	Low
145 Hartwick Dr., Apt. 36, Skillman, NJ 08558	2	Low
145 Hartwick Dr., Apt. 37, Skillman, NJ 08558	3	Moderate
145 Hartwick Dr., Apt. 38, Skillman, NJ 08558	2	Moderate

SOMERSET COUNTY
20 Grove Street
SOMERVILLE, NJ 08876
(908) 231-7006

Receipt Time: 06/20/2018 01:45:43 PM Receipt #: 26333

Issued To: SHARBELL PLAINSBORO INC

Documents

#	Type	# Pages	Quantity	Reference #	Book / Page		Amount
1	AGREEMENT DEED	9	1	2018022556	7050	2963	$113.00
				Total :			$113.00

Payments

#	Type	Payment #		Amount	NSF
1	CHECK	2295		$113.00	
			Total Payments:	$113.00	

THANK YOU
OVERPAYMENTS OF $10 OR LESS
WILL BE CONSIDERED SURPLUS

15. Third Round: Railsedge / Blawenburg Village

CERTIFICATE

Permit # 06-0100
Date Issued 2/10/06
- or -
Control #
Certificate Issued Date: 3/6/07

IDENTIFICATION

Block 26001 Lot 23 Qualification Code

Work Site Location 1143 Belle Mead Blawenburg Rd.
Blawenburg, NJ 08844

Owner in Fee Blawenburg Associates

Address 339C Amwell Rd.
Hillsborough, NJ 08844

Tel. (908) 281 1056

Contractor Blawenburg Associates

Address 339C Amwell Rd.
Hillsboroggh, NJ 08844

Tel. (908) 281 1056 FAX (____)

Lic. No. or Bldrs. Reg. No.

Federal Employer No. 22 2834119

Home Warranty No. n/a

Type of Warranty Plan: [ ] State [ ] Private

Use Group B, M, R-2

Maximum Live Load 1st floor =100 paf, 2nd fl=40 psf, roof=30 psf

Construction Classification VB

Maximum Occupancy Load n/a

Description of Work/Use:

Commercial space shell on 1st floor
3 Apartments on second floor
fully sprinklered.

☒ **CERTIFICATE OF OCCUPANCY**

This serves notice that said building or structure has been construced in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

☐ **CERTIFICATE OF APPROVAL**

This serves notice that the work completed has been construced or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of the inspection.

☐ **TEMPORARY CERTIFICATE OF OCCUPANCY/COMPLIANCE**

If this is a temporary Certificate of Occupancy or Compliance, the following conditions must be met no later than _____ or will be subject to fine or order to vacate:

☐ **CERTIFICATE OF CLEARANCE — LEAD ABATEMENT 5:17**

This serves notice that based on written certification, lead abatement was performed as per NJAC 5:17, to the following extent:

[ ] Total removal of lead-based paint hazards in scope of work

[ ] Partial or limited time period (_____ years); see file

☐ **CERTIFICATE OF CONTINUED OCCUPANCY**

This serves notice that based on a general inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

☐ **CERTIFICATE OF COMPLIANCE**

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until _____.

John H. Arnold

CONSTRUCTION OFFICIAL DATE

Fee $ PAID

Paid [ ] Check No.

Collected by:

U.C.C. F260
(rev. 5/03)

1 WHITE — APPLICANT 2 CANARY — OFFICE 3 PINK — TAX ASSESSOR

13p $150 #086
06000/1 Smcw

DEED RESTRICTION AND LIEN, DEED OF EASEMENT
NEW CONSTRUCTION – RENTAL UNITS

State of New Jersey
Council on Affordable Housing
NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS
AFFORDABLE HOUSING AGREEMENT
RENTAL PROPERTIES

JPW

Prepared by:
Richard Schatzman, Esq.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

This AGREEMENT is entered into on this 31st day of August, 2004, between **BLAWENBURG ASSOCIATES, LLC,** a limited liability company of the State of New Jersey, of 339 Amwell Road, Bldg. C, Hillsborough, NJ 08844, owner of the properties designated in Section II PROPERTY DESCRIPTION, (hereafter the "Owner") and **THE TOWNSHIP OF MONTGOMERY IN THE COUNTY OF SOMERSET**, a municipal corporation of the State of New Jersey, with an address at 2261 Route 206 (Van Horne Road), Belle Mead, NJ 08502 (hereafter the "Municipality" and the "Authority"), both parties having agreed that the covenants, conditions and restrictions contained herein shall be imposed on the Affordable Housing units described in Section II PROPERTY DESCRIPTION beginning on the date this Agreement is recorded in the Somerset County Clerk's Office and ending thirty (30) years thereafter, when any Affordable Housing rental unit that continues to be occupied by an income-eligible household shall become vacant.

WHEREAS, pursuant to the Fair Housing Act (P.L. 1985 c. 222) (hereafter the "Act"), the housing unit(s) described in Section II PROPERTY DESCRIPTION hereafter and/or an attached as SCHEDULE A of this Agreement have been designated as low and moderate income rental housing as defined by the Act; and

WHEREAS, municipalities within the State of New Jersey are required by the Act to provide for their fair share of housing that is affordable to households with low or moderate incomes in accordance with the provisions of the Act; and

WHEREAS, the Act requires that municipalities ensure that such designated housing remains affordable to low and moderate income households for a minimum period of thirty (30) years; and

BRETT A. RADI COUNTY CLERK
SOMERSET COUNTY, NJ
2004 SEP 29 08:46:18 AM
BK:5652 PG:38-51
INSTRUMENT # 2004082076

2004082076

WHEREAS, the Act establishes the Council on Affordable Housing (hereafter the "Council") to assist municipalities in determining a realistic opportunity for the planning and development of such affordable housing; and

WHEREAS, the purpose of this Agreement is to ensure that the described rental unit(s) remain(s) affordable to low and moderate income eligible households for that period of time described in Section III TERMS OF RESTRICTION.

NOW, THEREFORE, it is the intent of this Agreement to ensure that the affordability controls are contained directly in the property deed for the premises and incorporated into and recorded with the property deed so as to bind the owner of the described premises and notify all future purchasers of the housing unit that the housing unit is encumbered with affordability controls; and by entering into this Agreement the Owner of the described premises agrees to restrict the rental of the housing unit(s) to low and moderate income eligible households at a maximum adjusted rent determined by the Authority for the specified period of time.

I. DEFINITIONS

"Adjusted Rent" shall mean the Base Rent for a rental unit adjusted by the applicable Index.

"Affordable Housing" shall mean residential units that have been restricted for occupancy by Households whose total Gross Annual Income is measured at less than 80%of the median income level established by an authorized income guideline for geographic region and family size.

"Agreement" shall mean this written Affordable Housing Agreement between the Authority and the owner of an Affordable Housing unit(s) which places restrictions on Affordable Rental units so that they remain affordable to and occupied by Low and Moderate Income-Eligible Households for the period of time specified in this Agreement.

"Assessments" shall mean all taxes, levies or charges, both public and private, including those charges by any condominium, cooperative or homeowner's association as the applicable case may be, imposed upon the Affordable Housing unit.

"Authority" shall mean the administrative organization designated by municipal ordinance for the purpose of monitoring the long term affordability controls and leasing restrictions for the period of time specified in the Agreement. The Authority shall serve as an instrument of the Municipality.

"Base Rent" shall mean the charge to a tenant for a rental unit at the time the unit

is first restricted by an Affordable Housing Agreement which has been calculated to include a credit for those utility costs paid by the tenant using a utility cost schedule approved for statewide use by the U.S. Department of Housing and Urban Development.

"Certified Household" shall mean any eligible household whose estimated total Gross Annual Income has been verified, whose financial references have been approved and who has received written certification as a Low or Moderate Income-Eligible Household from the Authority.

"Consumer Price Index (CPI)" shall mean the Index published monthly by the U.S. Department of Labor Statistics and which may be used as the applicable Index for measuring increases in Base Rents.

"Council" shall mean the Council on Affordable Housing (COAH) established pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301 et seq.

"Foreclosure" shall mean the termination through legal processes of all rights of the mortgagor or the mortgagor's heirs, successors, assigns or grantees in a restricted Affordable Housing unit covered by a recorded mortgage.

"Gross Annual Income" shall mean the total calculated amount of a household's annualized income from all household members who are 18 years of age or over. Sources of income include, but are not limited to, salary, wages, regular overtime, interest, tips, dividends, alimony, child support, unemployment, disability, pensions, social security, business income and capital gains, imputed income from assets and welfare benefits. Income is calculated based on a weekly, biweekly, semi-monthly or monthly figure that is effective at the time of interview and is estimated over a 12 year period.

"Gross Rent" shall mean the total cost of a rental unit to a Certified Household when a tenant-based utility allowance is added to the Base Rent.

"Household" shall mean the person or persons occupying a housing unit.

"Index" shall mean the measured percentage of change in the median income established for a household of four by geographic region using the median income guideline approved for use by the Council or any other standard economic measurement such as the CPI or Section 8 income limits authorized for purposes of increasing rents.

"Low Income Household" shall mean a Household whose Gross Annual income is equal to 50% or less of the median gross income figure established by geographic region and household size using the income guideline approved for use by the Council.

"Moderate Income Household" shall mean a Household whose total Gross Annual Income is equal to more than 50% but less than 80% of the median gross income established by geographic region and household size using the income guideline approved for use by the Council.

"Owner" shall mean the title holder of record as same is reflected in the most recently dated and recorded deed for the particular Affordable Housing unit. For purposes of the initial rentals of any Affordable Housing unit, Owner shall include the developer/owner of such Affordable Housing units. Where appropriate, the term Owner shall also mean a person who owns an Affordable Housing rental property as a landlord. Owner shall not include any co-signer or co-borrower on any First Purchase Money Mortgage unless such co-signer or co-borrower is also a named title holder of record of such Affordable Housing unit.

"Primary Residence" shall mean the unit wherein a Certified Household maintains continuing residence for no less than nine months of each calendar year.

"Renter" shall mean a Household who has been Certified for an Affordable Housing unit for rent subject to the signing of a lease and the payment of any required security deposit.

II. PROPERTY DESCRIPTION

This agreement applies to the Owner's interest in the real property commonly known as:

Name & Address:	Blawenburg Associates, LLC, a NJ limited liability company 339 Amwell Road, Bldg. C, Hillsborough, NJ 08844
Municipality:	Montgomery Township
County:	Somerset County
Unit numbers:	Residential Units 1, 2 and 3 (one bedroom)
Block:	26002
Lot:	1

and is more particularly described in the legal property description attached as Schedule A.

III. TERM OF RESTRICTION.

A. The terms, restrictions and covenants of this Affordable Housing Agreement shall begin on the date a new affordable rental unit is first occupied, the date an affordable

occupied rental unit has been certified as standard, or the date after 50% of the units in a multifamily rental project containing four or more affordable rental units are occupied or have received permanent certificates of occupancy, whichever is first.

B. The terms, restrictions and covenants of this Affordable Housing Agreement shall terminate upon the date after the specified time period when any Affordable Housing Rental unit that continues to be occupied by a Certified Household shall become vacant.

C. Upon termination of restrictions as they apply to each rental unit within the named Property, the Authority shall execute a document in recordable form evidencing that such Affordable Housing unit has been forever released from the restrictions of the Affordable Housing Agreement.

IV. RESTRICTIONS

A. The Owner of a rental Affordable Housing unit shall not rent the Affordable Housing unit for an Adjusted Rent that is greater than the established Base Rent plus the allowable percentage of increase as determined by the Index applicable to the municipality in which the unit is located. Adjusted Rents shall be effective as of the lease anniversary date and shall remain in effect for at least a one year period.

B. The Owner shall not rent the Affordable Housing unit other than to a Renter who has been certified utilizing the income verification procedures established by the Council to determine qualified Low and Moderate Income-Eligible Households.

C. The Owner of the rental Affordable Housing unit shall sell the unit in accordance with and subject to any rules and regulations duly promulgated by the Council (N.J.A.C. 5:93-9) to ensure that the Affordable Housing unit remains affordable to and occupied by Low and Moderate Income-Eligible Households throughout the duration of this Agreement.

V. REQUIREMENTS

A. This Agreement shall be recorded with the recording office of the county in which the Affordable Rental unit or units are located. The Agreement shall be filed no earlier than the recording of an applicable deed and no later than the leasing and occupancy of 50% of the applicable rental units in any project covered by a single deed with permanent occupancy permits.

B. When a single Agreement is used to govern more than one Affordable Housing unit, the Agreement shall contain a description of each Affordable Housing unit governed by the Agreement as described in Section II PROPERTY DESCRIPTION and/or SCHEDULE A of the Agreement and an ending date to be imposed on the unit as described in Section

III TERM OF RESTRICTIONS of the Agreement.

C. This Agreement shall be executed by the Owner or the then current title holder of record of the property upon which the Affordable Housing units are to be situated prior to its recording.

VI. DEEDS OF CONVEYANCE AND LEASE PROVISIONS

All Deeds of Conveyance and Lease Agreements from all Owners to Purchasers and Certified Renters of Affordable Housing units shall include the following clause in a conspicuous place:

"The Owner's right, title and interest in this unit and the use, sale, resale and rental of this property are subject to the terms, conditions, restrictions, limitations and provisions as set forth in an AFFORDABLE HOUSING AGREEMENT which has been filed in the Office of the Clerk of Somerset County, in Misc. Book _____, pages_____, on _____and is on file with the Montgomery Township Clerk."

VII COVENANTS RUNNING WITH LAND

The provisions of this Affordable Housing Agreement shall constitute covenants running with the land with respect to each Affordable Housing unit affected hereby, and shall bind all Purchasers and Owners of Affordable Housing units, their heirs, assigns and all persons claiming by, through or under their heirs, executors, administrators and assigns for the duration of this Agreement as set forth herein.

VIII. OWNER RESPONSIBILITIES

In addition to fully complying with the terms and provisions of this Affordable Housing Agreement, the Owner acknowledges the following responsibilities:

A. Affordable Housing units designated as rental units shall at all times remain the Primary Residence of the Renter and shall not be sublet to any party whether or not that party is qualified as a Low or Moderate Income Eligible Household without prior written approval from the Authority.

B. All home improvements made to an Affordable Housing unit shall be at the Owner's expense except that the expenditures for any alteration that allows a unit to be rented to a larger household size because of an increased capacity for occupancy shall be considered for a recalculation of Base Rent. Owners must obtain prior approval for such alteration to qualify for this recalculation.

C. The Owner of an Affordable Housing unit shall keep the Affordable Housing unit in good repair.

D. Owners of Affordable Housing units shall pay all taxes, charges, assessments or levies, both public and private, assessed against such unit, or any part thereof, as and when the same become due.

E. Owners of Affordable Housing units shall notify the Authority in writing sixty (60) days prior to a rental vacancy. Owners shall not convey title or lease or otherwise deliver possession of the Affordable Housing unit without the prior written approval of the Authority.

F. An Owner shall request referrals of Certified Households from the pre-screened established referral list maintained by the Authority.

G. If the Authority does not refer a certified household within sixty (60) days of the Notice of Rental Vacancy, the Owner may rent the property to an eligible household not referred by the Authority. The proposed Renter must complete all required Household Eligibility forms and submit Gross Annual Income information for verification to the Authority for written certification as an eligible rental transaction.

H. The owner shall not permit any lien, other than the First Purchase Money Mortgage and/or any Authority approved second mortgages to attach and remain on the property for more than sixty (60) days.

I. If an Affordable Housing unit is part of a condominium, homeowner's or cooperative association, the Owner, in addition to paying any assessments required by the Master Deed of the Condominium or By-Laws of an Association, shall further fully comply with all of the terms, covenants or conditions of said Master Deed or By-Laws, as well as fully comply with all terms, conditions and restrictions of this Affordable Housing Agreement.

J. The Owner shall have responsibility for forwarding copies of all documents filed with the applicable county recording office to the Authority after they have been signed, dated and recorded.

K. The Owner shall be obligated to pay a service fee to the Authority for initial occupancy and at the time of each new rental occupancy.

L. The Owner shall fully comply with the terms, restrictions and provisions of the Township of Montgomery's Affordable Housing Ordinance in effect on the date the Authority executes this Agreement.

IX. FORECLOSURE

A. This Agreement shall not be terminated in the event of judgment of Foreclosure on properties that include Affordable Housing units that are designated as rental units unless the rental unit is contained within an owner-occupied property containing four or less units.

B. If the rental unit is contained within an owner-occupied property containing four or less units, the terms and restrictions of this Agreement shall be subordinate only to the First Purchase Money Mortgage lien on the Affordable Housing property and in no way shall impair the First Purchase Money Mortgagee's ability to exercise the contract remedies available to it in the event of any default of such mortgage as such remedies are set forth in the First Purchase Money Mortgage documents for the Affordable Housing unit.

C. Upon a judgment of Foreclosure of an owner-occupied unit containing an affordable rental housing unit, the Authority shall execute a document in recordable form evidencing that such Affordable Housing unit has been forever released from the restrictions of this Agreement. Execution of foreclosure sales by any other class of creditor or mortgagee shall not result in a release of the Affordable Housing unit from the provisions and restrictions of this Agreement.

X. VIOLATION, DEFAULTS AND REMEDIES

In the event of a threatened breach of any of the terms of this Agreement by an Owner, the Authority shall have all remedies provided at law or equity, including the right to seek injunctive relief or specific performance, it being recognized by both parties to this Agreement that a breach will cause irreparable harm to the Authority, in light of the public policies set forth in the Fair Housing Act and the obligation for the provision of low and moderate income housing. Upon the occurrence of a breach of any of the terms of the Agreement by an Owner, the Authority shall have all remedies provided at law or equity, including but not limited to foreclosure, recoupment of any funds from a rental in violation of the Agreement, injunctive relief to prevent further violation of the Agreement, entry on the premises, and specific performance.

XI. RIGHT TO ASSIGN

The Authority may assign from time to time its rights, and delegate its obligations hereunder without the consent of the Owner. Upon such assignment, the Authority, its successors or assigns shall provide written notice to the Owner.

XII. INTERPRETATION OF THIS AGREEMENT

The terms of this Agreement shall be interpreted so as to avoid financial speculation or circumvention of the purposes of the Fair Housing Act for the duration of this Agreement and to ensure, to the greatest extent possible, that the rents of designated Affordable Housing units remain affordable to Low and Moderate Income-Eligible Households as defined herein.

XIII. NOTICES

All notices required herein shall be sent by certified mail, return receipt requested, as follows:

To the Owner:	Blawenburg Associates, LLC Attn: Neil I. Van Cleef 339 Amwell Road, Bldg. C Hillsborough, NJ 08844
To the Authority/ Municipality	Township of Montgomery Attn: Township Clerk 2261 Route 206 (Van Horne Road) Belle Mead, NJ 08502

Or such other address that the Authority, Owner, or Municipality may subsequently designate in writing and mail to the other parties.

XIV. SUPERIORITY OF AGREEMENT

Owner warrants that no other Agreement with provisions contradictory of, or in opposition to, the provisions hereof has been or will be executed, and that, in any event, the requirements of this Agreement are paramount and controlling as to the rights and obligations between and among the Owner, the Authority and their respective successors.

XV. SEVERABILITY

It is the intention of all parties that the provisions of this instrument are severable so that if any provisions, conditions, covenants or restrictions thereof shall be invalid or void under any applicable federal, state or local law, the remainder shall be unaffected thereby.

In the event that any provision, condition, covenant or restriction hereof, is at the time of recording of this instrument, void, voidable or unenforceable as being contrary to

any applicable federal, state or local law, both parties, their successors and assigns, and all persons claiming by, through or under them covenant and agree that any future amendments or supplements to the said laws having the effect of removing said invalidity, voidability or unenforceability, shall be deemed to apply retrospectively to this instrument thereby operating to validate the provisions of this instrument which otherwise might be invalid and it is covenanted and agreed that any such amendments and supplements to the said laws shall have the effect herein described as fully as if they had been in effect at the time of the execution of this instrument.

XVI. CONTROLLING LAW

The terms of this Agreement shall be interpreted under the laws of the State of New Jersey.

XVII. OWNER'S CERTIFICATION

The Owner certifies that all information provided in order to qualify as the owner of the property or to purchase the property is true and correct as of the date of the signing of this Agreement.

XVIII. AGREEMENT

The Owner and the Authority hereby agree that all Affordable Housing Rental units described herein shall be marketed, sold, rented, and occupied in accordance with the provisions of this Agreement. Neither the Owner nor the Authority shall amend or alter the provisions of this Agreement without first obtaining the approval of the other party. Any such approved amendments or modifications of this Agreement shall be in writing and shall contain proof of approval from the other parties and shall not be effective unless and until recorded with the county clerk for the county in which the Affordable Housing units are situated.

Witness:

Richard Schatzman

ATTEST:

Donna Kukla, Clerk

BLAWENBURG ASSOCIATES, LLC

By: Neil I. Van Cleef, Member

THE TOWNSHIP OF MONTGOMERY IN THE COUNTY OF SOMERSET

By: Louise Wilson, Mayor

Van Cleef Engineering Associates

June 6, 2001

Metes and Bounds Description
of Reconfigured Lot 1 in Block 26002
on the Montgomery Township Tax Map

Beginning at a point in the centerline of Belle Mead-Blawenburg Road (Somerset County Route #601), said point being North zero degrees, thirty-six minutes, fifty-three seconds East (N-00°-36'-53"-E) a distance of one hundred eighty-six and zero hundredths feet (186.00') along the centerline of Belle Mead-Blawenburg Road from the intersection with the centerline of Georgetown Franklin Turnpike (Somerset County Route #518), and from said point of beginning running, thence (1) along the centerline of Belle Mead-Blawenburg Road North zero degrees, thirty-six minutes, fifty-three seconds East (N-00°-36'-53"-E) a distance of one hundred twenty-six and five hundredths feet (126.05') to a point; thence (2) along the lands of Lot 2 in Block 26001 North eighty-eight degrees, forty-nine minutes, fifty-three seconds East (N-88°-49'-53"-E) a distance of one hundred twenty-nine and seventy-eight hundredths feet (129.78') to a point; thence (3) still along the lands of Lot 2 in Block 26001 North eighty-eight degrees, twenty-one minutes, fifty-three seconds East (N-88°-21'-53"-E) a distance of ninety-nine and seventy-nine hundredths feet (99.79') to a point; thence (4) along the lands of Lot 6 in Block 26002 South one degree, fifteen minutes, thirty-one seconds West (S-01°-15'-31"-W) a distance of one hundred twenty-seven and sixty hundredths feet (127.60') to a point; thence (5) along the lands of Lot 4 in Block 26002 South eighty-nine degrees, fourteen minutes, thirty-one seconds West (S-89°-14'-31"-W) a distance of ninety-six and twenty-five hundredths feet (96.25') to a point; thence (6) along the lands of Lot 3 in Block 26002 South eighty-eight degrees, forty-nine minutes, fifty-three seconds West (S-88°-49'-53"-W) a distance of one hundred thirty-one and eighty-four hundredths feet (131.84') to the point and place of beginning.

Containing 0.6635 acres of land.

SCHEDULE A

The herein described lands are for the purpose of merging existing Lots 1 and 2 in Block 26002 into reconfigured Lot 1 in Block 26002 on the Montgomery Township Tax Map. The herein described lands are further shown on a map entitled "Site Plan, Grading, Utilities and Soil Erosion and Sediment Control Plan for Lots 1 and 2 in Block 26002 Situated in Montgomery Township, Somerset County, New Jersey" as prepared by Van Cleef Engineering Associates and as revised June 5, 2001.

The herein described lands are subject to the following:

1. A 33' wide easement area dedicated to Somerset County for roadway purposes along Belle Mead-Blawenburg Road and consisting of 0.0955 acres.

Robert B. Heibell

Robert B. Heibell, NJ PE & LS No. 20792

R+R

Richard Schatzman, Esq.
McCarthy and Schatzman, P.C.
731 Alexander Road, Suite 201
P. O. Box 2329
Princeton, NJ 08543-2329

STATE OF NEW JERSEY)
) **ss.:**
COUNTY OF SOMERSET)

I CERTIFY that on August 31, , 2004, **NEIL I. VAN CLEEF**, the managing member of **BLAWENBURG ASSOCIATES, LLC**, a New Jersey limited liability company, personally came before me and acknowledged under oath, to my satisfaction, that this person:

(a) is named in and personally signed this Instrument; and

(b) signed, sealed and delivered this Instrument as his act and deed and for the act and deed of the limited liability company.

Richard Schatzman
Attorney-at-Law of New Jersey

STATE OF NEW JERSEY)
) **ss.:**
COUNTY OF SOMERSET)

BE IT REMEMBERED that on this 10th day of September 2004, before me, the subscriber, a Notary Public of the State of New Jersey, personally appeared **DONNA KUKLA**, who, by me being duly sworn on her oath, does depose and make proof to my satisfaction that:

(a) She is the Township Clerk of the Township of Montgomery, the party named in the foregoing Agreement;

(b) She well knows the corporate seal of said corporation;

(c) The seal affixed to said instrument is the seal of said corporation;

(d) Said seal was so affixed and the said instrument signed and delivered by **LOUISE WILSON**, who at the date thereof was the Mayor of said Township, in the presence of this deponent;

(e) Said Mayor at the same time acknowledged that she signed, sealed and delivered the same as her voluntary act and deed of said municipal corporation by virtue of authority from its governing body;

(f) The deponent, at the same time subscribed her name to said Agreement as an attesting witness to the execution thereof.

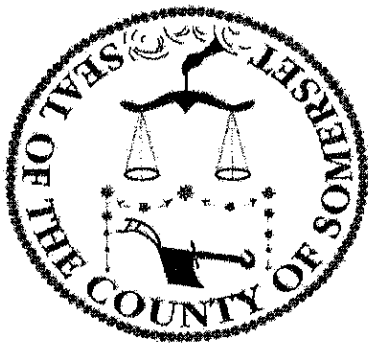
Donna Kukla, Clerk

Sworn to and Subscribed
before me this 10th day
of September 2004

Alicia Herold

ALICIA HEROLD
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 8/8/2005

8-8-05



BRETT A. RADI
SOMERSET COUNTY CLERK
20 GROVE STREET
P.O. BOX 3000
SOMERVILLE, NJ 08876-1262

****

Recorded: 09/29/2004 08:46:18 AM

Book: OPR 5652 Page: 38-51

Instrument No.: 2004082076

AGTDEED 14 PGS $150.00

AGREEMENT DEED: $150.00

Recorder: GUYETTE

****

DO NOT DISCARD



2004082076

16. Third Round: Grove at Montgomery (Country Club Meadows)

FINAL

CERTIFICATE

Permit # 17-1026
Date Issued 7/31/17
-or-
Control #
Certificate Issued Date: 11/13/19

IDENTIFICATION

Block 6001 Lot 1 Qualification Code

Work Site Location 21 Belle Mead Griggstown Rd.
Belle Mead, NJ 08502

Owner in Fee The Grove at Montgomery LLC

Address 90 Woodbridge Center Dr.
Woodbridge, NJ 08095

Tel. (732) 750 1111

Contractor The Grove at Montgomery LLC

Address 90 Woodbridge Center Dr.
Woodbridge, NJ 07095

Tel. (732) 750 1111 FAX ( )

Lic. No. or Bldrs. Reg. No.

Federal Employer No. 81 4076586

Home Warranty No. n/a

Type of Warranty Plan: [ ] State [ ] Private

Use Group R2, M

Maximum Live Load ~~Floor = 40 psf, Roof = 30 psf~~

Construction Classification ~~I-A & V-A~~

Maximum Occupancy Load n/a

Description of Work/Use:

28 Residential Apartments on 2nd floor
16 Retail Units on 1st floor. Elevator,
Common Area, Staiwells, Lobbies, Entrances,
fully sprinklered.

☒ CERTIFICATE OF OCCUPANCY

This serves notice that said building or structure has been constructed in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

☐ CERTIFICATE OF APPROVAL

This serves notice that the work completed has been constructed or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of the inspection.

☐ TEMPORARY CERTIFICATE OF OCCUPANCY/COMPLIANCE

If this is a temporary Certificate of Occupancy or Compliance, the following conditions must be met no later than _____ or will be subject to fine or order to vacate:

☐ CERTIFICATE OF CLEARANCE – LEAD ABATEMENT 5:17

This serves notice that based on written certification, lead abatement was performed as per NJAC 5:17, to the following extent:

[ ] Total removal of lead-based paint hazards in scope of work

[ ] Partial or limited time period (_____ years); see file

☐ CERTIFICATE OF CONTINUED OCCUPANCY

This serves notice that based on a general inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

☐ CERTIFICATE OF COMPLIANCE

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until _____.

Karl Mond
CONSTRUCTION OFFICIAL

11-13-2019
DATE

Fee $ PAID
Paid [ ] Check No.
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SOMERSET COUNTY

DOCUMENT COVER SHEET

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INSTRUMENT # 2018018278

BOOK: 7043 PAGE: 3451-3456

(Official Use Only)

DATE OF DOCUMENT:	TYPE OF DOCUMENT:
May 4, 2018	Affordable Housing Deed Restriction
FIRST PARTY (*Grantor, Mortgagor, Seller or Assignor*)	SECOND PARTY (*Grantee, Mortgagee, Buyer, Assignee*)
Township of Montgomery	Grove at Montgomery, LLC
ADDITIONAL PARTIES:	

THE FOLLOWING SECTION IS REQUIRED FOR DEEDS ONLY	
MUNICIPALITY:	MAILING ADDRESS OF GRANTEE:
BLOCK:	
LOT:	
CONSIDERATION:	

THE FOLLOWING SECTION IS FOR ORIGINAL MORTGAGE BOOKING & PAGING INFORMATION FOR ASSIGNMENTS, RELEASES, SATISFACTIONS, DISCHARGES & OTHER ORIGINAL MORTGAGE AGREEMENTS ONLY

BOOK	PAGE	INSTRUMENT #	DOCUMENT TYPE

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RETAIN THIS PAGE FOR FUTURE REFERENCE

Draft Dated: April 20, 2018

Deed Restriction

DEED-RESTRICTED AFFORDABLE HOUSING PROPERTY WITH RESTRICTIONS ON RESALE AND REFINANCING

To Rental Property
With Covenants Restricting Rentals, Conveyance and Improvements
And Requiring Notice of Foreclosure and Bankruptcy

THIS DEED RESTRICTION, entered into as of this the 4th day of May, 2018, by and between the Township of Montgomery [Municipality], with offices at 2261 Van Horne Road, BelleMead, NJ 08502; and Grove at Montgomery, LLC, a New Jersey Limited Liability Company, having offices at 90 Woodbridge Center Drive, Suite 600, Woodbridge, NJ 07095, the developer/sponsor (the "Owner") of a residential very-low, low- and moderate-income rental project (the "Project"):

WITNESSETH

Article 1. Consideration

In consideration of benefits and/or right to develop received by the Owner from the Municipality regarding this rental Project, the Owner hereby agrees to abide by the covenants, terms and conditions set forth in this Deed restriction, with respect to the land and improvements more specifically described in Article 2, hereof (the Property).

Article 2. Description of Property

The Property consists of a portion of the land, and a portion of the improvements thereon, that is located in the municipality of Township of Montgomery, County of Somerset, State of New Jersey, and described more specifically as Block No. 6001, portion of Lot No. 1, commonly known as 21 Belle-Mead-Griggstown Road.

More specifically designated as: Twenty-seven (27) affordable family rental units (not age-restricted) listed in Exhibit A attached hereto and made a part hereof.

Article 3. Affordable Housing Covenants

The following covenants (the "Covenants") shall run with the land for the period of time (the "Control Period"), determined separately with respect for each dwelling unit, commencing upon the earlier of the date hereof or the date on which the first certified household occupies the unit, and shall and expire as determined under the Uniform Controls, as defined below.

In accordance with N.J.A.C. 5:80-26.11, each restricted unit shall remain subject to the requirements of this subchapter, the "Control Period," until the municipality in which the unit is located elects to release the unit from such requirements. Prior to such a municipal election, a restricted unit must remain subject to the requirements of this subchapter for a period of at least 30 years.

A. Sale and use of the Property is governed by regulations known as the Uniform Housing Affordability Controls, which are found in New Jersey Administrative Code at Title 5, chapter 80, subchapter 26 (N.J.A.C. 5:80-26.1, *et seq.*, the "Uniform Controls").

B. The Property shall be used solely for the purpose of providing rental dwelling units for very-low, low- or moderate-income households, and no commitment for any such dwelling unit shall be given or implied, without exception, to any person who has not been certified for that unit in writing by the Administrative Agent. So long as any dwelling unit remains within its Control Period, sale of the Property must be expressly subject to these Deed Restrictions, deeds of conveyance must have these Deed Restrictions appended thereto, and no sale of the Property shall be lawful, unless approved in advance and in writing by the Municipality, which approval shall not be unreasonably withheld, conditioned or delayed.

C. No improvements may be made to the Property that would affect the bedroom configuration of any of its dwelling units, and any improvements to the Property must be approved in advance and in writing by the Municipality.

D. The Owner shall notify the Administrative Agent and the Municipality of any foreclosure actions filed with respect to the Property within five (5) business days of service upon Owner.

E. The Owner shall notify the Administrative Agent and the Municipality within three (3) business days of the filing of any petition for protection from creditors or reorganization filed by or on behalf of the Owner.

Article 4. Remedies for Breach of Affordable Housing Covenants

A breach of the Covenants will cause irreparable harm to the Administrative Agent, to the Municipality and to the public, in light of the public policies set forth in the New Jersey Fair Housing Act, the Uniform Housing Affordability Control rules found at N.J.A.C. 5:80-26, and the obligation for the provision of very-low, low- and moderate-income housing.

A. In the event of a threatened breach of any of the Covenants by the Owner, or any successor in interest of the Property, the Administrative Agent and the Municipality shall have all remedies provided at law or equity, including the right to seek injunctive relief or specific performance.

B. Upon the occurrence of a breach of any Covenants by the Owner, or any successor in interest or other owner of the Property, the Administrative Agent and the Municipality shall have all remedies provided at law or equity including but not limited to forfeiture, foreclosure, acceleration of all sums due under any mortgage, recouping of any funds from a sale in violation of the Covenants, diverting of rent proceeds from illegal rentals, injunctive relief to prevent further violation of said Covenants, entry on the premises, those provided under Title 5, Chapter 80, Subchapter 26 of the New Jersey Administrative Code and specific performance.

EXHIBIT A

UNIT NO.	NUMBER OF BEDROOMS	Income Level
201	3 Bedrooms	Moderate
202	3 Bedrooms	Moderate
203	2 Bedrooms	Moderate
204	2 Bedrooms	Low
205	2 Bedrooms	Low
206	2 Bedrooms	Very Low
207	2 Bedrooms	Moderate
208	2 Bedrooms	Moderate
209	1 Bedroom	Low
210	2 Bedrooms	Low
212	2 Bedrooms	Very Low
213	3 Bedrooms	Very Low
214	3 Bedrooms	Low
215	2 Bedrooms	Moderate
216	1 Bedroom	Very Low
217	2 Bedrooms	Low
218	2 Bedrooms	Low
219	2 Bedrooms	Moderate
220	2 Bedrooms	Moderate
221	1 Bedroom	Moderate
222	2 Bedrooms	Moderate
223	1 Bedroom	Low
224	2 Bedrooms	Low
225	1 Bedroom	Moderate
226	2 Bedrooms	Moderate
227	3 Bedrooms	Moderate
228	3 Bedrooms	Low

REVISED 4/13/18

IN WITNESS WHEREOF, the Municipality and the Owner have executed this Deed Restriction in triplicate as of the date first above written.

[THE OWNER] GROVE AT MONTGOMERY, LLC

BY: _____
HENRY STEIN, Authorized Signatory

APPROVED BY Montgomery Township [Municipality]

BY: Mark Conforti
Mark Conforti, Mayor

ACKNOWLEDGEMENTS

On this the 15th day of May, 2018, before me came Henry Stein, to me known to me to be Authorized Signatory for Grove at Montgomery, LLC, the Owner of the Property, who states that he has signed said Agreement for the purposes stated therein.

JENNIFER S. BARNES
A Notary Public of New Jersey
My Commission Expires January 21, 2020

Jennifer S. Barnes
NOTARY PUBLIC

On this the 4th day of May, 2018, before me came Mark Conforti known and known to me to be Mayor of Montgomery Twp., the Municipality identified as such in the foregoing Agreement, who states that (s)he is duly authorized to execute said Agreement on behalf of said Municipality, and that (s)he has so executed the foregoing Agreement for the purposes stated therein

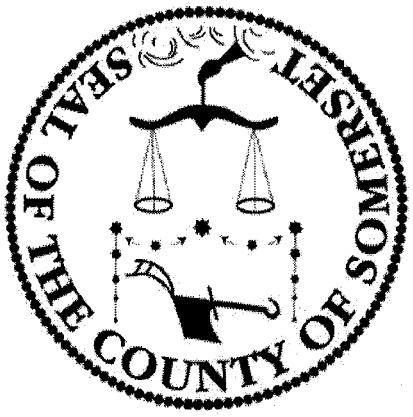
Margaret M Crawford
NOTARY PUBLIC

MARGARET M. CRAWFORD
NOTARY PUBLIC
STATE OF NEW JERSEY
MY COMMISSION EXPIRES JULY 13, 2020

\\Fs5\Company\PattyC\Halpern\Montgomery Township\Preliminary Site PlanPreliminary Major Subdivision\Affordble Rental Deed Restriction - 4 20 18 (clean).doc

Record, Charge + Return To:

HUTT & SHIMANOWITZ
A Professional Corporation
459 Amboy Avenue, P.O. Box 648
Woodbridge, New Jersey 07095



Steve Peter
Somerset County Clerk
20 Grove Street
P.O. Box 3000
Somerville, NJ 08876

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DO NOT DISCARD

17. Third Round: Trap Rock / Haven at Princeton

MONTGOMERY TOWNSHIP PLANNING BOARD
COUNTY OF SOMERSET

Application No. PB-07-20

The Haven at Princeton LLC
River Road
Block 37003, Lot 7

FINDINGS OF FACT, CONCLUSIONS AND RESOLUTION GRANTING PRELIMINARY AND FINAL MAJOR SITE PLAN AND SUBDIVISION APPROVAL WITH VARIANCES AND DESIGN WAIVERS

WHEREAS, The Haven at Princeton LLC has filed an application seeking preliminary and final major site plan and subdivision approval to allow the construction of 154 total residential units, consisting of 122 residential townhomes and 32 apartment dwellings. The apartment dwellings will be available to very low-, low- and moderate-income individuals. The proposed project will include a community green and play area, stormwater management, lighting, signage and other associated improvements on property located on River Road, Montgomery Township, New Jersey (being Block 37003, Lot 7 on the Montgomery Township Tax Map), in the APT/TH Multi-Family residential zoning district; and

WHEREAS, the Board held public hearings on the application on June 21, 2021, June 28, 2021, August 16, 2021, and September 20, 2021; and

WHEREAS, the Board entertained jurisdiction over the application pursuant to *N.J.S.A.* 40:55D-37 and the Montgomery Township municipal ordinances; and

WHEREAS, the Applicant has complied with the notification and publication requirements of the Municipal Land Use Law. All property taxes due and owing for the subject property are paid in full as are the current professional fees/escrow account in connection with the within application; and

WHEREAS, the Applicant was represented by Richard Schatzman, Esq., Schatzman Baker; and

WHEREAS, the Board considered the application, site and subdivision plans and related documents, testimony and exhibits presented at the hearings as follows:

1. Applicant's Exhibits and Witnesses

Testimony was provided by David Schmidt, PE, Daniel M. Condatore, RA, Mode Architects, Scott Kennel, McDonough & Rea Associates, John McDonough, PP, AICP, John McDonough Associates, LLC and Trip Brooks, Project Manager, The Haven at Princeton LLC.

The Applicant placed the following exhibits into evidence:

Exhibit A-1: Display Map dated June 21, 2021;

Exhibit A-2: Existing Features and Wetlands Delineation Plan;

Exhibit A-3: Landscape Plan;

Exhibit A-4: Rendering of playground equipment;

Exhibit A-5: Architectural Plans including rendering of exteriors of townhomes and layout, exterior and layout of affordable units and site photos

Exhibit A-6 (1) Ten aerial site photos of the Property taken by drone on June 21, 2021;

Exhibit A-6 (2) Display Map #2, dated April 16, 2021;

Exhibit A-7: Comparison of Display Maps # 1 and 2 (Exhibits A-1 and 6 (2));

Exhibit A-8: Sheet showing emergency access and nearby units;

Exhibit A-9: Revised Landscape Plan;

Exhibit A-10-13: Photos of landscape buffers in other areas of the Township;

Exhibit A-14: Revised Landscape Plans, dated September 20, 2021.

Testimony of David Schmidt, PE

Mr. Schmidt advised that he is a licensed professional engineer in the State of New Jersey, serves as project engineer and has previously been accepted as an expert witness in land use engineering before the Board as well as numerous land use boards. The Board again accepted him as an expert witness in land use engineering.

Mr. Schmidt confirmed that project proposes to create 122 market rate townhomes and 32 affordable housing apartment units. He noted that the applicable zoning under the APT/TH zone would permit 170-unit maximum buildout but that the Applicant proposes 154 units. The subject site contains 73.97 acres. He reviewed the Property location on the west side of River Road (County Route 605) and advised access is provided by River Road and Salisbury Road. Mr. Schmidt advised that the Property currently contains an office building with accessory parking.

Mr. Schmidt advised that the Property is bordered by Van Horne Brook and identified various environmental conditions, including wetlands/stream corridor, stream buffer and steep slopes. He noted that the majority of the site is wooded. Accordingly, in order to comply with the environmental constraints

and limit the removal of trees, only 20 acres of lawn area in the middle of the site will be developed. Mr. Schmidt testified that the proposed development layout is intended to provide a rural "feel" with a curved roadway network and a central greenway. He testified that the Applicant has received a Letter of Interpretation dated October 24, 2018, from the New Jersey Department of Environmental Protection confirming the delineated wetland areas as depicted on the plans reviewed by the Board and its professionals. Mr. Schmidt further testified that the critical areas on the southern portion of the site will be placed in a conservation easement, a conservation deed restricted area or will be dedicated to the Township, in accordance with Township direction. Mr. Schmidt further testified that stormwater management will be accomplished through three bioretention basins which will address groundwater recharge and water quality. In addition, the central greenway will have additional ground water recharge. He advised that existing drainage pattern on the Property will not be altered by the project nor will there be an increase in runoff to adjacent properties.

Mr. Schmidt further testified regarding project design including playground/exercise areas, sidewalks, and paths. He initially advised there will be three children's playground areas with some adult exercise equipment. However, as a result of the Applicant's decision to remove the proposed cul-de-sac, one of the playground areas will be eliminated. Mr. Schmidt confirmed that the money allocated to the third playground will now be applied to the remaining two play areas. In addition, Mr. Schmidt explained that a tot lot will be located next to the apartment buildings for toddlers. It is anticipated that the surface will most likely be wood chips. Mr. Schmidt confirmed that the Applicant will work with the Township Planning Director and Recreation Director to finalize the equipment. Walkways will be constructed throughout the property. He advised that the Applicant has designed Salisbury Road to help reduce the speed of the cars and is prepared to provide traffic calming features, as requested by the Township. The interior roads will have a 24-foot width and Salisbury will have an overall width of 32 feet. The cartway of Salisbury will be 24 feet and will have a 4-foot bike lane and sidewalk on both sides. Mr. Schmidt confirmed that although the sidewalks are currently shown to be 5 feet wide on the plans, they will be increased to 6 feet wide along Salisbury. He noted that the interior roads all have 4-foot sidewalks but the paths within the site that are not along the interior roadways will be 5 feet. In addition, a sidewalk along River Road is planned. Mr. Schmidt further advised that the wetland areas on the north and south of the site will have a pathway subject to NJDEP approval and that the Applicant will work with the Township Open Space Coordinator regarding the exact location. He confirmed that the path material will be a permeable pavement if approved by NJDEP and if not approved, it may be a sand mixture. The pathway/sidewalk will be 6 feet in width along the full length of the property frontage on River Road, unless NJDEP stipulates a narrower path. In response to various public comments and Board questions, Mr. Schmidt advised that, at the Township's direction, the Applicant was prepared to provide an emergency access route in lieu of extending Salisbury Road or alternatively to build the full Salisbury Road connection to River Road with bollards or gates to limit use of Salisbury for emergency access only.

Mr. Schmidt further testified that the project will require revisions to the proposed Wastewater Management Plan. Accordingly, the project will be constructed in two phases. However, all the improvements will be constructed at one time.

Mr. Schmidt advised that the Applicant seeks a design waiver to calculate the number of required trees based on area of disturbance (21.53 acres) instead of total tract acreage (73.97). He testified that a significant landscape package is provided around each townhouse unit. Mr. Schmidt explained that lighting is provided throughout the development and is in keeping with the dark sky policy.

Mr. Schmidt further testified that approximately 20,000 cubic yards of imported fill will be needed. He advised that the Applicant is requesting permission to post the sewer fees in four installments. The first payment will include ¼ of the townhouse payment and the total required for the apartments.

Mr. Schmidt testified that there are approximately 52.44 acres of proposed open space on the Property. The ordinance requires 40% of the property to be open space and the proposed project exceeds that requirement. However, he explained that the Applicant seeks relief from the requirement that half the open space be non-critical land as well as relief from providing the 205-foot diameter circle. There are about 5,000 square feet of critical slopes and minimal stream corridor areas that are being disturbed. Retaining walls in the rear of the buildings will range in height from 2 feet to 12 feet. A construction and a sales trailer are proposed in the front of the property. An entry sign is proposed on the corner of Salisbury and River Road. Outside agencies that will review the application include the Delaware and Raritan Canal Commission (DRCC), Somerset County Planning Board (SCPB), Somerset Union Soil Conservation District (SUSCD), NJDEP Wetland Buffer and Averaging Plan and a Sewer Extension.

Mr. Schmidt testified that the project complies with the applicable parking requirements under RSIS and municipal ordinance standards for the townhomes and the affordable apartments. The Applicant proposes to extend Salisbury Road to River Road in accordance with the Township Master Plan and will have traffic calming devices to minimize the speed of the road. The new intersection with River Road will be about 300 feet south of the existing driveway to provide proper sight distance for safe ingress and egress.

Mr. Schmidt further testified that based upon Board questions and public comments, the Applicant revised its plan to eliminate the proposed cul-de-sac and relocate the storm sewer line originally located along the common boundary line with the adjacent units on Garfield Way. As a result, additional space became available which will allow the Applicant to preserve the existing trees and add additional trees and vegetation to provide a strong buffer between the project and the rear of the adjacent townhomes on Garfield Way. Mr. Schmidt advised that a revised landscape plan was provided to Richard Bartolone, ASLA for his review and comment. In response to Board questions, Mr. Schmidt confirmed that the Applicant will commit to providing trees and vegetation of sufficient height to shield the proposed retaining walls. Mr. Schmidt noted that the landscaping plan is also subject to review and approval by NJ DEP. He advised that once he has received NJ DEP's comments regarding the proposed landscaping, he will review them with the Township. Mr. Schmidt explained that NJ DEP's determination as to invasive species may not be consistent with that identified by the Township staff and advisory committees.

Mr. Schmidt also addressed a series of written questions provided by Michael Thomas, by letter dated September 15, 2021, by reading the questions into the record and providing responsive testimony. Mr. Schmidt's testimony covered descriptions of the removal of existing trees including height and caliper, proposed buffers, number of new trees, traffic improvements for Salisbury Road, parallel parking on new Salisbury Road, possible three way stops, availability of playgrounds to residents of Montgomery Hills, threatened and endangered species, and applicability of new NJ DEP stormwater management regulations.

Mr. Schmidt confirmed that the Applicant will comply with the comments and recommendations set forth in the review memos/letters provided by: Emily Goldman, PP, AICP, of Clarke Caton Hintz, dated June 16, 2021; Rakesh Darji, P.E., P.P. C.M.E. of Environmental Resolutions, Inc. dated June 17, 2021; Joseph Fishinger, Jr., P.E., P.P., PTOE dated June 9, 2021; Montgomery Township Environmental Commission dated June 17, 2021 with the exception of their recommendation against the tree planting waiver; Lauren A. Wasilauski, Township Open Space Coordinator, dated June 16, 2021, with the exception of her comments regarding the tree planting waiver; Richard Bartolone, ASLA, Landscape Architect, dated June 15, 2021; Adam Verducci, Fire Chief _submitted August 12, 2021.; Captain James Gill, Police Director dated August 13, 2021; Art Villano, Director of Public Works submitted August 9, 2021; Shade Tree Commission, dated June 17, 2021; Transportation Advisory Committee, dated September 16, 2021; Gail Smith, PE, Township Engineer dated August 11, 2021.

Testimony of Daniel Condatore, Architect

Daniel Condatore provided testimony regarding the application. Mr. Condatore testified that he is a registered architect in the State of New Jersey, serves as project architect and has been accepted as an expert witness in architecture by other land use boards. The Board agreed to accept him as an expert witness in architecture.

Mr. Condatore testified regarding the project floor plans, elevations and renderings of the exterior of the proposed townhomes and affordable apartments that was marked as Exhibit A-5. Mr. Condatore noted that building design was intended to complement the site which contains so much natural wooded area. He reviewed the general floor plan for a typical six-unit townhouse building. Mr. Condatore noted that the ground floor will include the garage, foyer, bathroom, and flex space. Some units will have a sliding door out to a covered patio area and others will not due to the grading. The second floor will include the kitchen, powder room and great room with an elevated deck space. The third floor will contain three bedrooms and two bathrooms with a small balcony off the front of the master bedroom. Mr. Condatore also reviewed the floor plans for the affordable apartment units. He explained that the affordable units will be contained in two buildings, each with 16 units, containing a combination of one bedroom (670 square feet), two-bedroom (845 square feet) and three-bedroom units (over 1000 square feet). Mr. Condatore further testified that each affordable unit will have an individual storage area of 256 cubic feet within an exterior storage shed. Two storage units will be handicapped accessible. The storage units will have lighting as will the central corridor of the storage shed.

Mr. Condatore confirmed that the Applicant will comply with the comments and recommendations set forth in the review memo/letter provided by Emily Goldman, PP, AICP, of Clarke Caton Hintz, dated June 16, 2021.

Testimony of John McDonough, PP, AICP

John McDonough, PP, AICP testified on behalf of the Applicant. Mr. McDonough is a licensed professional planner in the State of New Jersey and a member of the American Institute of Certified Planners. He advised that he has served as an expert witness before various land use boards. The Board

accepted Mr. McDonough as an expert witness in land use planning. Mr. McDonough testified regarding aerial site photographs taken the day of the hearing by drone which were marked as Exhibit A-6 (A). Mr. McDonough advised that the development will be concentrated in the center of the Property which currently contains an office building and accessory parking lot. He confirmed that approximately 75% of the Property will be preserved as open space and that the project is not being built out to its permitted maximum capacity under the zoning regulations. Mr. McDonough testified that the project complies with the zone requirements with respect to the proposed use, density, lot coverage, height, parking count and buffering. He noted that the project will yield affordable housing units in excess of the zone requirement of a 20% set-aside. He believes that the project will be compatible with the surrounding multi-family developments. Mr. McDonough further testified that the Applicant seeks c (2) variances to allow the accessory storage buildings, for setbacks to parking, distance between buildings, fence height, stream corridor and steep slope disturbance, open space and the 205-foot circle. Design waivers are required for the bollard light fixtures, tree planting, cul-de-sac dimensions and sidewalk location. He advised that Ms. Goldman accurately describes the required variances and noted that the variance for the accessory storage building was identified as a c variance.

Mr. McDonough opined that the public benefits of the development are the promotion of affordable housing, compatibility with the surrounding residential area, the provision of new housing stock, promotion of compact land development and provision for a variety of land uses at appropriate locations. In turn, he believes these benefits will promote the fundamental purposes of the Land Use Law purposes of zoning pursuant to *N.J.S.A.* 40:55D-2 (a), (g), (i) and (m), specifically the promotion of the general welfare, providing for a variety of uses in appropriate locations, promotion of a desirable visual environment and the efficient use of land. Mr. McDonough further opined that there would be no substantial detriment to the zone plan or public welfare.

Testimony of Scott Kennel

Scott Kennel testified regarding traffic aspects of the application. He advised that he is a traffic engineering consultant and has been accepted as an expert in traffic engineering by many land use boards in New Jersey. The Board agreed to accept him as an expert in traffic engineering. Mr. Kennel advised that he prepared a traffic impact study dated May 19, 2020, which was provided to the Township. Mr. Kennel further testified that he took traffic counts on River Road and Blue Spring Road and determined that project traffic from this site will generate 75 peak hour trips in the morning and 90 peak hour trips in the evening. The analysis assumed the completion of Salisbury to River Road. Mr. Kennel advised that the public will benefit from access from this development to the roads to the west and east and for the existing residents to have direct access out to River Road.

Mr. Kennel further testified that the intersection of Salisbury and River Road is projected to operate at level service "B" during morning and evening peak hours. Blue Spring Road and River Road will operate at service level "C" and "B" for the morning and evening peak hours respectively. Mr. Kennel confirmed that the parking proposed for the townhouses and apartments complies with the residential site improvement standards (RSIS) so the parking is adequate to accommodate anticipated demand. In addition, he advised that the accessibility requirements are met or exceeded by providing two full movement driveways out to Salisbury Road. Mr. Kennel opined that the Salisbury Road extension to River Road provides a complete street network to better accommodate emergency services, public works, and the school district.

Testimony of Trip Brooks

Mr. Brooks testified regarding the application. He advised that the Applicant will install recommended traffic calming devices on Salisbury Road, should the Board determine that it should be a through street. He also thanked the Board and the public for their comments on the project which he believes were helpful.

(2) The Application, Plans and related documents:

The Applicant applied for preliminary and final major subdivision and site plan approval, variances and waivers with related documents as follows:

1. Submission letter with responses, prepared by DS Engineering, dated February 16, 2021
2. Montgomery Township Land Development Application, prepared by DS Engineering, dated April 14, 2020
3. Application to Somerset-Union County Conservation District, prepared by DS Engineering, PC, dated June 8, 2020
4. Application to Delaware and Raritan Canal Commission, prepared by DS Engineering, PC, dated April 14, 2020
5. Application, Delaware, and Raritan Canal Commission, prepared by DS Engineering, dated June 7, 2019
6. Application, Somerset County Planning Board, prepared by DS Engineering, dated June 8, 2020
7. Somerset County Planning Board, Incomplete application response, dated August 25, 2020
8. Application, Somerset-Union Soil Conservation District, prepared by DS Engineering, dated April 14, 2020
9. Application, Somerset County Planning Board, prepared by DS Engineering, dated April 14, 2020
10. Preliminary and Final Major Subdivision and Site Plan with Construction Plans, prepared by DS Engineering, dated April 14, 2020, revised through June 4, 2021, unless noted otherwise, consisting of the following: ("sheet" references number shown on plans, "PDF sheet" references PDF file)
    a. Cover Sheet, sheet 1.0, PDF sheet 1 of 48
    b. Existing Features and Wetland Delineation Plan, sheet 2.0, PDF sheet 2 of 48 (rev 2/10/21)
    c. Existing Features Plan, sheets 2.1 & 2.2, PDF sheet 3 & 4 of 48 (rev 2/10/21)
    d. Overall Site Plan, sheet 3.0, PDF sheet 5 of 48
    e. Site Plan, sheet 3.1 - 3.3, PDF sheets 6-8 of 48
    f. Overall Preliminary Plat, sheet 4.0, PDF sheet 9 of 48 (rev 2/10/21)
    g. Preliminary Plat, sheets 4.1 & 4.2, PDF sheets 10 & 11 of 48 (rev 2/10/21)
    h. Overall Grading and Soil Erosion & Sediment Control Plan, sheet 5.0, PDF sheet 12 of 48
    i. Grading Plan, sheets 5.1 - 5.3, PDF sheets 13-15 of 48
    j. Crosswalk Ramp Details, sheet 5.4, PDF sheet 16 of 48 (rev 2/10/21)
    k. Typical Townhouse Building Plan, sheet 6.0, PDF sheet 17 of 48 (rev 2/10/21)
    l. Building Utility Plans, sheets 6.1 - 6.4, PDF sheets 18-21 of 48
    m. Overall Waterline/Sanitary Plan, sheet 6.0, PSF 22 of 48, new, dated June 10, 2021

n. Landscape Plan, sheets 7.0 - 7.2, PDF sheets 23-25 of 48
o. Landscape Schedule, Details & Notes, sheet 7.3, PDF sheet 26 of 48 (rev 2/10/21)
p. Lighting Plan, sheets 8.0 & 8.1, PDF sheets 27 & 28 of 48
q. Salisbury Road Plan and Profile, sheets 9.0 & 9.1, PDF sheets 29 & 30 of 48
r. River Road Plan and Profile, sheets 10.0 & 10.1, PDF sheets 31 & 32 of 48
s. Road "A" Plan and Profile, sheet 11.0 - 11.2, PDF sheets 33-35 of 48
t. Road "B" Plan and Profile, sheet 12.0, PDF sheet 36 of 48
u. Road "C" Plan and Profile, sheet 13.0, PDF sheet 37 of 48
v. Miscellaneous Profiles, sheets 14.0 - 14.1, PDF sheets 38 & 39 of 48 (rev 2/10/21)
w. Sales & Construction Trailer, sheet 15.0, PDF sheet 40 of 48 (rev 2/10/21)
x. Basin / Signage Details, sheet 16.0.1 & 16.0.2, PDF sheet 41 & 42 of 48
y. Soil Erosion and Sediment Control Details, sheet 16.1, PDF sheet 43 of 48
z. Construction Details, sheets 16.2 - 16.5, PDF sheets 44-47 of 48
aa. Vehicle Circulation Plan, sheet 17.0, PDF sheet 48 of 48 (rev 2/10/21)

11. Sales Map, prepared by DS Engineering, dated September 10, 2020, 2 sheets.
12. Sales and Construction Trailer, prepared by DS Engineering, dated September 10, 2020.
13. Final Plat, prepared by DS Engineering, dated September 10, 2020, 3 sheets.
14. Sales Map, prepared by DS Engineering, dated September 10, 2020, 2 sheets.
15. Map of Survey, Wetland Delineation Plan, prepared by Fisk Associates, dated October 9, 2017, revised through October 1, 2018.
16. Map of Survey, prepared by Fisk Associates, dated January 11, 2018.
17. Stormwater Management Report for Haven at Princeton, prepared by DS Engineering, PC, dated April 2020, revised June 2021.
18. Maintenance Manual for the Stormwater Facilities for Haven at Princeton, prepared by DS Engineering, dated April 2020, revised June 2021.
19. Environmental Impact Statement, prepared by DuBois & Associates, dated April 14, 2020.
20. Traffic Report, prepared by McDonough & Rea Associates, Inc., dated May 19, 2020.
21. Memo re: sanitary sewer service, prepared by Gail Smith, Township Engineer, dated July 29, 2019
22. Memo from the Health Department, submitted by Kristen Sargent, REHS, dated July 28, 2019
23. Architectural Plans, Townhome Development, prepared by MODE, dated March 30, 2020, consisting of 10 sheets.
24. Architectural Plans, Affordable Housing, prepared by MODE, dated March 30, 2020, revised February 11, 2021, consisting of 6 sheets
25. Architectural Plans, Storage Shed and Floor Plan Details, undated.
26. Rendering, Storage Shed, 2 sheets
27. Rendering, Entrance Sign, 2 sheets
28. Freshwater Wetlands Letter of Interpretation, Line Verification, prepared by NJ DEP, dated October 24, 2018
29. Will Serve letters
    a. American Water – July 29, 2019
    b. Comcast – July 27, 2019
    c. PSE&G – July 23, 2019
    d. Montgomery will serve request sewer dated July 29, 2019

(3) Staff and Professional Consultant Memos

The Board considered the following review and comment memos provided by the Township staff and Board consultants:

Emily Goldman, PP, AICP, of Clarke Caton Hintz, dated June 16, 2021; Rakesh Darji, P.E., P.P. C.M.E. of Environmental Resolutions, Inc. dated June 17, 2021; Joseph Fishinger, Jr., P.E., P.P., PTOE dated June 9, 2021; Montgomery Township Environmental Commission dated June 17, 2021; Lauren A. Wasilauski, Township Open Space Coordinator, dated June 16, 2021; Richard Bartolone, ASLA, Landscape Architect, dated June 15, 2021; Adam Verducci, Fire Chief submitted August 12, 2021; Captain James Gill, Police Director dated August 13, 2021; Art Villano, Director of Public Works submitted August 9, 2021; Shade Tree Commission, dated June 17, 2021; Transportation Advisory Committee, dated September 16, 2021; Gail Smith, PE, Township Engineer dated August 11, 2021.

(4) Testimony of Board Professionals:

Lori Savron, PP, AICP

Lori Savron, Montgomery Township Planning Director testified regarding the history of the APH/TH zone. She noted that the Property is one of the last parcels to develop in what was identified in the first Master Plan in 1971 as a cohesive neighborhood. The APT/TH zone was put in place in 1974 and amended in 1985 to require affordable housing. The Township has planned for a variety of housing types including areas of multi-family. The Master Plan includes a roadway network plan that identifies existing and proposed roads. The extension of Salisbury Road is shown on the Master Plan in order to achieve the intended cohesive neighborhood design.

Emily Goldman, PP, AICP

Emily Goldman, PP, AICP, the Board's consulting planner, testified regarding her review memo of June 16, 2021. Ms. Goldman reviewed the required variances and waivers, advising that the Applicant requires the following relief:

Variances

§16-4.4b Accessory Storage Building-The Applicant proposes storage sheds for the affordable housing units which are not permitted as accessory uses in the APT/TH zone.

§16-4.4e.2 Minimum Setback to a Parking Area-§16-4.4e.2 requires a minimum setback of 10 feet from a parking area. On Sheet 5.1 of the Site Plans, the Applicant is proposing a setback of 5.5 feet between the townhouse buildings and one of the perpendicular, common (guest) parking areas.

§16-4.4e.2 Minimum Building Separation- Variance relief is required from the side- to side building

separation for buildings:

- Townhouse #A1 to Townhouse #A4: 19.4 feet
- Townhouse #A2 to Townhouse #A3: 21.7 feet
- Townhouse #A6 to Townhouse #A7: 18.8 feet
- Townhouse #A5 to Townhouse #A8: 20.4 feet
- Townhouse #A10 to Townhouse #A13: 20 feet
- Townhouse #A11 to Townhouse #A12: 20 feet
- Townhouse #A15 to Townhouse #A16: 22.5 feet
- Townhouse #A16 to Townhouse #A17: 24.4 feet
- Townhouse #A18 to Townhouse #A19: 21.8 feet

Variance relief is required from the rear- to- rear building separation for the following buildings:

- Townhouse #A8 and Townhouse #A11: 44.2 feet

Variance relief is required from the rear to- rear building separation for the following buildings:

- Townhouse #B1 and Townhouse #A9: 22.5 feet

§16-5.3(b) Fence Height-. The Applicant is proposing a retaining wall with a four (4) foot-high black aluminum fence on top along the northern extent of the development and adjacent to the stormwater basins. The Applicant is also proposing a stockade wood fence in the rear yards of each townhouse dwelling unit; a detail of a board-on-board fence on Sheet 16.5 indicates the fence is 4.33 feet-high (conforming). Additionally, an existing six (6) foot-high chain link fence is located along the westerly property line adjacent to the existing townhouse development to the west.

§16-6.5d.1 Non-Critical Lands Open Space- The Applicant is proposing a central greenway, approximately 60,000 square feet, with an average width of 100-feet and an average length of 600-feet whereas the zoning ordinance standard requires a 49,087 square foot circle.

§16-6.4d.6(d) Stream Corridor -§16-6.4d.6(d) identifies a list of uses permitted within a stream corridor that is outside of the flood hazard area or special flood hazard area and floodway. The Applicant is proposing approximately 54 linear feet of retaining wall and approximately 55 square feet of rear yards of two townhouse units within Townhouse #A18, including a board and batten fence, within the Township Stream Corridor. Neither the retaining wall nor the board and batten fence delineating the rear yards of the townhouse units are permitted within the stream corridor.

§16-6.4e.3 Steep Slopes- The Applicant is proposing a stormwater basin, retaining wall, and grading within areas of 15% slopes or greater in exception to the ordinance requirement.

Design Waivers

§16-5.4(b).2(b) Light Fixture Design-. §16-5.4(b).2(b) requires "'non-glare lights' with 'cut-off' shields". The Applicant is proposing decorative globe style lights that are non-glare, but not full cutoff for light fixture types. The proposed bollards are non-glare fixtures but not full cut-off.

§16-5.6d (3) Tree Planting (Categorical)- §16-5.6d.3 requires "a minimum of fourteen (14) trees per acre shall be planted on residential tracts. Any trees provided to meet the required street tree and/or buffer requirement shall not be counted towards the minimum tree requirement". At 73.9724 acres, this section requires a total of 1,036 (73.9724 x 14 = 1,035.61) trees to be planted on the site. The Applicant is requesting a waiver pursuant to Section 16-5.6d3(a) to provide 14 trees per acre of disturbed land since they are proposing to disturb only 21.53 acres of the site and so much of the existing woodlands will be preserved. At 21.53 acres, this section requires a total of 301 (21.53 x 14 = 301.42) trees to be planted on the site.

The previous variance regarding aspects of the former cul-de-sac from Section 16-5.14.a.8 has been eliminated since the only cul-de-sac in the development was replaced at the request of the Board by a "Hammer Head".

§16-5.14c.1(b)- Sidewalk Location- The New Jersey Residential Site Improvement Standards require that sidewalks within all residential developments shall be provided on site. The Applicant is proposing sidewalks along both sides of all roadways. However, the proposed sidewalks adjacent to the perpendicular common/guest parking areas along the internal roadways do not comply with RSIS. RSIS, N.J.A.C. 5:21-4.5(e) states "sidewalks along streets with nonparallel parking shall be placed parallel to the street and shall be placed so that sidewalks do not lead pedestrians between parked vehicles and the traveled way. This subsection shall not apply to driveways." As such, the sidewalk is not supposed to cross between the parking spaces and the roadway, but instead, should have run along the inside edge of the parking areas to avoid and pedestrian and vehicular conflicts.

§16-5.14c.1(d) -Sidewalks Along Existing Streets. Due to the extensive presence of freshwater wetlands and wetland transition areas, the Applicant's initial proposal did not include a sidewalk along the entire property frontage along River Road (County Road 605) an exception to the requirements of §16-5.14c.1(d). Instead, the applicant proposed a pedestrian walkway along a portion of River Road (County Route 605) adjacent to the proposed development, outside of the wetlands areas. During the public hearing, the Applicant agreed to construct a sidewalk outside of the wetland areas, as shown on the plans, and to construct a pathway along the remainder of the property frontage through the wetland areas, if permitted by NJDEP.

Ms. Goldman further testified that the Applicant obtained a Letter of Interpretation from the New Jersey Department of Environmental Protection ("NJDEP") pursuant to the Freshwater Wetlands Act that changed the designation of the on-site wetlands from "ordinary resource value" to "exceptional resource value"; thereby increasing the width of the wetlands buffer from 50 feet to 150 feet. The increased buffers resulted in a corresponding reduction in the number of units that could be developed on the site, consistent with the current Application.

Ms. Goldman reviewed the affordable housing standards and criteria. She explained that the APT/TH zone requires a 20% set aside for affordable housing and the applicant is proposing 20.78%. The application complies with the required bedroom distribution; there will be six (6) 1-bedroom units, eighteen (18) 2-bedroom units and eight (8) 3-bedroom units. As a condition of approval, 13% of the units are to be deed restricted for very low income, 37% for low income and the remaining 50% for moderate income. The application is in compliance with the unit integration. The construction of the townhouses and affordable units will be addressed in the COAH Developers Agreement. At least a 30-year deed restriction is required

for the affordable units. The payment for any amenities for the affordable units will be included in the rent. The third- party firm that will manage the units will also be the certified administrative agent.

Ms. Goldman also reviewed the outstanding items in her memo including her recommendations that any future architectural plan submissions should include all four elevations of the townhouses and that the prohibition of outdoor laundry facilities and individual antennas should be included in the Homeowners Association documents. Ms. Goldman noted that the apartment storage has a natural ventilation system with both end doors open at all times which might not provide adequate climate control and could result in items in the unit getting moldy. She recommends that the Applicant should include appropriate language in the leases so informing the tenants.

Rakesh R. Darji, P.E., P.P., C.M.E.

Mr. Darji, the Board's consulting engineer, testified regarding his memo dated June 17, 2021. Mr. Darji generally referenced the required variances and waivers. He noted that the Applicant requires a waiver from RSIS standards for the sidewalks adjacent to the perpendicular common/guest parking areas along the internal roadways. Mr. Schmidt advised that the Applicant's proposed waiver will provide better internal flow in the development with which Mr. Darji agreed. Mr. Darji noted that Salisbury Road, as through street, would be dedicated to the Township and that all other internal roadways would be owned and maintained by the project's homeowner association. Mr. Darji recommended that, as a condition of approval, the Applicant provide a separate road improvement plan for the Salisbury Road and River Road intersection. Mr. Darji also noted that there is a small area of disturbance within the stream corridor. He explained that the municipal ordinances require that when such relief is requested, the Applicant is required to compensate for it with land elsewhere on the site along the same stream corridor and place that area within a conservation deed restriction. Mr. Schmidt confirmed that this will be acceptable to the Applicant.

Mr. Darji further testified that he was generally in agreement with Mr. Schmidt's responses to the questions set forth in Michael Thomas' letter of September 15, 2021, with respect to NJ DEP jurisdictional issues. Mr. Darji provided two additional comments not provided in his June 17, 2021 review memo. He noted that Sheet 5.1 of the Applicant's June 2021 plan set indicates a grade variant where Salisbury Road currently dead ends which will require retaining walls. He advised that one of the retaining walls will interfere with a proposed utility easement and recommended that the wall be relocated outside of the utility easement. Mr. Darji explained that moving the wall would placing it in the public right-of way which will require municipal consent and a municipal maintenance agreement. Mr. Schmidt advised that the Applicant will comply with the recommendation. Mr. Darji further confirmed with Mr. Schmidt that the Storm sewer line originally located along the common boundary line with the adjacent units on Garfield Way will be relocated in order to allow preservation of trees and increased landscaping.
He also had no objection to the design waiver from Section 16-5.2(a) of the Ordinance which states that the minimum allowable pipe size is 15 inches, except that a 12-inch pipe would be permitted as a cross-drain to a single inlet. There are pipes that are roof drains designed at 8 and 10 inches.

Joseph Fishinger, PE PTOE

Mr. Fishinger, the Board's traffic engineering consultant, testified regarding his memorandum dated June

9, 2021. He advised that the Applicant had addressed his comments from earlier review letters and reviewed the outstanding comments including signage and striping, mountable curb for the interior circle of the mini roundabout, ensuring that landscaping will not prevent fire trucks from making the turn and increase the aisle width to 26 feet to allow access of fire trucks. In response to Board discussion and public comments, Mr. Fishinger advised that he believes that Salisbury Road should be extended to connect with River Road to allow multiple access points. He recommended that should the Board decide a full connection is not appropriate, the Applicant should construct Salisbury Road to its full width and block the road with a gate or bollards. He also recommended that bike lanes should be installed the length of Salisbury Road which will assist in calming traffic.

Richard Bartolone, ASLA

Mr. Bartolone generally reviewed his memo of June 15, 2021. The Applicant advised that it will comply with his comments. Mr. Bartolone provided additional testimony regarding the Applicant's revised landscape plans, noting that he had recently walked the Property with the Applicant's representative. He advised that the revised landscape plans will preserve a number of large trees and the Applicant has agreed to accept his recommendations regarding the species of trees to be planted in the landscape buffer.

Lauren Wasilauski

Ms. Wasilauski, Open Space Coordinator, testified regarding her June 16, 2021, memo. She recommends that the chain link fence along the southern border of the woodland between proposed Salisbury Road and the wood line be removed and that the proposed natural path through the southerly wooded areas should be shown on the plan, as well as the pathway easement corresponding to the sewer easement adjacent to Van Horne Brook. She confirmed that the Applicant has agreed that the sidewalks along River Road and Salisbury Road will be 6 feet in width. The Applicant agrees to construct a pathway/sidewalk along their full property frontage on River Road, pending review by NJDEP for those portions of the pathway that will impact regulated wetlands and stream areas. In addition, Ms. Wasilauski advised that the crosswalk across River Road from Salisbury Road will require County approval and if approved, the applicant will install it. She noted that a bike rack detail will be provided and recommends that a few of the bike racks in the townhouse portion of the development should be replaced with benches. In addition, Ms. Wasilauski recommends that any critical areas not encumbered with a NJDEP or DRCC easement should be placed in a Township Conservation Deed Restriction.

Adam Verducci, Fire Chief

Fire Chief Verducci testified regarding his memo submitted August 12, 2021. He supports making Salisbury Road a through street because it will provide the best way to facilitate firefighting in the proposed project and will provide another route for emergency to access the surrounding existing developments. Chief Verducci expressed concern that limiting Salisbury Road to an emergency access only would not support full access for the fire trucks plus weather conditions such as heavy snowfall could prevent or slow down access. Chief Verducci advised that the Township has an arrangement with the Rocky Hill Fire Department to provide additional firefighting capacity in that area of town. He is concerned that the lack of full access through Salisbury Road could delay Rocky Hill's response time. In response to Board questions, he advised that once the fire trucks are parked and the hoses are operational, it is very difficult to move them.

Captain James Gill, Police Director

Captain Gill testified regarding his memo dated August 13, 2021. He supports making Salisbury Road a through street because he believes it will allow faster emergency response times for police, fire and ambulance services and save lives. Captain Gill advised that he also agrees with Chief Verducci's comments. In response to Board questions, he advised that public concerns regarding speed on Salisbury Road could be mitigated through traffic calming devices.

Gail Smith PE, Township Engineer

Gail Smith PE, Township Engineer testified regarding her memo dated August 11, 2021, and the Transportation Advisory Committee memo dated September 16, 2021. She recommends that Salisbury Road be made a through street to promote greater safety, increased emergency response times, to facilitate snow removal and to comply with the municipal master plan designation. Ms. Smith testified that the existing portion of Salisbury Road was previously accepted by the Township based on the assumption that it would eventually become a through street. She recommends that traffic calming devices be installed on the existing portion of Salisbury Road as well as the expanded portion of the road through the proposed project.

Ms. Smith further testified that the Transportation Advisory Committee supports making Salisbury Road a through street in order to insure increased emergency response times. She advised that the Committee is concerned that allowing Salisbury Road to be only an emergency access road may result in improper maintenance of the road including snow removal and could result in the proposed project being isolated in the event that River Road is closed due to weather conditions.

(5) Public Comment and Objector Exhibits The application was opened to the public for comment on August 16, 2021, and September 20, 2021, and the following members of the public provided comment which was considered by the Board:

Birger Joehnk, President of Princeton Village HOA who resides at 153 Windham Ct. and Preston Quick President of Manors of Montgomery HOA who resides at 43 Manor Drive testified in opposition to the project on behalf of their respective boards. They presented a Power Point presentation marked as Exhibit Q-1. Mr. Joehnk advised that Salisbury Road as it appeared on the Township 1971 Master Plan differs in configuration from that proposed for the current project. He expressed concern that there will an increase in traffic because there will be an additional 154 units that directly access Salisbury Road which would become a through street. Mr. Joehnk advised that there is a dangerous ninety degree turn near the Blue Spring Road end of Salisbury which is near children's play areas in the adjacent multi-family developments. In addition, there are crosswalks where children cross and bus stops at that corner and this intersection will have much more traffic with the additional units. Mr. Joehnk noted that if Salisbury Road is made a through street, it should have a physical center median and other traffic calming devices, similar to Blue Spring Road.

Mr. Quick agreed with Mr. Joehnk's comments. He testified that people utilize the Carrington/Salisbury intersection to go on walks and bike rides with their children.

Marilyn Blazovsky, 14A Andover Circle, expressed certain concerns regarding the project. Ms. Blazovsky said she was concerned with the design of the separate storage units being open on both ends because it has the potential for the congregation of both animals and young people. She is also concerned about the reduction in the pipe size from 15" to 8"-10". She supports putting Salisbury Road as a through road because of the increased traffic on River Road and the difficulty in pulling out of Blue Spring Road. She also expressed concern regarding construction noise, the length of construction and runoff from the wetlands on the southern side. In response, Mr. Schmidt testified the pipe size is for one cross drain that doesn't collect much water so a 15" pipe is not needed. Ms. Blazovsky provided photos depicting the area southeast of Salisbury Road which she took after the recent Storm Ida showing standing water. She noted that the standing water had a stench. Ms. Blazovsky believes this is the area which will be used for the affordable unit storage sheds.

Eugen Cojocaru, 67 Castleton Road, testified in opposition to the development. He is also against the connection with Salisbury Road because he believes there are already two dangerous intersections along Salisbury Road, one being where Castleton meets Salisbury Road right before the 90 degree turn and the other where Salisbury Road meets Blue Spring Road after the sharp turn. That intersection is not lit and cars coming from Blue Spring will not see pedestrians crossing the road.

Michael Downey, 55 Garfield Way, testified against making Salisbury Road a through street, expressing concern regarding the turns off Blue Spring Road which he considers dangerous. He noted that there are many children on Salisbury Road and Salisbury Road abuts two children's playgrounds and tennis courts. He feels that adding any traffic will create a life- threatening disaster.

Michael Thomas, 49 Garfield Way , was sworn in. Mr. Thomas stated he is a neighboring property owner and is a licensed professional engineer who designs projects similar to the pending project. He raised a series of questions including with respect to the number of trees to be removed, particularly along the western property line, the lack of shade trees on both sides of Salisbury Road, the location of the flood hazard and/or riparian zone, impact on wildlife, submissions to NJDEP by the Applicant, anticipated improvements to Salisbury Road, building separation requirements and requested variances, NJDEP stormwater regulation rules and applicability to the project, and proposed stormwater management for the Project.

Lincoln Hollister, 437 Ridgeview Road, provided testimony. He testified that he is a geologist and lives on the Rocky Hill diabase which is the same rock that underlies the subject development. He provided information regarding the location and nature of the diabase. Mr. Hollister further testified that a distinct feature of the diabase is that it is impermeable to water. Water runs off of it (as if it were an asphalt surface), unless held back by vegetative cover, such as forest and wetland grasses. He advised that at the proposed development site, water runs off the impermeable diabase into the shallow basins of the wetlands. Mr. Hollister testified that the wetlands are replenished by this runoff. Without the runoff, or if the runoff occurs in flash floods that is not held back by vegetation, he believes the wetlands habitat will be compromised.

Fay Lachmann, 22C Chicopee Drive, testified regarding concerns regarding the speed limit on River Road. She expressed concern that the speed limit increases to 45 miles per hour once it reaches the entrance to the Property, around the curve it is 25 mph and immediately after that it is 45 mph again where the traffic comes over the hump of the hill and there is a right turn into Blue Spring Road. She asks for assurance

that the speed will be limited to 35 mph for the entire stretch of River Road. She testified that there are cars that speed up as they come over the blind hill right before Blue Spring Road.

In response, Mr. Fishinger confirmed that Somerset County controls the speed limit on River Road. He advised that her concerns have been passed to the County. He noted that when the County evaluates the speed limit it will be based on recorded traffic speeds and that the speed limit may not necessarily go down; it could be raised. The town can request the speed limit be evaluated but they can't unilaterally ask that it be reduced.

Kianoush Sheykholeslami, 21 Taft Court, testified in opposition to the project, citing concerns regarding safety issues if Salisbury Road is made a through street and the impact on wildlife.

Brad Rankin, 29 Grant Way, testified regarding an on-line community survey which he advised gathered 694 signatures in opposition to the project. He advised that the top three concerns were impact to traffic, environmental damage, and safety.

Dikshant Barhate, 83 Castleton Road, testified in opposition to the proposed connection of Salisbury Road. The biggest reason he opposes it is because of the safety of the children and older members of the community.

Jean Simard, 94 Castleton Road, testified in opposition to the project, noting his concern regarding the safety of making Salisbury Road a through street. He questioned why the master plan designation for Salisbury as a through street should control, given the passage of time and increase in development and related traffic.

Naeem Anwar, 9 Garfield Way, testified regarding his concerns regarding the project. His most important concern is the connection of Salisbury Road and the through traffic. He has two children and they along with their friends are constantly using the road to ride their bicycles and skateboarding. There are bus stops on both sides of Salisbury Road where it ends and children cross the road after leaving the school bus. He advised that there is a tennis court and playground that only has access from Salisbury Road and that connecting Salisbury Road is a safety concern. He also asked for an additional buffer and that the applicant not be permitted to remove trees.

Sameer Kulkarny, 17 Garfield Way, testified in opposition to the project. He agreed with the other comments regarding Salisbury Road and the hairpin turn. He also expressed concerns regarding the existing buffer and the removal of mature trees.

Joan Marr, 29D Chicopee Drive, testified in opposition to the Project. Ms. Marr has lived in Montgomery Woods for 20 years. She noted that over time a high level of traffic has developed on Blue Spring Road and on River Road. Another 155 homes would put an additional burden on these roads, especially River Road which is classified as a Scenic Byway. She noted that scenic byways have funding available to improve their status with bike lanes, walkways, and parking areas to pull off the road and take in the view scape. She proposed these improvements be implemented before more residential construction moves forward. She believes that the project should be transferred to a less congested site so the quality of life for the exiting residents of this community and the future generations will be able to enjoy the majestic scenic byway, parks, and Millstone River.

Serguei Khangoulov, 25 Garfield Way, testified regarding his opposition to the extension of Salisbury Road. He noted that The Haven children will not have many recreational facilities, no basketball court, and no tennis court so they will most likely bike to Montgomery Hills using Salisbury Road. The absence of recreational facilities in Haven will impact children's safety. He believes the project should provide more recreational facilities to keep the children busy inside Haven. He also expressed concern that there will be an impact on the surrounding wetlands regarding stormwater runoff.

Roberto Sehringer, 76 Castleton Road, testified in opposition to the project. He has lived in the community for 25 years and is concerned that the project will increase stormwater runoff and will change the character of the area.

Jayantanuj Mazmumdar, 23 Garfield Way, testified in opposition to the project. He advised of his concerns that increased traffic will impact the children who play and ride their bikes in the neighborhood. He believes that the project should have more buffer areas between it and the Garfield Way neighbors. Mr. Muzmumdar provided photos taken this past winter showing the paucity of buffering between his unit and the proposed Property which were marked as Objector Exhibit O-3.

Amelia Taylor, 16D Andover Circle, testified in opposition to the project. She shares the concerns others have regarding the impact on safety and the wildlife in the environmentally sensitive area.

Aline Johnson, 63 Castleton Way, testified in opposition to the project. She expressed concern regarding the impact of more development on the existing stormwater drainage and increased flooding due to climate change (including basement damage and flooding) particularly because her property is located on the edge of a flood zone. Ms. Johnson also noted that although the proposed development has tot lots, there does not appear to be sufficient play areas for older children. She believes that The Haven children will use the playgrounds of the neighboring developments which will increase possibility of traffic accidents as a result of increased number of residents and Salisbury Road becoming a through street. Ms. Johnson also believes that Montgomery Township should consider the impact of surrounding developments and should consider development on Princeton Avenue and Mt. Lucas Road and Princeton Avenue and Blue Spring Road.

Beverly O'Connor, 138 Jackson Avenue, was sworn in. Ms. O'Connor referenced the Fire Chief's memo. She noted that the developer is willing to install Salisbury Road for emergency access only. Ms. O'Connor raised questions regarding whether allowing Salisbury as a through street or emergency access only road would provide any appreciable benefit regarding emergency response time.

Pauline Seitz, 34 Castleton Road, was sworn in. Ms. Seitz testified in opposition to the project expressing concern that it will increase flooding particularly because her property is near the retention basin at the bottom of Castleton Road. She is also concerned about the impact of increased traffic on the children who play and ride their bicycles in the surrounding developments.

Ameya Narvekar, 29 Garfield Way, testified in opposition to the project. He is concerned that the project will cause destruction of the vegetation and interfere with the wildlife that crosses the property. He also asked how the developer plans to mitigate the sound and dust from the construction.

Beata Thomas, 49 Garfield Way, testified in opposition to the project and raised questions regarding tree removal and the estimated increase in emergency response times by making Salisbury Road a through street.

Bill Flemer, Hopewell, NJ, testified regarding the application. Mr. Flemer advised that he is a lifelong nursery professional and certified arborist. He advised that he inspected the existing specimen trees on the boundary of the Property on behalf of a friend in a surrounding development. Mr. Flemer testified that all the trees are very large (approximately 60 feet in height) and beautiful, including sycamores, red oaks, and magnolias. He noted that there is also an allée of specimen trees leading into the Property along the existing driveway. Mr. Flemer asked that the specimen trees be preserved.

Dikshant Barhate, 83 Castleton Road testified in opposition to making Salisbury Road a through street. He supports restricting Salisbury Road to an emergency access road which he does not think will cause any appreciable delay in emergency response time.

Naeem Anwar, 9 Garfield Way, supports comments made by other objectors in opposition to the project. He also opposes making Salisbury Road a through street.

Yutaka Uchida, 30 Garfield Way, testified in opposition to the project and to making Salisbury Road a through street.

Amy Sharpless, 76 Manor Drive, testified regarding traffic concerns. She advised that she lives on Blue Spring Road and that traffic calming devices on that road have not reduced traffic speed or accidents. If the project is approved, she asks that the Township improve the safety of Blue Spring Road which she believes will experience increased traffic.

Dr. Shey, 21 Taft Road, testified in opposition to the project. He expressed concern that the combination of additional traffic from the project and making Salisbury a through street will increase the risk of serious risk of injury as a result of traffic accidents because many children play and ride their bicycles.

Wenhua Jai, 96 Castleton Road, testified in opposition to the project. He advised that he agrees with prior comments opposing the project. In addition, Mr. Jai requested that a center median and traffic calming devices be installed on Salisbury Road, if the project is approved and the Salisbury is made a through street.

Nanjun Quian, 4 Garfield Way, expressed concerns regarding future buffering and potential flooding as a result of the project.

Nadeswar Thotakura, 21 Garfield Way, testified in opposition to the project. He expressed concern that there would an inadequate buffer between his backyard and the project and asked that the existing specimen trees be preserved. In addition, he advised that he is a former geologist and that the existing soil type will not absorb water, thereby potentially creating more stormwater runoff.

Fatih Yaman, 31 Garfield Way, testified in opposition to the project. He expressed concern regarding existing traffic on River Road which he believes will be increased if Salisbury is made a through street. Mr. Yaman also advised that given the elevation of the Property as compared to his property, he believes

the new residential buildings will tower over his home. He asked that additional buffering be provided to address this concern.

AND WHEREAS, based upon review of the foregoing testimony, exhibits and the application, plans and related documents, the Planning Board makes the following findings of facts and conclusions:

(1) The Haven at Princeton LLC is the Applicant for the proposed project and is the owner of the Property being located on River Road, Montgomery Township, New Jersey (being Block 37003, Lot 7 on the Montgomery Township Tax Map), in the APT/TH Multi-Family residential zoning district. Grosso Homes serves as the co-developer of the project.

(2) The Applicant seeks preliminary and final major site plan and subdivision approval to construct 154 total residential units, consisting of 122 residential townhomes and 32 affordable apartment dwellings. The project also includes common amenity space, playground areas, surface parking, stormwater management facilities, lighting, and signs.

(3) The Property is bounded by single-family neighborhood within the Borough of Rocky Hill to the north, River Road (County Route 605) to the east, a townhouse neighborhood to the south, and a townhouse neighborhood to the west.

(4) The Property contains an existing office building and accessory surface parking which will be demolished to accommodate the proposed project.

(5) The Property is identified in the Township's Settlement Agreement with Fair Share Housing Center, which was approved by the Court on February 20, 2018, in connection with the facilitation of affordable housing in Montgomery Township.

(6) The Property is environmentally constrained with numerous critical areas. These critical areas include Flood Hazard Area, Critical Slopes, Critical Soils, Stream Corridor and Wetlands. In addition to the critical areas are the associated buffers. State open waters are also found on the property. The Applicant has obtained a Letter of Interpretation from the New Jersey Department of Environmental Protection ("NJDEP") pursuant to the Freshwater Wetlands Act that changed the designation of the on-site wetlands from "ordinary resource value" to "exceptional resource value"; thereby increasing the width of the wetlands buffer from 50 feet to 150 feet. The increased buffers resulted in a corresponding reduction in the number of units that could be developed on the site as well as the areas of the Property which could be developed.

(7) The application requires the following variances and waivers:

§16-4.4b Accessory Storage Building-The Applicant proposes storage sheds for the affordable housing units which are not permitted as accessory uses in the APT/TH zone.

§16-4.4e.2 Minimum Setback to a Parking Area-§16-4.4e.2 requires a minimum setback of 10 feet from a parking area. On Sheet 5.1 of the Site Plans, the applicant is proposing a setback of 5.5 feet between the townhouse buildings and one of the perpendicular, common (guest) parking areas.

§16-4.4e.2 Minimum Building Separation- Variance relief is required from the side- to side building separation for buildings:

- Townhouse #A1 to Townhouse #A4: 19.4 feet
- Townhouse #A2 to Townhouse #A3: 21.7 feet
- Townhouse #A6 to Townhouse #A7: 18.8 feet
- Townhouse #A5 to Townhouse #A8: 20.4 feet
- Townhouse #A10 to Townhouse #A13: 20 feet
- Townhouse #A11 to Townhouse #A12: 20 feet
- Townhouse #A15 to Townhouse #A16: 22.5 feet
- Townhouse #A16 to Townhouse #A17: 24.4 feet
- Townhouse #A18 to Townhouse #A19: 21.8 feet

Variance relief is required from the rear- to- rear building separation for the following buildings:

- Townhouse #A8 and Townhouse #A11: 44.2 feet

Variance relief is required from the rear to- rear building separation for the following buildings:

- Townhouse #B1 and Townhouse #A9: 22.5 feet

§16-5.3(b) Fence Height-. §16-5.3(b), "on any lot in any district, no wall or fence shall be erected or altered so that said wall or fence shall be over four (4) feet in height inside, rear and front yard areas." The Applicant is proposing a retaining wall with a four (4) foot-high black aluminum fence on top along the northern extent of the development and adjacent to the stormwater basins. The Grading Plans should be revised to indicate both the top and bottom of the wall in order to determine the maximum proposed height of the wall; it currently only identifies the top of wall. A detail for the black aluminum fence has been provided on Sheet 16.4. The Applicant is also proposing a stockade wood fence in the rear yards of each townhouse dwelling unit; a detail of a board-on-board fence on Sheet 16.5 indicates the fence is 4.33 feet-high (conforming). Additionally, an existing six (6) foot-high chain link fence is located along the westerly property line adjacent to the existing townhouse development to the west.

§16-6.5d.1 Non-Critical Lands Open Space- Pursuant to §16-6.5d.1, "...within the non-critical open space, at least one contiguous area shall be large enough to have inscribed within it a circle with a diameter of 250 feet, which diameter shall not pass over any detention basin, street right-of-way, or critical acreage." The applicant is proposing a central greenway, approximately 60,000 square feet, with an average width of 100-feet and an average length of 600-feet whereas the zoning ordinance standard requires a 49,087 square foot circle.

§16-6.4d.6(d) Stream Corridor -§16-6.4d.6(d) identifies a list of uses permitted within a stream corridor that is outside of the flood hazard area or special flood hazard area and floodway. The Applicant is proposing approximately 54 linear feet of retaining wall and approximately 55 square feet of rear yards of two townhouse units within Townhouse #A18, including a board and batten fence, within the Township Stream Corridor. Neither the retaining wall nor the board and batten fence delineating the rear yards of the townhouse units are permitted within the stream corridor.

§16-6.4e.3 Steep Slopes- The Applicant is proposing a stormwater basin, retaining wall, and grading within areas of 15% slopes or greater in exception to the ordinance requirement.

Design Waivers

§16-5.4(b).2(b) Light Fixture Design-. §16-5.4(b).2(b) requires "'non-glare lights' with 'cut-off' shields". The Applicant is proposing decorative globe style lights that are non-glare, but not full cutoff for light fixture types. The proposed bollards are non-glare fixtures but not full cut-off.

§16-5.6d (3) Tree Planting (Categorical)- The Applicant is requesting a waiver to provide 14 trees per acre of disturbed land since they are proposing to disturb 21.53 acres of the site. At 21.53 acres, this section requires a total of 301 (21.53 x 14 = 301.42) trees to be planted on the site.

§16-5.14c.1(b)- Sidewalk Location- The New Jersey Residential Site Improvement Standards require that sidewalks within all residential developments shall be provided on site. The Applicant is proposing sidewalks along both sides of all roadways. However, the proposed sidewalks adjacent to the perpendicular common/guest parking areas along the internal roadways do not comply with RSIS. RSIS, N.J.A.C. 5:21-4.5(e) states "sidewalks along streets with nonparallel parking shall be placed parallel to the street and shall be placed so that sidewalks do not lead pedestrians between parked vehicles and the traveled way. This subsection shall not apply to driveways." As such, the sidewalk is not supposed to cross between the parking spaces and the roadway, but instead, should have run along the inside edge of the parking areas to avoid and pedestrian and vehicular conflicts.

A design waiver from Section 16-5.2(a) of the Ordinance which states that the minimum allowable pipe size is 15 inches, except that a 12-inch pipe would be permitted as a cross-drain to a single inlet.

§16-5.14c.1(d) -Sidewalks Along Existing Streets. Due to the extensive presence of freshwater wetlands and wetland transition areas, the Applicant's initial proposal did not include a sidewalk along the entire property frontage along River Road (County Road 605) an exception to the requirements of §16-5.14c.1(d). Instead, the Applicant proposed a pedestrian walkway along a portion of River Road (County Route 605) adjacent to the proposed development, in those areas outside of the wetlands, wetland buffer and other regulated areas. During the public hearing, the Applicant agreed to provide a pathway along the full property frontage of River Road, including the wetland and stream corridor areas, subject to review and approval by NJDEP.

(8) The Municipal Land Use Law gives the Board the power to grant a C (2) "flexible" variance where the Board determines that the purposes of zoning and the Municipal Land Use Law, N.J.S.A. 40:55D-1 et. seq. would be advanced by a deviation from the zoning requirements, that the variances can be granted without substantial detriment to the public good, that the benefits of the deviation would be substantially outweigh any detriment and that the variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance. The Board finds that the proposed project will preserve most of the site, will preserve many mature trees, will provide substantial buffering, will extend Salisbury Road to River Road which will allow faster emergency response times and avoid isolation of the development in the event that River Road is closed and will provide traffic calming devices on Salisbury Road. Accordingly, the Board finds that the variances will promote the purposes of zoning pursuant to the Municipal Land Use Law, NJSA 40:55D-2(a), (g), (i) and (m) by promoting affordable housing, compatibility with the surrounding residential area, the provision of new housing stock, promotion of compact land development and provision for a variety of land uses in appropriate locations. The Board further finds that the project complies with zone requirements with respect to the proposed use, density, lot coverage, height, parking count and buffering. The project will yield affordable housing units in excess of the zone requirement of

a 20% set-aside, and the C2 variances as a whole should not be looked at individually but accomplish the goal of providing affordable housing in an appropriate location, zoned for this and in fact part of Montgomery's judgment of repose for its goal of affordable housing in accordance with Pullen v. Tp of South Plainfield, 291 N.J. Super 1 (App. Div. 1996) and N.J.A.C. 5:97-10.2.

The Board further finds that based on the foregoing findings, that the Applicant has met the requirements for a variance from the requirements of §16-6.4e.3: (a) of the municipal ordinance with respect to disturbance of critical steep slope area based upon the testimony of David Schmidt, P.E..

Based on the foregoing, the Board finds that, as conditioned by the Board, the variances can be granted without substantial detriment to the public good, that the benefits of the deviation will substantially outweigh any detriment and that the variances will not substantially impair the intent and purpose of the zone plan.

The Board further finds that the requested waivers are reasonable. The site is largely wooded and the majority of the site will remain undeveloped. Accordingly, pursuant to §16-5.6d.3(a), of the municipal ordinance, the Applicant has demonstrated that it is impractical to require the developer to provide additional trees. The waiver from RSIS standards is reasonable, limited and not unduly burdensome as it will improve traffic and pedestrian flow on the site. Lastly, the requested lighting design deviations will provide non-glare fixtures and should not cause any significant impact and the pipe size was found by the Board Engineer to be adequate.

The Municipal Land Use Law further authorizes the Board to grant preliminary major site plan and subdivision approval pursuant to N.J.S.A 40:55D-37. The Board finds that the professional staff has testified that the Applicant has met the municipal site plan and subdivision ordinance standards and recommends preliminary and final major site plan and subdivision approval with conditions. The Board adopts the staff recommendation and finds that the record before the Board supports the issuance of preliminary and final major site plan and subdivision approval with variances and waivers, as conditioned by the Board.

NOW, THEREFORE, BE IT RESOLVED based upon the foregoing findings of fact and conclusions, the Montgomery Township Planning Board does hereby grant to the Applicant, The Haven at Princeton LLC, preliminary and final major subdivision and site plan approval with variances and design waivers to construct 154 total residential units, consisting of 122 residential townhomes and 32 affordable apartment dwellings as set forth in the Board's foregoing findings and conclusions, consistent with the testimony presented by the Applicant, plans, reports and exhibits, subject to the Applicant's compliance with the following conditions:

(1) Compliance with the comments and recommendations of the Board Engineer, Rakesh R. Darji, PE of Environmental Resolutions, Inc. as set forth in his memorandums dated June 17, 2021, and his testimony except Item 10 and those items that because irrelevant because of the revision of the plan since the memorandum date;

(2) Compliance with the comments and recommendations of Emily Goldman, PP AICP of Clarke Caton Hintz, as set forth in her memorandum dated June 16, 2021, and her testimony, including the submission of elevations for all four sides of the townhouse units and a light intensity schedule, a revised Soil Erosion

Sediment Control Plan that relocates the soil stock pile in conflict with the temporary sales trailer. Compliance shall not be required with Item 10.4, those items that were testified by applicant and its professionals marked "additional information is required" and those items that are irrelevant because of the revision of the plans since the memorandum date based on testimony during the hearing;

(3) Compliance with the comments and recommendations set forth in the memorandum of Richard Bartolone, ALSA, dated June 15, 2021, and his testimony, except Item 4 in the November 9, 2021 memorandum and those items that are irrelevant because of the revision of the plans since the memorandum dates;

(4) Compliance with the comments and recommendations set forth in the memorandum from Joseph A. Fishinger, PE, PTOE, dated June 9, 2021, and his testimony, except Item 24 which radar speed sign is no longer proposed and those items were resolved by testimony by applicant's professionals and those items that are irrelevant because of the revisions of the plans since the memorandum date;

(5) Compliance with the comments and recommendations set forth in the memorandum of the Montgomery Township Environmental Commission dated June 17, 2021, with exceptions of the recommendations regarding the requested tree planting waiver and numbers 1, 2, 3 (species of trees determined by Richard Bartolone), 4 (as to solar panels), 5, 7 (as per Richard Bartlolone) and 11.

(6) Compliance with the comments and recommendations set forth in the memorandum of the Lauren A. Wasilauski, Open Space Coordinator, dated June 16, 2021 except as which items were resolved by testimony by applicant's professionals and those items that are irrelevant because of the revisions of the plans since the memorandum date, number B7 is subject to Somerset County approval, and E4;

(7) Compliance with the recommendations of Fire Chief Adam Verducci set forth in his memorandum submitted August 12, 2021, and his testimony;

(8) Compliance with the recommendations of Police Captain James Gill set forth in his memorandum dated August 13, 2021, and his testimony;

(9) §16-6.3d states "no outside area or equipment shall be provided for the hanging of laundry or the outside airing of laundry in any manner. Sufficient area and equipment shall be made available within each building for the laundering and artificial drying of the laundry of the occupants of each building." While no outside area or equipment for the hanging of laundry or the outside airing of laundry has been identified on the Site Plan, the Homeowners Association documents should include provisions to prohibit the same.

(10) §16-6.3e states "dwelling units shall have access to a master television antenna system and individual townhouse units may not erect individual external television antennas." While the Site Plan does not identify any television antenna systems, the Homeowners Association documents should include provisions to prohibit individual antennas on the townhouse dwellings.

(11) The Applicant shall record a pathway easement to coincide with the sewer easement, roughly parallel to Van Horne Brook along the northerly property edge. The Applicant shall also record a pathway easement for the alignment that was marked in the field by Ms. Wasilauski in the woodland area to the

south (unless NJDEP requires an alternative route or prohibits public access through the wetlands areas). The form of the easements shall be submitted by the Applicant for prior review and approval by the Township Attorney and Township Engineer.

(12) The Applicant shall construct a sidewalk / pathway along their full property frontage of River Road. The pathway shall be at least 6 feet in width and constructed of a solid surface such as asphalt or concrete, unless otherwise stipulated by NJDEP.

(13) The Applicant shall enter into an Affordable Housing Agreement and/or Developer's Agreement with the Township that shall identify the applicable affordable housing requirements including but not limited to the following provisions:

(a) The Homeowner Association documents for the within project shall include provisions providing that the street lighting and fixtures shall be maintained and operated by the Homeowners Association. In addition, an agreement between the Township and the Applicant will be required memorializing the perpetual obligation of the homeowners' association to operate and maintain the lighting in a form approved by the Township Attorney and Township Engineer.

(b) Pursuant to the NJ Fair Housing Act, N.J.S.A. 52:27D-329.1, 13% of the affordable units shall be affordable to very-low-income households, 37% to low-income households, and 50% to moderate-income households. The NJ Fair Housing Act requirement that 13% of the units must be affordable to very-low-income households at 30% of the regional median income supersedes the UHAC standard at N.J.A.C. 5:80-26.3(d) which says 10% of the units shall be affordable to households at 35% of the regional median income.

(c) Pursuant to UHAC standard at N.J.A.C. 5:80-26.3(a), in each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units and the remainder may be moderate-income units. The Applicant shall also comply with the UHAC income distribution requirements.

(d) The affordable units phasing with market units shall comply with COAH rules and Township ordinances. The Applicant shall comply with the phasing requirement set forth in N.J.A.C. 5:93-5.6(d) and §15-8 of the Township Code, for affordable housing units within inclusionary developments.

(e) The Applicant shall provide at least 30-year deed restrictions providing that the affordable units shall remain to low- and moderate-income households for a period of at least 30 years

(18) The affordable units will have the same heating source as the market-rate units.

(19) A temporary certificate of occupancy shall be required for any sales center.

(20) A temporary certificate of occupancy shall be required for any temporary construction trailer prior to occupancy. The temporary construction trailer and sign shall be permitted for one year from the date of installation unless extensions are granted by the Township Construction Official. A temporary phone connection for landline phone within the trailer shall be installed.

(21) Sheet 16.1 of the Applicant's project plans contains two Tree Protection details. The detail entitled "Tree Protection Barrier Detail" that shows temporary fencing to the drip line should be removed as the Soil Conservation District requires tree protection to the root protection zone as identified in the other tree protection detail is the correct detail.

(22) The Applicant shall provide a copy of the homeowner association governing documents.

(23) The Applicant's project plans depict numerous easements necessary for the construction and long-term maintenance of the proposed infrastructure. Descriptions of each easement should be provided to the Board professionals for review and approval.

(24) The Applicant will yield Title 39 jurisdiction to the Township for private roads and driveways, subject to acceptance of jurisdiction by the Township. The Applicant shall submit a letter requesting that the Township accept Title 39 jurisdiction subject to the review and approval of the Township Attorney and Township Engineer, as per the terms of the developer's construction sequence agreement.

(25) The Applicant shall install trees of sufficient height to buffer the proposed retaining walls in consultation with Richard Bartolone, ASLA.

(26) The Applicant shall construct Salisbury Road as a through street and shall install traffic calming devices along the length of Salisbury Road, including signs and pavement markings, as recommended by the Township Engineer.

(27) The proposed cul-de-sac shall be removed and the mature trees along the boundary of the rear of the adjacent townhomes on Garfield Way shall be retained with additional tree plantings, in consultation with Richard Bartolone, ASLA, to provide a substantial buffer.

(28) In the event that any soil removal, exportation, or importation is required for this project, the Applicant shall obtain a Soil Hauling Permit from the Township Engineer. Soil removal, exportation, or importation from or to the Property for the proposed project shall not exceed a cumulative total of 20,000 cubic yards without further approval by the Board.

(29) The development of the Property shall be implemented with the approved plans and the revisions described herein. In the event that the Applicant shall make or propose any changes to the project and structures on the Property from those shown on the approved plans and exhibits approved for this application, as well as the required revisions described in this Resolution, whether such changes are voluntarily undertaken or required by any regulatory agency, the Applicant shall resubmit such changes to the Township Planning Department, for review and determination as to whether the extent of such changes will require formal review and approval by the Board.

(30) The Township reserves the right to request such additional minor and reasonable site improvements should actual field conditions vary from that depicted on the project plans, subject to the mutual agreement of the Township and the Applicant.

(31) The Applicant shall submit construction cost estimates, post all required guarantees for the proposed improvements, and maintain with Montgomery Township an escrow account sufficient to pay professional review/and construction inspection fees for this Project. Guarantee amounts and escrow fees shall be

determined by the Township Engineer in accordance with the provisions of the Township ordinances and the Municipal Land Use Law. The Applicant shall submit cost estimates for review. Cost estimates and guarantees are subject to the approval of the Township Attorney and/or Township Engineer. Maintenance guarantees will be required in accordance with the Municipal Land Use Law.

(32) The Applicant shall obtain all required approvals from the following agencies as well as any and all other approvals, licenses, and permits required by any other board, agency or entity having jurisdiction over the subject application or over the subject property, as applicable:

a. Somerset County Planning Board
b. Somerset-Union Soil Conservation District
c. Delaware -Raritan Canal Commission
d. New Jersey Department of Environmental Protection BSDW
e. New Jersey Department of Environmental Protection TWA
f. New Jersey Department of Environmental Protection DLUR
g. Montgomery Township Engineering Department
h. Montgomery Township Sewer Utility
i. Montgomery Township Committee;
j. Montgomery Township Fire Marshall
k. Any and all others as required
l. Amended Sewer Service Area for construction of Phase II

Copies of all approvals shall be provided to the Township prior to the issuance of construction permits.

(33) All deeds, easements and other legal documents are subject to review and approval of the Township Attorney and Township Engineer. The applicant shall obtain approval and record all instruments associated with the project, including, but not limited to sight triangle easements, access easements, conservation deed restriction, stormwater facility deed restriction, stormwater operations and maintenance manual and drainage easements. Sanitary sewer easements may be necessary if the Montgomery Township Sewer Utility and Township Engineer determine that portions of the onsite sanitary sewers should be accepted by the Township. Stormwater facility deed restriction must include provisions to prevent modification or alteration without Township Engineer approval. Applicant shall be responsible for stormwater facility maintenance.

(34) Any improvements proposed to be dedicated to the Township are subject to the Township Engineer's review and Township Committee approval.

(35) The Applicant shall enter into a "Developer's Construction Sequence Agreement", subject to authorization by the Township Committee. The Agreement shall conform to applicable Township Code including but not limited to Section 16-9.2. The "Developer's Construction Sequence Agreement" is subject to review and approval by the Township Attorney and Township Engineer;

(36) The Applicant shall enter into a "Sewer Participation/ Capacity Agreement" with the Township Committee and pay sewer capacity charges in accordance with Section 12-7.4 of the Montgomery Township Code, including fees for same pertaining to the affordable units.

(37) The Applicant is subject to the requirements of the Sewer Utility including but not limited to payment of sewer capacity charges, analysis of the collection system to demonstrate there is adequate capacity for

the additional flow, obtaining sanitary sewer easements to access the offsite sewer collection system, and appropriate approvals for the easements.

(38) The subdivision map is subject to review and comment by the Township Engineer and Township Attorney the final subdivision map to be in accordance with N.J.S.A. 46:26B-2. The project plans are also subject to review by the Township staff for conformance with Township Standard Details, the final map only to be signed off on after the preliminary subdivision sheets and map are approved.

(39) An address map must be provided to the Township Engineer for review and approval.

(40) The Applicant must provide NJDEP Tier A MS4 required forms to the Township Engineer, including Attachment D Stormwater Summary, 5G3 Authorization, annual BMP maintenance reports, inspection logs, and other relevant information needed by the Township Engineer for annual reporting.

(41) The Stormwater Management Facility Operations and Maintenance Manual is subject to the review and approval of the Board and Township Engineers. The Operations and Maintenance Manual will be recorded with the Somerset County Clerk's office.

(42) The Applicant shall revise the plans to show detailed ADA and PROWAG compliant designs for each curb ramp subject to the review and approval of the Board and Township Engineers.

(43) The Planning Board Clerk shall submit a copy of this Resolution granting the de minimis RSIS exception to the New Jersey Department of Community Affairs within thirty (30) days of the date of this Resolution.

(44) The Applicant's stormwater operations and maintenance must require annual reporting in accordance with Township Code.

(45) The Applicant shall relocate the retaining wall shown on Sheet 5.1 of the Applicant's June 2021 plan set which interferes with a proposed utility easement. The relocated retaining wall will require municipal consent and a maintenance agreement for placement in the public-right-of way. The form of agreement is subject to review and approval by the Township Attorney and Township Engineer.

(46) The Applicant shall be required to post the sewer payments in full for each phase as a condition of approval of final plats as per the terms of the sewer participation/capacity agreement.

ROLL CALL VOTE ON MOTION TO GRANT PRELIMINARY MAJOR SITE PLAN AND SUBDIVISION APPROVAL WITH VARIANCES AND WAIVERS (September 20, 2021)

Moved by: Mr. Wilson

Seconded by: Mr. Mani

Those in Favor: Battle, DeRochi, Keenan, Mani, Matthews, Schuldiner, Wilson and Campeas

Those Opposed: Ms. Roberts

Those Recused: None

Those Absent: None

ROLL CALL VOTE ON MOTION TO APPROVE
RESOLUTION OF MEMORIALIZATION (November 1, 2021)

Moved by: Mr. Mani

Seconded by: Mr. DeRochi

Those in Favor: Battle, DeRochi, Keenan, Mani, Matthews, Schuldiner and Campeas

LORI SAVRON
PLANNING BOARD SECRETARY
TOWNSHIP OF MONTGOMERY
STATE OF NEW JERSEY

18. Third Round: The Somerset at Montgomery (DeVan / Van Cleef)

NEW JERSEY UNIFORM CONSTRUCTION CODE

FINAL CERTIFICATE

Permit # 21-1271
Date Issued 9/23/21
-or-
Control #
Certificate Issued Date: 10/21/2024

IDENTIFICATION

Block 29002 Lot 45 Qualification Code

Work Site Location 1377 Rt. 206
Skillman, NJ 08558

Owner in Fee Country Classics at Montgomery LLC
Address 36 Brower Lane
Hillsborough, NJ 08844

Tel. (908) 359-3276

Contractor Country Classics at Montgomery LLC
Address 36 Brower Lane
Hillsborough, NJ 08844

Tel. (908) 359-3276 FAX ( )

Lic. No. or Bldrs. Reg. No.

Federal Employer No. 22 3753594

Home Warranty No. n/a

Type of Warranty Plan: [ ] State [ ] Private

Use Group R2

Maximum Live Load Common areas 100 psf, Res. living 40 psf

Construction Classification Res. balconies 60psf, roof 20psf

Maximum Occupancy Load Basement 1A, Floors 1-4 5A
356

Description of Work/Use:

Multi-Family Dwelling - Fully Sprinklered
58 Apartment units, 7 Media Rooms,
Fitness Center, Dog wash area, Mail Room,
Leasing Office.

☒ **CERTIFICATE OF OCCUPANCY**

This serves notice that said building or structure has been constructed in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

☐ **CERTIFICATE OF APPROVAL**

This serves notice that the work completed has been constructed or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of the inspection.

☐ **TEMPORARY CERTIFICATE OF OCCUPANCY/COMPLIANCE**

If this is a temporary Certificate of Occupancy or Compliance, the following conditions must be met no later than _____ or will be subject to fine or order to vacate:

☐ **CERTIFICATE OF CLEARANCE – LEAD ABATEMENT 5:17**

This serves notice that based on written certification, lead abatement was performed as per NJAC 5:17, to the following extent:

[ ] Total removal of lead-based paint hazards in scope of work

[ ] Partial or limited time period (_____ years); see file

☐ **CERTIFICATE OF CONTINUED OCCUPANCY**

This serves notice that based on a general inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

☐ **CERTIFICATE OF COMPLIANCE**

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until _____.

Ray Mont 10-21-24

CONSTRUCTION OFFICIAL DATE

Fee $

Paid [ ] Check No.

Collected by:

U.C.C. F260
(rev. 8/05)

1 WHITE – APPLICANT 2 CANARY – OFFICE 3 PINK – TAX ASSESSOR

NEW JERSEY UNIFORM CONSTRUCTION CODE

FINAL CERTIFICATE

Permit # 21-1269
Date Issued 9/23/21
- or -
Control #
Certificate Issued Date: 10/21/2024

IDENTIFICATION

Block 29002 Lot 45 Qualification Code

Work Site Location 1377 Rt. 206
Skillman, NJ 08558

Owner in Fee Country Classics at Montgomery LLC
Address 36 Brower Lane
Hillsborough, NJ 08844
Tel. (908) 359-3276

Contractor Country Classics at Montgomery LLC
Address 36 Brower Lane
Hillsborough, NJ 08844
Tel. (908) 359-3276 FAX ( )

Lic. No. or Bldrs. Reg. No.
Federal Employer No. 22 3753594

Home Warranty No. n/a
Type of Warranty Plan: [ ] State [ ] Private
Use Group R2
Maximum Live Load Commons areas 100 psf, Res. living 40psf,
Construction Classification Res. balconies 60psf, roof 20psf;
Bsmt 1A, Floors 1-4 5A
Maximum Occupancy Load 352
Description of Work/Use:

Multi-Family Dwelling, Fully Sprinklered.
57 Apartment Units, 11 media rooms,
Dog wash area, Mail Room.

☑ **CERTIFICATE OF OCCUPANCY**

This serves notice that said building or structure has been constructed in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

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Brian Mc... 10-21-24
CONSTRUCTION OFFICIAL DATE

Fee $
Paid [ ] Check No.
Collected by:

U.C.C. F260
(rev. 8/05)

1 WHITE – APPLICANT 2 CANARY – OFFICE 3 PINK – TAX ASSESSOR

SOMERSET COUNTY

DOCUMENT COVER SHEET

HON. STEVE PETER
SOMERSET COUNTY CLERK
PO BOX 3000
20 GROVE STREET
SOMERVILLE, NJ 08876

WWW.CO.SOMERSET.NJ.US

Steve Peter, County Clerk
Somerset County, NJ
2021 Apr 08 10:17 AM
BK: 7329 PGS: 1412-1418
Instrument # 2021022543
Fee: $103.00 Doc Type: AGTDEED

(Official Use Only)

DATE OF DOCUMENT: 3/15/2021	TYPE OF DOCUMENT: DEED RESTRICTION
FIRST PARTY *(Grantor, Mortgagor, Seller or Assignor)*	SECOND PARTY *(Grantee, Mortgagee, Buyer, Assignee)*
The Township of Montgomery, in the County of Somerset, a municipal corporation of the State of New Jersey	CC1377, L.L.C., a New Jersey Limited Liability Company
ADDITIONAL PARTIES:	

THE FOLLOWING SECTION IS REQUIRED FOR DEEDS ONLY

MUNICIPALITY: Montgomery Township	MAILING ADDRESS OF GRANTEE:
BLOCK: 29002	
LOT: 45	
CONSIDERATION: $ 0.00	

THE FOLLOWING SECTION IS FOR ORIGINAL MORTGAGE BOOKING & PAGING INFORMATION FOR ASSIGNMENTS, RELEASES, SATISFACTIONS, DISCHARGES & OTHER ORIGINAL MORTGAGE AGREEMENTS ONLY

BOOK	PAGE	INSTRUMENT #	DOCUMENT TYPE

DO NOT REMOVE THIS PAGE
THIS DOCUMENT COVER SHEET IS PART OF THE SOMERSET COUNTY FILING RECORD
RETAIN THIS PAGE FOR FUTURE REFERENCE

Prepared by: _____
Richard Schatzman, Esq.

Deed Restriction

DEED-RESTRICTED AFFORDABLE HOUSING PROPERTY WITH RESTRICTIONS ON RESALE AND REFINANCING

To Rental Property
With Covenants Restricting Rentals, Conveyance and Improvements and Requiring Notice of Foreclosure and Bankruptcy

THIS DEED RESTRICTION, entered into as of this 15th day of March, 2021, by and between the Township of Montgomery, in the County of Somerset, a municipal corporation of the State of New Jersey, with offices at 2261 Van Horne Road (Route 206), Belle Mead, New Jersey 08502 (the "Municipality"), and CC1377, L.L.C., a New Jersey Limited Liability Company, having offices at 36 Brower Lane, Hillsborough, NJ 08844-1270, the developer/sponsor (the "Owner") of a residential very-low, low- and moderate-income rental project (the "Project"):

WITNESSETH:

Article 1. Consideration

In consideration of benefits and/or right to develop received by the Owner from the Municipality regarding this rental Project, the Owner hereby agrees to abide by the covenants, terms and conditions set forth in this Deed restriction, with respect to the land and improvements more specifically described in Article 2, hereof (the Property).

Article 2. Description of Property

The Property consists of the land and the improvements thereon, that is located in the municipality of the Township of Montgomery, County of Somerset, State of New Jersey, and described more specifically as Block 29002, Lot 45 on the Municipality's Tax Map (rev. ed. 2017) having a current street address of 1377 Van Horne Road (Route 206), Belle Mead, NJ 08502; upon which the buildings containing the Project of low-, very low- and moderate-income units is situated.

More specifically designated as: Twenty-three (23) affordable rental units (the "Units"), not age-restricted listed in Exhibit A attached hereto and made a part hereof. Very low-

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income units will be affordable to households making 30 percent or less of median income in the housing region, as defined in the New Jersey Fair Housing Act.

Article 3. Affordable Housing Covenants

The following covenants (the "Covenants") shall run with the land for the period of time (the "Control Period"), determined separately with respect for each dwelling unit, commencing upon the date on which the first certified household occupies the unit, and shall expire as determined under the Uniform Controls, as defined below.

In accordance with N.J.A.C. 5:80-26.11, each restricted unit shall remain subject to the requirements of this subchapter, the "Control Period," until the municipality in which the unit is located elects to release the unit from such requirements. Prior to such a municipal election, a restricted unit must remain subject to the requirements of this subchapter for a period of at least 30 years.

A. Sale and use of the Property is governed by regulations known as the Uniform Housing Affordability Controls, which are found in New Jersey Administrative Code at Title 5, chapter 80, subchapter 26 (N.J.A.C. 5:80-26.1, *et seq.*, the "Uniform Controls").

B. The Property shall be used solely for the purpose of providing rental dwelling units for very-low, low- or moderate-income households, and no commitment for any such dwelling unit shall be given or implied, without exception, to any person who has not been certified for that unit in writing by the Administrative Agent. So long as any dwelling unit remains within its Control Period, sale of the Property must be expressly subject to these Deed Restrictions, deeds of conveyance must have these Deed Restrictions appended thereto, and no sale of the Property shall be lawful, unless approved in advance and in writing by the Municipality, which approval shall not be unreasonably withheld, conditioned or delayed.

C. No improvements may be made to the Property that would affect the bedroom configuration of any of its dwelling units, and any improvements to the Units must be approved in advance and in writing by the Municipality.

D. The Owner shall notify the Administrative Agent and the Municipality of any foreclosure actions filed with respect to the Property within five (5) business days of service upon Owner.

E. The Owner shall notify the Administrative Agent and the Municipality within three (3) business days of the filing of any petition for protection from creditors or reorganization filed by or on behalf of the Owner.

Article 4. Remedies for Breach of Affordable Housing Covenants

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A breach of the Covenants will cause irreparable harm to the Administrative Agent, to the Municipality and to the public, in light of the public policies set forth in the New Jersey Fair Housing Act, the Uniform Housing Affordability Control rules found at N.J.A.C. 5:80-26, and the obligation for the provision of very-low, low- and moderate-income housing.

A. In the event of a threatened breach of any of the Covenants by the Owner, or any successor in interest of the Property, the Administrative Agent and the Municipality shall have all remedies provided at law or equity, including the right to seek injunctive relief or specific performance.

B. Upon the occurrence of a breach of any Covenants by the Owner, or any successor in interest or other owner of the Property, the Administrative Agent and the Municipality shall have all remedies provided at law or equity including but not limited to forfeiture, foreclosure, acceleration of all sums due under any mortgage, recouping of any funds from a sale in violation of the Covenants, diverting of rent proceeds from illegal rentals, injunctive relief to prevent further violation of said Covenants, entry on the premises, those provided under Title 5, Chapter 80, Subchapter 26 of the New Jersey Administrative Code and specific performance.

IN WITNESS WHEREOF, the Municipality and the Owner have executed this Deed Restriction in triplicate as of the date first above written.

[THE OWNER]

Witness:

Richard Schatzman, Esq.

CC1377, L.L.C.

By: C. Scott Van Cleef, Member

By: J. Todd Van Cleef, Member

APPROVED BY MUNICIPALITY:

By: Donna Kukla, Clerk

TOWNSHIP OF MONTGOMERY

By: Devra Keenan, Mayor

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The Somerset at Montgomery
COAH Unit Information

EXHIBIT A

BUILDING #1		
Unit No.	***Bedrooms***	***Income Level***
1101	2	Moderate
1103	2	Low
1105	1	Moderate
1107	1	Very Low
1111	3	Low
1112	2	Moderate
1203	2	Low
1207	2	Low
1211	3	Very Low
1303	2	Low
1307	2	Moderate
1311	3	Moderate
BUILDING #2		
Unit No.	***Bedrooms***	***Income Level***
2102	2	Very Low
2103	2	Moderate
2105	1	Moderate
2107	1	Low
2211	3	Low
2202	2	Low
2203	2	Moderate
2207	2	Low
2211	3	Moderate
2307	2	Moderate
2309	2	Moderate

COPY

STATE OF NEW JERSEY)
: SS
COUNTY OF SOMERSET)

BE IT REMEMBERED, that on the 5th day of April, 2021, personally appeared **C. Scott Van Cleef and J. Todd Van Cleef** who are all of the members of **CC1377, L.L.C., a New Jersey limited liability company**, who I am satisfied are the persons who signed the within instrument, and who acknowledged that said persons have been properly authorized to and did sign, seal and deliver the same as said persons' voluntary act and deed and as the act and deed of the limited liability company.

Richard Schatzman, Esq.
An Attorney at Law of the
State of New Jersey

Unofficial Copy

STATE OF NEW JERSEY)
: SS
COUNTY OF SOMERSET)

BE IT REMEMBERED, that on this 15th day of MARCH, 2021, personally appeared **DONNA KUKLA**, who, being by me duly sworn on her oath, does depose and make proof to my satisfaction that she is the Township Clerk of the **TOWNSHIP OF MONTGOMERY**, in Somerset County, the municipal corporation named in this instrument; that she well knows the corporate seal of the said corporation; that the seal affixed to said instrument is the seal of said municipal corporation; that the seal was so affixed and that the said instrument signed and delivered by **DEVRA KEENAN** who was at the date thereof the Mayor of said Township, in the presence of this deponent, and said Mayor, at the same time acknowledged that she signed, sealed and delivered the same as her voluntary act and deed, and as the voluntary act and deed of said municipal corporation; authorized by proper resolution of the corporation's governing body, and that deponent, at the same time, subscribed her name to said Instrument as an attesting witness to the execution thereof.

Donna Kukla
DONNA KUKLA, Clerk

Sworn to and subscribed before me
this 15th day of MARCH, 2021.

Notary Public OF NJ

PATRICIA ANN GRAVATT
NOTARY PUBLIC OF NEW JERSEY
Commission # 50105792
My Commission Expires 6/5/2024

SCHATZMAN BAKER
215-216 COMMONS WAY
PRINCETON, NJ 08540

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19. Apartments at Montgomery (PIRHL)

SOMERSET COUNTY -9-

DOCUMENT COVER SHEET

HON. BRETT A. RADI SOMERSET
COUNTY CLERK PO BOX 3000
20 GROVE STREET
SOMERVILLE, NJ 08876

WWW.CO.SOMERSET.NJ.US

INSTRUMENT # 2019037230

BOOK: 7155 PAGE: 2643-2654

(Official Use Only)

DATE OF DOCUMENT: 09/27/2019	TYPE OF DOCUMENT: Deed of Easement and Restrictive Covenant for Extended Low-Income Occupancy
FIRST PARTY *(Grantor, Mortgagor, Seller or Assignor)*	SECOND PARTY *(Grantee, Mortgagee, Buyer, Assignee)*
Montgomery LIHTC LLC.	New Jersey Housing and Mortgage Finance Agency
ADDITIONAL PARTIES:	

THE FOLLOWING SECTION IS REQUIRED FOR DEEDS ONLY

MUNICIPALITY:

MAILING ADDRESS OF GRANTEE:

BLOCK:

LOT:

CONSIDERATION:

THE FOLLOWING SECTION IS FOR ORIGINAL MORTGAGE BOOKING & PAGING INFORMATION FOR ASSIGNMENTS, RELEASES, SATISFACTIONS, DISCHARGES & OTHER ORIGINAL MORTGAGE AGREEMENTS ONLY

BOOK	PAGE	INSTRUMENT #	DOCUMENT TYPE

DO NOT REMOVE THIS PAGE
THIS DOCUMENT COVER SHEET IS PART OF THE SOMERSET COUNTY FILING RECORD
RETAIN THIS PAGE FOR FUTURE REFERENCE

8276269

RECORD & RETURN TO:
Commercial Department
Surety Title Co., LLC
11 Eves Drive, Suite 150
Marlton, NJ 08053

-9-

RECORD~~& RETURN TO~~:
Johanna Peña, Administrative Assistant III
NJ Housing and Mortgage Finance Agency
637 S. Clinton Avenue
Trenton, NJ 08611

LIHTC#1803

Prepared By: _____
Johanna Peña

DEED OF EASEMENT AND RESTRICTIVE COVENANT
FOR EXTENDED LOW-INCOME OCCUPANCY

THIS DEED OF EASEMENT and RESTRICTIVE COVENANT (the "Covenant") dated as of September 27, 2019 shall run with the land and is granted by **Montgomery LIHTC LLC**, and its successors and assigns (the "Project Owner") whose principal address is **800 West St. Clair Ave, Cleveland, Ohio 44113**, to the New Jersey Housing and Mortgage Finance Agency, its successors and assigns, (the "Agency") acting as the housing credit agency for the State of New Jersey as described in Section 42(h)(3) of the Internal Revenue Code as amended, and to income eligible members of the public as defined below. As conditioned below this Covenant restricts occupancy of the described premises to income eligible occupants for a specified period of time. This Covenant is made in satisfaction of the requirements of Section 42 of the Federal Tax Reform Act of 1986, P.L. 99-514, as amended, (the "Code").

As indicated on the **Reservation Letter** for the building(s) described below, the Agency has allocated Low Income Housing Tax Credits ("LIHTC") authorized under the Code in an annual amount not to exceed **$1,268,000** to be claimed by the Project Owner over a 10 or 15 year period pursuant to the Code. In consideration of the receipt of the benefit of the LIHTC, the Project Owner hereby agrees to the following restrictive covenants, which are made in satisfaction of the requirements contained in Section 42(h)(6) of the Code.

(1) The **one** building(s), which consist of a total of **86** residential rental units, of which **86** are LIHTC units, and which will constitute a qualified low-income housing project as defined in Section 42(g)(1) of the Code and regulations promulgated thereunder, the rental units which will be rented or available for rental on a continuous basis to members of the general public, shall be known as **Apartments at Montgomery Crossing** (the "Project"). The Project is located at **9 Hartwick Drive, Skillman, NJ 08558**, Municipal Tax Map Block No. **28004**, Lot No. **7** in the County of **Somerset**, New Jersey, and title to which has been recorded in the County Clerk or Register's Office being more fully described as set forth in Attachment "A" hereto.

(2) [ ] If this box is checked, the Project received its allocation of LIHTC from the nonprofit set-aside and/or received points as a qualified nonprofit general partner pursuant to N.J.A.C. 5:80-33 ("Qualified Allocation Plan") as amended and Section 42(h)(5) of the Tax Code, and any new owner during the compliance period must qualify under these rules.

(3) The applicable fraction, as defined in Section 42(c)(1)(B) of the Code (the smaller of the low-income unit fraction or the low-income floor space fraction), and as provided by the Project Owner in its low income housing tax credit application (the "Application") is **100** percent. This fraction shall not be decreased during any taxable year of the compliance period or extended use period unless terminated in accordance with the provisions enumerated at Section 42(h)(6)(E) of the Code and, if applicable, paragraph (5) below.

(4) This Covenant and the Section 42 occupancy and rent restrictions shall commence on the first day of the compliance period as defined in section 42 of the Code, and shall end on the date specified in paragraph (5) below, unless terminated by foreclosure or instrument in lieu of foreclosure, pursuant to the provisions of the Code, and any regulations promulgated thereunder.

(5) The Code requires that LIHTC projects retain all occupancy and rent restrictions for a minimum of 30 years unless terminated pursuant to section 42(h)(6)(E) of the Code. The Code defines the first 15 years as the compliance period and defines the entire 30 years (or more) as the extended use period. In order to increase the competitive score of the Application, the Project Owner elected to increase the compliance period as indicated with an ("X") below:

[**X**] If this box is checked, the Project Owner elected in the Application to increase the compliance period described in section 42(i)(1) of the Code by an additional 15 years for a total of 30 years, ("Extended Compliance Period"), and waives the right under section 42(h)(6)(E)(i)(II) of the Code to submit a written request to the Agency to find a buyer after the close of the 14th year of the compliance period, and agrees that this has the effect of delaying the period for finding a buyer under section 42(h)(6)(I) of the Code until the one year period beginning on the date (after the 29th year of the compliance period) that the Project Owner may submit a written request to the Agency to find a buyer. At the end of the extended compliance period will remain a 15-year extended use period. Therefore, this Covenant shall extinguish at the close of the 45th year after the beginning of the compliance period unless terminated by foreclosure or instrument in lieu of foreclosure or unless terminated after the extended compliance period because the Agency was unable to present a qualified contract during the one-year period of time specified in this paragraph (5).

(6) The compliance period begins at the same time as the credit period. The Project Owner elects when to begin the credit period at the time the Project Owner's first tax return is filed with the Internal Revenue Service. It is expected that the Project Owner will begin the credit period in **2021.**

(7) The federal set-aside, as defined by section 42(g)(1) of the Tax Code, elected by the Project Owner is checked below.

[X] 40% at 60%

At least 40% of the residential units will be rent restricted and occupied by households whose income is 60% or less than the area median income. All tax credit-eligible units must be restricted to no more than 60% of the area median income adjusted for family size.

[ ] 20% at 50%

At least 20% of the residential units will be rent restricted and occupied by households whose income is 50% or less than the area median income. All tax credit-eligible units must be restricted to no more than 50% of the area median income adjusted for family size.

[ ] Average Income

The income of each unit will be designated at 20%, 30%, 40%, 50%, 60%, 70% or 80% of area median income and will be rent restricted and occupied by households whose incomes are less the designated income limitation. The average of all income designations shall not exceed 60% of area median income. Income designations are noted below and may not be amended without written approval from NJHMFA.

____ units at 20% of AMI
____ units at 30% of AMI
____ units at 40% of AMI
____ units at 50% of AMI
____ units at 60% of AMI
____ units at 70% of AMI
____ units at 80% of AMI

The selection of this federal set-aside is irrevocable and is binding on the Project Owner and all successors in interest to the Project through the end of the extended use period.

(8) [X] If this box is checked, the Project is also subject to the state set-aside, which is defined in the **2017** Qualified Allocation Plan and was selected by the Project Owner in its Application. The state set-aside requires that **10** percent or more of the residential units in the Project are both rent restricted and occupied by individuals whose income is **30** percent or less of AMGI. The selection of this state set-aside is irrevocable and is binding on the Project Owner and all successors in interest to the Project through the end of the extended use period.

(9) [X] If this box is checked, the Project Owner must restrict the greater of 5 units or 5 percent of the total units for occupancy by individuals with special needs. The Owner must also make available at a reasonable cost to all tenants with special needs all services that are appropriate and accessible as needed by the tenants throughout the compliance period. One of the social services provided must be an onsite social services coordinator. With written approval from the Agency, the Project Owner may substitute another special needs population for the one(s) identified in its Application and may substitute services to better address the needs of the tenants with special needs. This restriction shall be in place throughout the extended use period."

(10) [ ] If this box is checked, the Project is a Special Needs Project (Supported Housing) as defined in the 20__ Qualified Allocation Plan, and as selected by the Project Owner in its Application and as such, the Project Owner must restrict at least 25 percent of the total project units for occupancy by one or more special needs population through the end of the compliance period AND make available at a reasonable cost to all tenants with special needs all services that are appropriate and accessible as needed by the tenants throughout the compliance period. One of the social services provided must be an onsite social services coordinator. With written approval from the Agency, the Project Owner may substitute another special needs population for the one(s) identified in its Application and may substitute services to better address the needs of the tenants with special needs. Notwithstanding the above, if after a period of sixty (60) days of a unit described in this paragraph becoming unoccupied the Project cannot identify an eligible person within the special needs population selected by the Project Owner in its Application to rent the unoccupied unit, such unit may be leased to any low income housing tax credit eligible person or family, with a preference given first to eligible persons in other special needs populations. The next unit of similar size in the Project that becomes unoccupied shall be rented to an eligible person within the special needs population selected by the Project Owner in its Application on the same terms set forth herein.

(11) [X] If this box is checked, the Project Owner is required to make available to tenants of all LIHTC units 3 appropriate and affordable social service(s) throughout the compliance period in accordance with the Social Services Model as defined in the **2017** Qualified Allocation Plan **OR** participate in the Services for Independent Living (SIL) program, as appropriate, and as selected by the Project Owner in its Application. Social services may be modified to better address the needs of the low-income tenants of the Project upon written approval of the Agency.

(12) The Project Owner agrees to employ throughout the compliance period a staff person who has successfully completed a NJHMFA-approved tax credit certification program with a continuing education component prior to the project being placed in service. The staff

person responsible for verification of tenant income must be the person to successfully pass the certification examination and maintain the certification for the term of the compliance and extended use periods.

(13) **[X]** If this box is checked, the Project Owner shall maintain in good working order throughout the compliance period all unit and project amenities promised in the Application. There shall be a minimum of **3** unit amenities and **2** project amenities and at least **one** community policing or public safety enhancement as defined in the **2017** Qualified Allocation Plan.

(14) **[X]** If this box is checked, the Project Owner agrees to successfully participate in one of the following energy efficiency programs: Enterprise Green Communities; Leadership in Energy and Environmental Design (LEED); National Green Building Standard (NGBS); Climate Choice Homes Program/Energy Star Tier 3 Participation; Living Building Challenge; **OR** Passive House, as defined in the **2017** QAP through the end of the extended use period.

(15) Pursuant to section 42(h)(6)(B)(iii) of the Code, this Covenant prohibits the disposition to any person of any portion of a building to which this Covenant applies unless all of the building to which such Covenant applies is disposed of to such person.

(16) Pursuant to Revenue Ruling 2004-82, this Covenant prohibits (i) the eviction or termination of tenancy (other than for good cause) of an existing tenant of any low-income unit or (ii) any increase in the gross rent with respect to the unit not otherwise permitted under section 42 of the Code for the term of the extended use period and a period of three (3) years following any termination of this Covenant, including any termination by foreclosure or instrument in lieu of.

(17) Pursuant to section 42(h)(6)(B)(iv) of the Code, this Covenant prohibits the refusal to lease to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 of the status of the prospective tenant as such a holder.

(18) This Covenant shall constitute an agreement between the Agency and the Project Owner which is enforceable in the courts of the State of New Jersey by the Agency or by individual(s), whether prospective, present, or former occupants of the Project, who meet the income limitations applicable to the Project under Section 42(g) of the Code, said individual(s) being express beneficiaries of this Covenant.

(19) The Project Owner agrees to comply with the requirements of the federal Fair Housing Act as it may from time to time be amended.

(20) The Project Owner agrees (i) to obtain the consent of any recorded lien holder on the Project to the terms and conditions of this Covenant and (ii) it will not grant to any lien holder an interest in the Project that is superior to the terms and conditions of this

Covenant. Such consent and subordination of the interests of all recorded lien holders on the Project shall be conditions precedent to the issuance of IRS Form(s) 8609.

(21) This Covenant is binding on all successors in interest to the Project and shall run with the land until the end of the extended use period set forth in paragraph 5 above, unless terminated prior to said date in accordance with all provisions of the Code and the regulations promulgated thereunder.

(22) These covenants may, from time to time, be amended only with the written consent of the Agency, to reflect changes to the Code or regulations promulgated thereunder. Project Owner expressly agrees to enter into such amendments as may be necessary to maintain compliance under section 42 of the Code.

(23) In order to enable the Agency to monitor the Project Owner's compliance with these use and occupancy restrictions pursuant to the Code, Project Owner covenants and agrees that the Agency and its agents or employees shall be allowed to enter and inspect the Project during business hours and to inspect and copy all books and records pertaining to the Project.

(24) The Project Owner covenants and agrees to comply and cooperate with the Code and all Agency tax credit compliance monitoring procedures including but not limited to completing and sending to the Agency an annual status report, or, if requested by an authorized official of the Agency, more frequent reports, in form and content acceptable to the Agency, which shall demonstrate ongoing compliance with this Covenant.

(25) The Project Owner covenants and agrees that in the event it files for bankruptcy, liquidates, sells or otherwise transfers ownership of the Project, it will notify the Agency in writing, and further, that as a condition precedent to any sale or transfer it will enter into such agreements with the purchaser or transferee as may be prescribed by the Agency, which have the effect of causing such purchaser or transferee to be bound by these use and occupancy restrictions, as they may be amended or supplemented.

(26) The terms of this Covenant shall be interpreted, conditioned and supplemented in accordance with and by section 42 of the Code and regulations promulgated thereunder, all of which are incorporated herein by reference, whether or not such provisions of the Code or regulations are expressed or referenced herein. In the event of any conflict between this Covenant and the requirements of the Code, the Code shall prevail. The Agency reserves the right to set conditions for the allocation of LIHTC by regulation that may be more stringent than the Code.

(27) The invalidity of any clause, part, or provision of this Agreement shall not affect the validity of the remaining provisions.

Signatures: This Covenant is granted by the Project Owner whose duly authorized representative's signature appears below.

Sworn and subscribed to before
the undersigned Notary Public or
Attorney on the date appearing below:

WITNESS
(IF INDIVIDUAL, LLC, OR PARTNERSHIP)

PROJECT OWNER:
MONTGOMERY LIHTC LLC

By: _____
Authorized Representative

LARA Schwager VP of Development
(Print Name, Title, Organization)

ACKNOWLEDGEMENT FOR LIMITED LIABILITY COMPANY

STATE OF NEW JERSEY)
) SS:
COUNTY OF MERCER)

I CERTIFY that on September 27, 2019, LARA SCHWAGER personally came before me, and this person acknowledged under oath, to my satisfaction, that (a) this person is the Managing Member of MONTGOMERY LIHTC LLC, the Owner named in this document (the "LLC"); and (b) this document was signed and delivered by the Company as its voluntary act duly authorized by a proper resolution of the Company.

SWORN TO AND SUBSCRIBED
before me, the date aforesaid.

_____
Notary Public

JEAN L. TEMPLE
A Notary Public of New Jersey
My Commission Expires July 19, 2023

(28) This Covenant may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.

[SIGNATURES ON NEXT PAGE]

WITNESS

NEW JERSEY HOUSING AND
MORTGAGE FINANCE AGENCY

By: _____

Debra M. Urban
Chief of Legals and Regulatory Affairs

Date: 9/25/19

STATE OF NEW JERSEY, COUNTY OF MERCER SS:

I CERTIFY that on September 27 2019, **DEBRA M. URBAN** personally came before me, a Notary Public of the State of New Jersey, and acknowledged under oath to my satisfaction that a) she is the **Chief of Legals and Regulatory Affairs** of **NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY,** the Agency named in this document, and b) she executed and delivered this document as the voluntary act of the Agency, duly authorized by a proper resolution of its members, on behalf of the Agency.

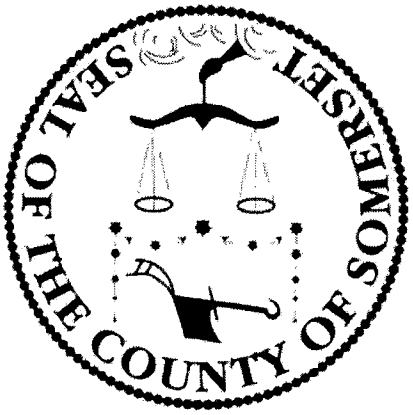
Laura A. Theis
Notary Public of New Jersey
My Commission Expires
January 17, 2022

Notary Public of the State of New Jersey
My Commission Expires on _____

STATE OF NEW JERSEY, COUNTY OF MERCER SS:

I CERTIFY that on September 27, 2019, **DEBRA M. URBAN** personally came before me, a Notary Public of the State of New Jersey, and acknowledged under oath to my satisfaction that a) she is the Chief of Legal and Regulatory Affairs of **NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY**, the Agency named in this document, and b) she executed and delivered this document as the voluntary act of the Agency, duly authorized by a proper resolution of its members, on behalf of the Agency.

Laura A. Theis
Notary Public of the State of New Jersey
My Commission Expires on January 17, 2022



Steve Peter
Somerset County Clerk
20 Grove Street
P.O. Box 3000
Somerville, NJ 08876

****

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****

DO NOT DISCARD

NEW JERSEY UNIFORM CONSTRUCTION CODE

FINAL CERTIFICATE

Permit # 19-1315
Date Issued 10/23/19
-or-
Control #
Certificate Issued Date: 7/1/21

IDENTIFICATION

Block 28004 Lot 7 Qualification Code

Work Site Location 9 Hartwick Dr.
Skillman, NJ 08558

Owner in Fee Montgomery LIHTC LLC
Address 800 West St. Clair Ave.
Cleveland, OH 44113

Tel. (216) 378 9690
Contractor PIRHL Contractors LLC
Address 800 West St. Clair Ave.
Cleveland, OH 44113

Tel. (216) 378 9690 FAX ( )
Lic. No. or Bldrs. Reg. No. 50376
Federal Employer No.

Home Warranty No. n/a
Type of Warranty Plan: [ ] State [ ] Private
Use Group R2
Maximum Live Load 100 psf
Construction Classification VA - Protected
Maximum Occupancy Load 601 (entire building)
Description of Work/Use:

15 Single Family Apartments, fitness room, trash room, stair tower. Part of 8d unit 4 story apartment building.

☑ **CERTIFICATE OF OCCUPANCY**

This serves notice that said building or structure has been constructed in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

☐ **CERTIFICATE OF APPROVAL**

This serves notice that the work completed has been constructed or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of the inspection.

☐ **TEMPORARY CERTIFICATE OF OCCUPANCY/COMPLIANCE**

If this is a temporary Certificate of Occupancy or Compliance, the following conditions must be met no later than _____ or will be subject to fine or order to vacate:

☐ **CERTIFICATE OF CLEARANCE – LEAD ABATEMENT 5:17**

This serves notice that based on written certification, lead abatement was performed as per NJAC 5:17, to the following extent:

[ ] Total removal of lead-based paint hazards in scope of work
[ ] Partial or limited time period (_____ years); see file

☐ **CERTIFICATE OF CONTINUED OCCUPANCY**

This serves notice that based on a general inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

☐ **CERTIFICATE OF COMPLIANCE**

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until _____.

Roy Mund 7-1-2021
CONSTRUCTION OFFICIAL DATE

Fee $ PAID
Paid [ ] Check No.
Collected by:

U.C.C. F260
(rev. 8/05)

1 WHITE – APPLICANT 2 CANARY – OFFICE 3 PINK – TAX ASSESSOR

FINAL CERTIFICATE

NEW JERSEY UNIFORM CONSTRUCTION CODE

Permit # 19-1314
Date Issued 10/23/19
-or-
Control #
Certificate Issued Date: 7/1/21

IDENTIFICATION

Block 28004 Lot 7 Qualification Code

Work Site Location 9 Hartwick Dr.
Skillman, NJ 08558

Owner in Fee Montgomery LIHTC LLC

Address 800 West St. Clair Ave.
Cleveland, OH 44113

Tel. (216 378 9690

Contractor PIRHL Contractors LLC

Address 800 West St. Clair Ave.
Cleveland, OH 44113

Tel. (216 378 9690 FAX ( )

Lic. No. or Bldrs. Reg. No. 50376

Federal Employer No.

Home Warranty No. n/a

Type of Warranty Plan: [ ] State [ ] Private

Use Group R2

Maximum Live Load 100 psf

Construction Classification VA - Protected

Maximum Occupancy Load 601 (entire building)

Description of Work/Use:

12 Single Family Apartments, Stair tower,
Part of 86 Unit, 4 Story Apartment Building.

☒ CERTIFICATE OF OCCUPANCY

This serves notice that said building or structure has been constructed in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

☐ CERTIFICATE OF APPROVAL

This serves notice that the work completed has been constructed or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of the inspection.

☐ TEMPORARY CERTIFICATE OF OCCUPANCY/COMPLIANCE

If this is a temporary Certificate of Occupancy or Compliance, the following conditions must be met no later than _____ or will be subject to fine or order to vacate:

☐ CERTIFICATE OF CLEARANCE – LEAD ABATEMENT 5:17

This serves notice that based on written certification, lead abatement was performed as per NJAC 5:17, to the following extent:

[ ] Total removal of lead-based paint hazards in scope of work

[ ] Partial or limited time period (_____ years); see file

☐ CERTIFICATE OF CONTINUED OCCUPANCY

This serves notice that based on a general inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

☐ CERTIFICATE OF COMPLIANCE

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until _____.

Kevin Mcneal
CONSTRUCTION OFFICIAL

7-1-2021
DATE

Fee $ PAID
Paid [ ] Check No.
Collected by:

U.C.C. F260
(rev. 8/05)

1 WHITE – APPLICANT 2 CANARY – OFFICE 3 PINK – TAX ASSESSOR

NEW JERSEY UNIFORM CONSTRUCTION CODE

FINAL CERTIFICATE

Permit # 19-1313
Date Issued 10/23/19
-or-
Control #
Certificate Issued Date: 7/1/21

IDENTIFICATION

Block 28004 Lot 7 Qualification Code

Work Site Location 9 Hartwick Dr.
Skillman, NJ 08558

Owner in Fee Montgomery LIHTC LLC

Address 800 West St. Clair Ave.
Cleveland, OH 44113

Tel. (216) 378 9690

Contractor PTRHL Contractors LLC

Address 800 West St. Clair Ave.
Cleveland, OH 44113

Tel. (216) 378 9690 FAX ( )

Lic. No. or Bldrs. Reg. No. 50376

Federal Employer No.

Home Warranty No. n/a

Type of Warranty Plan: [ ] State [ ] Private

Use Group R2

Maximum Live Load 100 psf

Construction Classification VA - Protected

Maximum Occupancy Load 601 (entire building)

Description of Work/Use:

15 Single Family Apartments, trash room, activity area, stair tower. Part of 4 story, 86 unit apartment building.

☑ **CERTIFICATE OF OCCUPANCY**

This serves notice that said building or structure has been constructed in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

☐ **CERTIFICATE OF APPROVAL**

This serves notice that the work completed has been constructed or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of the inspection.

☐ **TEMPORARY CERTIFICATE OF OCCUPANCY/COMPLIANCE**

If this is a temporary Certificate of Occupancy or Compliance, the following conditions must be met no later than _____ or will be subject to fine or order to vacate:

☐ **CERTIFICATE OF CLEARANCE – LEAD ABATEMENT 5:17**

This serves notice that based on written certification, lead abatement was performed as per NJAC 5:17, to the following extent:

[ ] Total removal of lead-based paint hazards in scope of work

[ ] Partial or limited time period (_____ years); see file

☐ **CERTIFICATE OF CONTINUED OCCUPANCY**

This serves notice that based on a general inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

☐ **CERTIFICATE OF COMPLIANCE**

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until _____.

Kevin Mack 7-1-2021

CONSTRUCTION OFFICIAL DATE

Fee $ PAID

Paid [ ] Check No.

Collected by:

U.C.C. F260
(rev. 8/05)

1 WHITE – APPLICANT 2 CANARY – OFFICE 3 PINK – TAX ASSESSOR

FINAL CERTIFICATE

NEW JERSEY UNIFORM CONSTRUCTION CODE

Permit # 19-1312
Date Issued 10/23/19
-or-
Control #
Certificate Issued Date: 7/1/21

IDENTIFICATION

Block 28004 Lot 7 Qualification Code

Work Site Location 9 Hartwick Dr.
Skillman, NJ 08558

Owner in Fee Montgomery LIHTC LLC
Address 800 West St. Clair Ave.
Cleveland, OH 44113

Tel. (216 378 9690

Contractor PIRHL Contractors LLC
Address 800 West St. Clair Ave.
Cleveland, OH 44113

Tel. (216 378 9690 FAX ( )

Lic. No. or Bldrs. Reg. No. 50376

Federal Employer No.

Home Warranty No. n/a
Type of Warranty Plan: [ ] State [ ] Private
Use Group R2
Maximum Live Load 100 psf
Construction Classification VA - Protected
Maximum Occupancy Load 601 (entire building)
Description of Work/Use:

12 Single Family Apartments, stair tower,
Part of 4 story 86 Unit Apartment Building

☒ **CERTIFICATE OF OCCUPANCY**

This serves notice that said building or structure has been constructed in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

☐ **CERTIFICATE OF APPROVAL**

This serves notice that the work completed has been constructed or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of the inspection.

☐ **TEMPORARY CERTIFICATE OF OCCUPANCY/COMPLIANCE**

If this is a temporary Certificate of Occupancy or Compliance, the following conditions must be met no later than _____ or will be subject to fine or order to vacate:

☐ **CERTIFICATE OF CLEARANCE – LEAD ABATEMENT 5:17**

This serves notice that based on written certification, lead abatement was performed as per NJAC 5:17, to the following extent:

[ ] Total removal of lead-based paint hazards in scope of work
[ ] Partial or limited time period (_____ years); see file

☐ **CERTIFICATE OF CONTINUED OCCUPANCY**

This serves notice that based on a general inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

☐ **CERTIFICATE OF COMPLIANCE**

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until _____.

Ken Mead
CONSTRUCTION OFFICIAL

7-1-2021
DATE

Fee $ PAID
Paid [ ] Check No.
Collected by:

U.C.C. F260
(rev. 8/05)

1 WHITE – APPLICANT 2 CANARY – OFFICE 3 PINK – TAX ASSESSOR

FINAL

CERTIFICATE

Permit # 19-1311
Date issued 10/23/19
-or-
Control #
Certificate Issued Date: 7/1/21

IDENTIFICATION

Block 28004 Lot 7 Qualification Code

Work Site Location 9 Hartwick Dr.
Skillman, NJ 08558

Owner in Fee Montgomery LIHTC LLC
Address 800 West St. Clair Ave.
Cleveland, OH 44113

Tel. (216) 378 9690

Contractor PIRHL Contractors LLC
Address 800 West St. Clair Ave.
Cleveland, OH 44113

Tel. (216) 378 9690 FAX ( )

Lic. No. or Bidrs. Reg. No. 50376

Federal Employer No.

Home Warranty No. n/a

Type of Warranty Plan: [ ] State [ ] Private

Use Group R2

Maximum Live Load 100 psf

Construction Classification VA - Protected

Maximum Occupancy Load 601 (entire building)

Description of Work/Use:

9 Apartments, Activity room, trash room, electrical room. Part of 86 Unit Apartment Buidding.

☑ **CERTIFICATE OF OCCUPANCY**

This serves notice that said building or structure has been constructed in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

☐ **CERTIFICATE OF APPROVAL**

This serves notice that the work completed has been constructed or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of the inspection.

☐ **TEMPORARY CERTIFICATE OF OCCUPANCY/COMPLIANCE**

If this is a temporary Certificate of Occupancy or Compliance, the following conditions must be met no later than _____ or will be subject to fine or order to vacate:

☐ **CERTIFICATE OF CLEARANCE – LEAD ABATEMENT 5:17**

This serves notice that based on written certification, lead abatement was performed as per NJAC 5:17, to the following extent:

[ ] Total removal of lead-based paint hazards in scope of work

[ ] Partial or limited time period (_____ years); see file

☐ **CERTIFICATE OF CONTINUED OCCUPANCY**

This serves notice that based on a general inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

☐ **CERTIFICATE OF COMPLIANCE**

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until _____.

Kevin Mead 7-1-2021

CONSTRUCTION OFFICIAL DATE

Fee $ PAID

Paid [ ] Check No.

Collected by:

U.C.C. F260
(rev. 8/05)

1 WHITE – APPLICANT 2 CANARY – OFFICE 3 PINK – TAX ASSESSOR

NEW JERSEY UNIFORM CONSTRUCTION CODE

FINAL CERTIFICATE

Permit # 19-1310
Date Issued 10/23/19
-or-
Control #
Certificate Issued Date: 7/1/21

IDENTIFICATION

Block 28004 Lot 7 Qualification Code

Work Site Location 9 Hartwick Dr.
Skillman, NJ 08558

Owner in Fee Montgomery LIHTC LLC
Address 800 West St. Clair Ave.
Cleveland, OH 44113

Tel. (216) 378 9690

Contractor PIRHL Contractors LLC
Address 800 West St. Clair Ave.
Cleveland, OH 44113

Tel. (216) 378 9690 FAX( )

Lic. No. or Bidrs. Reg. No. 50376

Federal Employer No.

Home Warranty No. n/a
Type of Warranty Plan: [ ] State [ ] Private
Use Group R2
Maximum Live Load 100 psf
Construction Classification VA - Protected
Maximum Occupancy Load 601 (entire building)
Description of Work/Use:

6 2-story apartments, bike storage room,
Part of a 4-story 86 unit apartment building.

☑ **CERTIFICATE OF OCCUPANCY**

This serves notice that said building or structure has been constructed in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

☐ **CERTIFICATE OF APPROVAL**

This serves notice that the work completed has been constructed or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of the inspection.

☐ **TEMPORARY CERTIFICATE OF OCCUPANCY/COMPLIANCE**

If this is a temporary Certificate of Occupancy or Compliance, the following conditions must be met no later than _____ or will be subject to fine or order to vacate:

☐ **CERTIFICATE OF CLEARANCE – LEAD ABATEMENT 5:17**

This serves notice that based on written certification, lead abatement was performed as per NJAC 5:17, to the following extent:

[ ] Total removal of lead-based paint hazards in scope of work
[ ] Partial or limited time period (_____ years); see file

☐ **CERTIFICATE OF CONTINUED OCCUPANCY**

This serves notice that based on a general inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

☐ **CERTIFICATE OF COMPLIANCE**

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until _____.

Ray Mond
CONSTRUCTION OFFICIAL

7-1-2021
DATE

Fee $ PAID
Paid [ ] Check No.
Collected by:

U.C.C. F260
(rev. 8/05)

1 WHITE – APPLICANT 2 CANARY – OFFICE 3 PINK – TAX ASSESSOR

FINAL

CERTIFICATE

Permit # 19-1309
Date Issued 10/23/19
-or-
Control #
Certificate Issued Date: 7/1/21

IDENTIFICATION

Block 28004 Lot 7 Qualification Code

Work Site Location 9 Hartwick Dr.
Skillman, NJ 08558

Owner in Fee Montgomery LIHTC LLC

Address 800 West St. Clair Ave.
Cleveland, OH 44113

Tel. (216) 378 9690

Contractor PIRHL Contractors LLC

Address 800 West St. Clair Ave.
Cleveland, OH 44113

Tel. (216) 378 9690 FAX ( )

Lic. No. or Bldrs. Reg. No. 50376

Federal Employer No.

Home Warranty No. n/a

Type of Warranty Plan: [ ] State [ ] Private

Use Group R2

Maximum Live Load 100 psf

Construction Classification VA - Protected

Maximum Occupancy Load 601 (entire building)

Description of Work/Use:

5 Single story apartments, public restrooms, Community room, trash room, offices, lobby, vestibule, 2 elevators, fire sprinklers and alarms. Part of 86 Unit Apartment Building.

☒ **CERTIFICATE OF OCCUPANCY**

This serves notice that said building or structure has been constructed in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

☐ **CERTIFICATE OF APPROVAL**

This serves notice that the work completed has been constructed or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of the inspection.

☐ **TEMPORARY CERTIFICATE OF OCCUPANCY/COMPLIANCE**

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☐ **CERTIFICATE OF CLEARANCE – LEAD ABATEMENT 5:17**

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[ ] Total removal of lead-based paint hazards in scope of work

[ ] Partial or limited time period (_____ years); see file

☐ **CERTIFICATE OF CONTINUED OCCUPANCY**

This serves notice that based on a general inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

☐ **CERTIFICATE OF COMPLIANCE**

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until _____.

Roy Monk
CONSTRUCTION OFFICIAL

7-1-2021
DATE

Fee $ PAID
Paid [ ] Check No.
Collected by:

U.C.C. F260
(rev. 8/05)

1 WHITE – APPLICANT 2 CANARY – OFFICE 3 PINK – TAX ASSESSOR

FINAL

CERTIFICATE

NEW JERSEY UNIFORM CONSTRUCTION CODE

Permit # 19-1308
Date Issued 10/23/19
-or-
Control #
Certificate Issued Date: 7/1/21

IDENTIFICATION

Block 28004 Lot 7 Qualification Code

Work Site Location 9 Hartwick Dr.
Skillman, NJ 08558

Owner in Fee Montgomery LIHTC LLC
Address 800 West. St. Clair Ave.
Cleveland, OH 44113

Tel. (609) 493 5418
Contractor PIRHL Contractors LLC
Address 800 West St. Clair Ave.
Cleveland, OH 44113

Tel. (216) 378 9600 FAX (____)
Lic. No. or Bldrs. Reg. No. 50376
Federal Employer No.

Home Warranty No. n/a
Type of Warranty Plan: [ ] State [ ] Private
Use Group R2
Maximum Live Load Floor = 100 psf
Construction Classification VA - protected
Maximum Occupancy Load 601 (entire building)
Description of Work/Use:

12 2-story rental apartments with a pump room and domestic water room, Part of a 4-story 86 unit building.

☑ **CERTIFICATE OF OCCUPANCY**

This serves notice that said building or structure has been constructed in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

☐ **CERTIFICATE OF APPROVAL**

This serves notice that the work completed has been constructed or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of the inspection.

☐ **TEMPORARY CERTIFICATE OF OCCUPANCY/COMPLIANCE**

If this is a temporary Certificate of Occupancy or Compliance, the following conditions must be met no later than _____ or will be subject to fine or order to vacate:

☐ **CERTIFICATE OF CLEARANCE – LEAD ABATEMENT 5:17**

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[ ] Total removal of lead-based paint hazards in scope of work
[ ] Partial or limited time period (_____ years); see file

☐ **CERTIFICATE OF CONTINUED OCCUPANCY**

This serves notice that based on a general inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

☐ **CERTIFICATE OF COMPLIANCE**

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until _____.

Kevin Mack 7-1-2021
CONSTRUCTION OFFICIAL DATE

Fee $ PAID
Paid [ ] Check No.
Collected by:

U.C.C. F260
(rev. 8/05)

1 WHITE – APPLICANT 2 CANARY – OFFICE 3 PINK – TAX ASSESSOR

AFFORDABLE HOUSING AGREEMENT

This **AFFORDABLE HOUSING AGREEMENT** ("Agreement") is made and entered into as of the 4th day of April, 2019 by and between:

The **TOWNSHIP OF MONTGOMERY**, in Somerset County, a municipal corporation of the State of New Jersey (the "Township"), with an address of 2261 Route 206, Belle Mead, NJ 08502,

and

PIRHL ACQUISITIONS, LLC, an Ohio limited liability company, having their principal offices at 800 West St. Clair Avenue, 4th Floor, Cleveland, Ohio 44113 ("PIRHL") and **MONTGOMERY LIHTC LLC**, a New Jersey limited liability company ("Montgomery LIHTC"), with an address at 800 West St. Clair Avenue, 4th Floor, Cleveland, Ohio 44113.

RECITALS:

WHEREAS, by the adoption of Resolution No. 18-6-131, the Township found and declared that certain real property located along the existing right of way for Research Road, north of its intersection with County Route 518, known and designated as Lot 7 in Block 28004 and Lot 66 in Block 28005 as shown on the Montgomery Township Tax Assessment Map (rev. 2017), be designated as a non-condemnation area in need of redevelopment pursuant to N.J.S.A. 40A:12A-5, known as the "Kepner-Tregoe Redevelopment Area"; and

WHEREAS, by the adoption of Ordinance #18-1582, the Township adopted a redevelopment plan for the Kepner-Tregoe Redevelopment Area; and

WHEREAS, PIRHL is the Township-designated redeveloper of a portion of the Kepner-Tregoe Redevelopment Area, said portion identified as Block 28004, Lot 7 (the "Property"), to be developed with 86 units of affordable family rental housing on the Property, together with such other associated improvements as may be necessary, including but not limited to, leasing offices, community meeting space, landscaping, curbing, and paving (the "Project"); and

WHEREAS, by Resolution PB-03-18, adopted by the Montgomery Township Planning Board on July 2, 2018, PIRHL received Preliminary and Final Major Site Plan Approval (with bulk variances and exceptions) for the Project; and

WHEREAS, Montgomery LIHTC is the entity that will develop the Property for PIRHL, and PIRHL will be assigning its interest in the Project to Montgomery LIHTC (PIRHL and Montgomery LIHTC are collectively hereinafter known as "Developer"); and

WHEREAS, Developer shall be solely responsible for the construction of the Project and the Township shall not be involved in the construction thereof; and

WHEREAS, in connection with its ongoing efforts to satisfy the obligations of New Jersey's Fair Housing Act and the judicial requirements of the Mount Laurel Doctrine, which are currently under the jurisdiction of the Superior Court of New Jersey, Somerset Vicinage, pursuant to the decision of the New Jersey Supreme Court in In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) ("Mount Laurel IV"), the Township has deemed it appropriate to take certain actions in support of the Project as further described herein;

WHEREAS, the Fair Housing Act ("FHA"), N.J.S.A. 52:27D-301 et seq., permits municipalities to make loans of public funds for the provision of new housing for low and moderate income persons (N.J.S.A. 52:27D-311.f); and

WHEREAS, the Township desires to financially assist Developer to foster the production of low and moderate income housing in satisfaction of a portion of the Township's obligation to provide affordable housing in accordance with the FHA; and

WHEREAS, the Township has included the Project within its affordable housing plan as a compliance mechanism for meeting a portion of the Township's fair share obligation;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto covenant and agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions. Certain terms used in this Agreement are defined in this Section or other portions of this Agreement by reference to other documents. Each term defined shall have the meaning given it unless the context clearly indicates otherwise. The following terms are defined in this Section:

(a) "Agreement" shall mean this Affordable Housing Agreement;

(b) "Event of Default" shall have the meaning set forth in Article VI of this Agreement;

(c) "FHLB Funds" shall mean one million dollars ($1,000,000.00) of supplemental financing funds applied for by Developer to the Federal Home Loan Bank.

(d) "Forced Delay" shall mean delay or delays due to: war; insurrection; strikes; riots; floods; earthquakes; acts of God; fires; casualties; governmental restrictions;

litigation; acts or failures to act of any public or governmental agency or entity not attributable solely to Developer or affiliates of Developer; or any other causes beyond the control or without the fault of the party claiming an extension of time to perform;

(e) "Municipal Contribution" shall mean the Affordable Housing Loan made by the Township for the Project detailed in Section 4.3 below;

(f) "NJDEP" shall mean the New Jersey Department of Environmental Protection;

(g) "NJHMFA" shall mean the New Jersey Housing and Mortgage Finance Agency;

(h) "Project" shall mean Developer's interest in the Property and the construction of 86 affordable family rental units to be used and maintained in accordance with Section 42 of the Internal Revenue Code;

(i) "Tax Credits" shall mean an allocation of federal low-income housing tax credits ("Tax Credits") from the NJHMFA;

(j) "Tax Credit Closing" shall mean the closing of Tax Credits.

Section 1.2. Headings. The headings of this Agreement are for convenience only and shall not define or limit the provisions of this Agreement.

Section 1.3. Recitals. The Recitals are hereby incorporated as if fully set forth herein.

ARTICLE II

REPRESENTATIONS AND COVENANTS

Section 2.1. Representations and Covenants of Developer. Developer represents and covenants that: (a) PIRHL is a duly organized and validly existing limited liability company under the laws of the State of Ohio, and Montgomery LIHTC is a duly organized and validly existing limited liability company under the laws of the State of New Jersey; (b) to the best of Developer's knowledge, it is not in violation of or in conflict with any applicable provisions of the laws of the State of New Jersey or any other agreement related to the Project which would impair its ability to carry out its obligations under this Agreement; (c) it is empowered to enter into the transactions contemplated by this Agreement; (d) it has duly authorized the execution, delivery, and performance of this Agreement; (e) there is no litigation or proceeding pending, or to the knowledge of Developer threatened, against Developer or to the knowledge of Developer, any other person affecting in any material manner whatsoever the right of Developer to execute this Agreement or to otherwise comply with its obligations contained in this Agreement; and (f) when executed by duly authorized officers of its managing members, this Agreement will be

binding upon Developer and enforceable in accordance with its terms; and (g) it intends to enter into a redevelopment agreement and construction contract in connection with the construction and development of the Project, and that, other than the Municipal Contribution, the construction and development of the Project shall be at the sole cost and expense of Developer through its own equity, loan proceeds, proceeds from the sale of low income housing tax credits, and such other sources as may be deemed necessary by Developer. Developer covenants and agrees that the Municipal Contribution shall be used only for the purposes permitted in this Agreement.

Section 2.2. Representations and Covenants of the Township. The Township represents and covenants that: : (a) it is empowered to enter into the transactions contemplated by this Agreement; (b) it has duly authorized the execution, delivery and performance of this Agreement; (c) there is no litigation or proceeding pending, or to the knowledge of the Township threatened, against the Township or any other person affecting in any material manner whatsoever the right of the Township to execute this Agreement or to otherwise comply with its obligations contained in this Agreement; and (d) it will cooperate in responding to reasonable requests for action in a prompt and timely manner in order to assist Developer in meeting its completion deadlines with respect to application for, and compliance with, the federal low-income housing tax credits and FHLB funding for the Project.

ARTICLE III

ADOPTION OF HOUSING ELEMENT AND FAIR SHARE PLAN

Section 3.1. Adoption of Housing Element and Fair Share Plan; Submission to Court

In connection with the judicial rules established for the determination of New Jersey municipalities' "Round 3" affordable housing obligations under the Fair Housing Act, the "Mount Laurel" line of cases and Mount Laurel IV, the Township has included the Project in its Housing Element and Fair Share Plan, and Spending Plan (collectively, the "Plan"). Inclusion of the Project has been submitted to and approved by the court at a Fairness Hearing held on February 13, 2018, and set forth in an Order entered February 20, 2018. The Plan shall, to the extent necessary, be amended to authorize the full Municipal Contribution pursuant to Article IV below.

ARTICLE IV

DEVELOPER FUNDING, MUNICIPAL CONTRIBUTION, LOAN DISBURSEMENT AND REPAYMENT

Section 4.1. Tax Credits, Federal Home Loan Bank Application

Other than the Municipal Contribution set forth herein, all costs for the Project shall be the sole responsibility of Developer. To facilitate funding for the Project:

(a) Tax Credits. The Parties acknowledge that Developer has received an award of tax credits from the New Jersey Housing and Mortgage Finance Agency (NJHMFA).

(b) Federal Home Loan Bank Application. Developer shall make application to the Federal Home Loan Bank for an award of FHLB Funds. If the Project does not receive an award of FHLB Funds in the first year, Developer shall reapply to receive New York FHLB Funds in subsequent year(s) eligible.

Section 4.2. PILOT.

In connection with its support of the Project, the Township adopted a Resolution of Need for the Project on March 15, 2018, and on April 16, 2018 executed a payment in lieu of tax agreement ("PILOT") under N.J.S.A. 55:14K-37, attached hereto as **Exhibits A and B** respectively.

Section 4.3. Affordable Housing Loan; Disbursement.

(a) Affordable Housing Loan. Subject to the Parties' satisfaction of the conditions of this Agreement and court approval of the Township's Spending Plan, the Township will make a loan in the principal amount of One Million Three Hundred Thousand Dollars ($1,300,000.00) to Developer (the "Loan"). The Loan shall bear no interest and the maturity date shall be on the later to occur of (i) the expiration of the Project's extended low-income housing period required by Section 42(h)(6) of the Internal Revenue Code, or (ii) the maturity date of the NJHMFA loan or any hard-money loan. At or prior to disbursement of the Loan, Developer shall have delivered to the Township an executed Promissory Note in the form attached hereto as **Exhibit C**.

i. $1,050,000.00 of the Loan will be utilized for Project pre-development costs (the "Initial Funding"). Of this amount, the Township will make a direct payment out of the Loan proceeds to the Montgomery Township Sewer Utility, representing the full amount of sewer capacity charges (the "Sewer Capacity Charge Distribution") attributable to the Project as set forth in a certain Capacity Reservation Agreement executed simultaneously herewith by and between Developer and the Township, calculated and established to be three hundred fifty four thousand seven hundred and fifty ($354,750.00) dollars. The Township shall pay the Sewer Capacity Charge Distribution upon court approval of the Township's Spending Plan.

ii. A portion of the balance of the Initial Funding (the "Developer Initial Funding"), in an amount of six hundred ninety five thousand two hundred and fifty ($695,250.00) dollars, will be utilized by Developer for pre-development activities at the Property.

iii. The Township shall take action no later than April 4, 2019 to authorize disbursement of the Sewer Capacity Charge Distribution from the Township's Affordable Housing Trust Fund.

iv. The Township shall expeditiously make application to the Court for permission to disburse the Initial Funding from the Township's Affordable Housing Trust Fund to Developer no later than May 31, 2019. Upon Court Approval, the Township shall disburse the Initial Funding to Developer.

v. The remaining unpaid balance of the Loan Funds, in the amount of Two Hundred and Fifty Thousand ($250,000.00) Dollars (the "Loan Balance"), shall be paid to Developer simultaneously with the Tax Credit Closing. If Developer has received the FHLB Funds before the Tax Credit Closing, the Township will not be required to disburse the Loan Balance to Developer and the Loan Funds shall be reduced by said sum.

(b) Repayment of Loan Funds. In the event that Developer is awarded the FHLB Funds, Developer shall repay the Township for a portion of the Loan:

i. in the amount of Two Hundred and Fifty Thousand Dollars ($250,000.00) at the time Developer receives the first installment of FHLB Funds; provided, that the Township has paid the Loan Balance to Developer; and

ii. An additional One Hundred Fifty Thousand Dollars ($150,000.00) upon receipt of a final Certificate of Occupancy for the entirety of the Project, provided that there is a surplus in Total Sources of Funds for the Project, after payment of the deferred Development Fee to Developer pursuant to the final closing budget. Developer will provide the final closing budget to the Township.

(c) Subordination and Cooperation. Notwithstanding anything to the contrary in this Agreement, the Loan is subject and subordinate in all respects to the indebtedness of any hard-money to the Project and any loan by NJHMFA to the Project, as each may be extended, modified, assigned, replaced or renewed from time to time. The Township acknowledges that the Project's lenders and investors have not yet had an opportunity to review and comment on the Agreement and the Promissory Note and agrees to cooperate with Developer to amend this Agreement or the Note to accommodate any reasonable request to amend the documents accordingly, including executing a mortgage for the Loan and subordinating the Loan as may be required by Developer's lenders. The Township agrees to cooperate with Developer to provide any subordination or intercreditor agreement reasonably requested by Developer's lenders.

Section 4.4. Sale or Transfer. For so long as the Loan remains outstanding, the Project shall not be sold or transferred without the prior written consent of the Township, which consent shall not be unreasonably withheld, subject to all statutory and regulatory requirements and conditions applicable to transfer of the Project (the "Federal and State Regulations"). Developer agrees that the Township shall not be deemed unreasonable in refusing to consent to the sale or transfer of the Project if (a) Developer is in material default under this Agreement or the Federal and State Regulations, and such default has continued beyond any applicable cure period; (b) the Township reasonably believes that the risk of a breach of any covenant or agreement contained in this Agreement or the Financing, Deed Restriction and Regulatory Agreement would be increased as a result of such sale or transfer; (c) the Township reasonably believes that the prospective transferee has insufficient experience or net worth to operate the Project in a manner satisfactory to the Township, or has willfully violated affordability or management covenants with the Township or other public agencies; or (d) the Township reasonably believes that such sale or transfer will result in the loss of the Project's exemption from real estate taxes, without satisfactory payment or arrangement therefor. No such sale or transfer shall be effective until the transferee signs an assumption agreement that is acceptable to the Township and that obligates the transferee to keep all the covenants and agreements contained in this Agreement and/or the Financing, Deed Restriction and Regulatory Agreement that will be recorded in connection with the NJHMFA first mortgage.

Notwithstanding anything to the contrary contained herein, the withdrawal, removal and/or replacement of Developer's managing member(s) for cause in accordance with operating agreement of Developer (the "Operating Agreement") shall not require the consent of Township and shall not constitute a default under this Agreement. If the investor member of Developer exercises its right to remove a member thereof under the Operating Agreement, the Township shall not unreasonably withhold its consent to any substitute managing member proposed by the investor member. In no event shall Township's consent be required if the investor member or its affiliate decides to serve as the substitute managing member. Notwithstanding the foregoing, the substitute managing member shall assume all of the rights and obligations of the removed managing member under this Agreement, the Financing, Deed Restriction and Regulatory Agreement, and the Federal and State Regulations.

Notwithstanding anything to the contrary contained herein, the replacement of Developer as a result of the foreclosure of the NJHMFA first mortgage shall not require the consent of the Township and shall not constitute a default under this Agreement, *provided that*, the replacement entity signs an assumption agreement that obligates it keep all the covenants and agreements contained in this Agreement and/or the Financing, Deed Restriction and Regulatory Agreement that will be recorded in connection with the NJHMFA first mortgage.

The provisions of this Section 4.4 shall expire upon repayment of the Loan.

ARTICLE V

REGULATORY TERMS AND CONDITIONS

Section 5.1. Limitation on the Township's Obligation. The Township shall not be liable under this Agreement to Developer or any other party for the completion of, or failure to complete, any activities which are part of the Project except the making of the Loan and the administration of its responsibilities pursuant to this Agreement.

Section 5.2. Equal Opportunity. During the construction of the Project, Developer shall not discriminate on the basis of race, color, creed, religion, sex, sexual orientation, age, disability, marital status, condition of Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related complex, national origin or ancestry in the hiring, firing, promoting, or demoting, of any person engaged in the construction work.

Section 5.3. Maintenance of the Project. Developer shall maintain the Project in good condition and in compliance with all applicable health, safety, building, fire, zoning, subdivision, and environmental laws, regulations, codes and ordinances.

ARTICLE VI

DEFAULT AND REMEDIES

Section 6.1. Events of Default. Each of the following shall constitute an "Event of Default" hereunder:

(a) Failure of Developer or the Township to materially comply with terms, provisions, or conditions of this Agreement and failure to cure the same within thirty (30) days of receipt of written notice by the non-defaulting party specifying such failure (or if such failure to perform cannot be cured within thirty (30) days, failure to commence cure within thirty (30) days after receipt of such notice and thereafter diligently pursue such cure within 90 days after receipt of such notice, as said 90-day period may be extended by mutual agreement by the parties hereto);

(b) Failure of Developer or the Township (as applicable) to pay any amounts due hereunder, or failure by the Township to make the Loan upon satisfaction of the application conditions set forth in this Agreement, if, in any event, such default continues after ten (10) days following the defaulting party's receipt of written notice by the non-defaulting party, subject to all applicable notice and cure periods;

(c) Abandonment, cessation, or delay of construction (other than for Forced Delay) for more than ninety consecutive (90) days;

(d) Except as may be expressly contemplated herein, an attachment of the interest of Developer in the Property, the Project or of the funds disbursed or to be disbursed to it under this Agreement or the filing of any legal, equitable, or administrative action, not adequately insured, bonded over, dismissed, or adjudicated within 120 days to the reasonable satisfaction of the Township, the effect of any of which would have a material adverse impact on: (1) Developer's title to, or use of, the Project; (2) Developer's right to construct the Project; or (3) the right of Developer to use and occupy the entire Project for its intended purposes;

(e) The filing of any voluntary petition in bankruptcy court or otherwise seeking relief from creditors by or against Developer or Developer's managing member or the filing of any involuntary petition in bankruptcy not dismissed within ninety (90) days of the date of filing, unless with respect to the managing member of Developer, the managing member is replaced without the necessity of obtaining consent from the Township, with the investor member or any affiliate thereof;

(f) Developer shall make an assignment for the benefit of creditors, or shall submit in writing its inability to pay its debts generally as they become due;

(g) Developer consents to, or acquiesces in, the appointment of a receiver, liquidator, or trustee of itself or of the whole or any substantial part of its properties or assets or a court of competent jurisdiction enters an order, judgment or decree appointing a receiver, liquidator or trustee of Developer, or of the whole or any substantial part of the property or assets of Developer, and such order, judgment or decree shall remain unvacated or not set aside or unstayed for one hundred twenty (120) days;

(h) Misrepresentation or misstatement of fact when made in any written document and/or written agreement by Developer or any of its managing members to the Township that has a material adverse effect on the Township;

(i) Sale or transfer of the Project by Developer in violation of Section 4.4 hereof.

Section 6.2. Remedies. Upon the occurrence and during the continuance of an Event of Default under this Agreement,

(a) If the defaulting party is Developer, then the Township shall have the right to institute appropriate proceedings to specifically enforce performance hereof and pursue all other rights and remedies available at law or in equity;

(b) If the defaulting party is the Township, then Developer shall have the right to institute appropriate proceedings to specifically enforce the performance hereof and pursue all other rights and remedies available at law or in equity.

Section 6.3. Attorney's Fees and Costs. In the event of a dispute hereunder, the prevailing party shall be entitled to reasonable attorney's fees and all other reasonable costs and expenses incurred in connection with the adjudication of such dispute.

Section 6.4. Right to Cure Defaults. In the event of a default under this Agreement where no timeline for cure is given, the defaulting party shall have 90 days from the date of the receipt of written notice of default to cure such default

ARTICLE VII

MISCELLANEOUS PROVISIONS

Section 7.1. Agreement Term. The term of this Agreement shall commence upon the date hereof and, subject to the terms of this Article and terminate on the date a Certificate of Occupancy is received for the entire Project, or on such earlier date as mutually agreed upon by the parties hereto.

Section 7.2. Hold the Township Harmless from Claims. Developer hereby agrees to defend and hold the Township harmless from and against any and all claims, actions, damages, liability and expense, including attorney's fees and costs, in connection with any loss of life, personal injury, damage to property, breach of contract or any other claims, actions, or damages arising from or out of the construction or operation of the Project by Developer other than and to the extent of those caused by the willful actions or negligence of the Township. Developer's obligations under this Section 7.2 shall terminate upon the issuance of final Certificates of Occupancy for the Project by the Township. This provision shall survive the termination of this Agreement.

During the term of this Agreement, Developer shall maintain general liability insurance of not less than $1 million per occurrence combined single limit with excess umbrella liability coverage of not less than $5 million. This provision shall survive the termination of this Agreement.

Section 7.3. Notices. All notices given in connection herewith shall be deemed effective upon receipt (as evidenced by the U.S. Mail return receipt or commercial delivery service receipt) or refusal to accept delivery, and shall be given by personal delivery, express overnight delivery service, or placed in the U.S. Mail, registered, with return receipt requested, and postage prepaid. Any of the following parties may effect a change of address for notice purposes by written notice thereof to all of the other following parties:

If to Montgomery LIHTC:

Montgomery LIHTC LLC
5 Commerce Way
Hamilton, New Jersey 08691
Attention: Lara Schwager

or to such other address as Montgomery LIHTC may hereafter designate in writing,

with copies to:

PIRHL Acquisitions, LLC
800 West St. Clair Avenue
4th Floor
Cleveland, OH 44113
Attention: David A. Burg

and:

Day Pitney LLP
One Jefferson Road
Parsippany, New Jersey 07054
Attention: Katharine A. Coffey, Esq.

and:

to any Investor and its counsel as may be designated in writing by Developer.

If to the Township:

Township of Montgomery
2261 Route 206
Belle Mead, NJ 08502
Attn: Municipal Clerk

With a copy to:

Mason, Griffin & Pierson, P.C.
101 Poor Farm Road
Princeton, NJ 08540
Attn: Kevin Van Hise, Esq.

Section 7.4. Entire Agreement. This Agreement, including the Exhibits incorporated herein, expresses the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior understandings, agreements, representations, or arrangements, oral or written, between the parties hereto relating to the subject matter of this Agreement, all of which are merged into this Agreement.

Section 7.5. Severability. Each provision of this Agreement is intended to be severable to the extent that such Severability does not materially affect the basic understanding of the parties as reflected in this Agreement. In the event that any one or more provisions contained in this Agreement shall be held to be invalid, illegal, or unenforceable in any respect by a final, non-appealable decision of a court of competent jurisdiction, the same shall not invalidate or otherwise affect any other provision of this Agreement, and this Agreement shall be construed as if such an invalid, illegal, or unenforceable provision had never been contained herein, provided

such Severability does not materially affect the basic understanding of the parties as reflected in this Agreement.

Section 7.6. Counterparts. This Agreement and any amendments hereto may be executed by the parties hereto in two or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument.

Section 7.7. Conflicts. To the extent that there may be any inconsistency or conflict between the terms of this Agreement and the NJHMFA Financing, Deed Restriction and Regulatory Agreement, the terms of the NJHMFA Financing, Deed Restriction and Regulatory Agreement shall control.

Section 7.8. Further Assurances. The parties hereto shall cooperate and take such action, give assurances and execute and deliver such documents as may be reasonably required by the other party in order to effectuate the purposes and provisions of this Agreement and to confirm to third parties the existence and good standing of this Agreement.

Section 7.9. Modification and Assignment. The terms of this Agreement may not be waived, modified, or changed in any way by implication, correspondence, or otherwise unless such waiver, modification, or change is made in the form of a written amendment to this Agreement signed by both parties. Upon the Township's designation of Montgomery LIHTC as redeveloper of the Property, or assignment of PIRHL's redeveloper designation to Montgomery LIHTC, PIRHL will have no liability for future performance and no liability with respect to the acts of Montgomery LIHTC pursuant to this Agreement. Upon such assignment or designation of Montgomery LIHTC as redeveloper, all provisions of this Agreement shall solely apply to Montgomery LIHTC. Montgomery LIHTC shall not assign or transfer this Agreement without the prior written consent of the Township, except as provided in this Agreement. Any attempted assignment or transfer shall be void unless it is pursuant to the terms of this Agreement.

Section 7.10. Successors. This Agreement shall be binding upon and inure to the benefit of Developer and the Township and their respective successors and assigns.

Section 7.11. The Township Not a Joint Venturer. The Township, by making this Agreement or by any action pursuant hereto, will not be deemed a partner or joint venturer with Developer, and Developer and the Township each agree to hold the other harmless for any damages and expenses resulting from such a construction of the relationship of the parties or any assertion thereto.

Section 7.12. Applicable Law. This Agreement shall be governed by and construed under the laws of the State of New Jersey. The parties hereto consent to be sued in New Jersey Superior Court - Somerset County in any action to enforce the provisions of this Agreement.

Section 7.13. Captions and Headings. The captions and headings contained in this Agreement are included herein for convenience of reference only and shall not be considered a part hereof and are not in any way intended to limit or enlarge the terms hereof.

Section 7.14. Waiver. A waiver by the Township of any of the terms and conditions herein shall be in writing and shall not constitute a continuing waiver of said terms and conditions.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed under seal as of the date first set forth above by their duly authorized signatories.

Witness/Attest:

THE TOWNSHIP OF MONTGOMERY
a public body corporate and politic

Donna Kukla, Clerk

By: _____
Sadaf Jaffer, Mayor

MONTGOMERY LIHTC LLC
By: PIRHL Montgomery LIHTC GPLLC

By: _____
David A. Burg
Managing Director

PIRHL ACQUISITIONS, LLC

By: _____

EXHIBIT A

RESOLUTION OF NEED

Township of Montgomery
County of Somerset

DONNA KUKLA, RMC, QPA
Township Clerk

Municipal Building
2261 Route 206, Belle Mead, New Jersey 08502-0001

Phone: (908) 359-8211 Fax: (908) 359-3051

E-Mail: dkukla@twp.montgomery.nj.us

June 8, 2018

Lieutenant Governor Sheila Y. Oliver, Commissioner
State of New Jersey
Department of Community Affairs
P.O. Box 800
Trenton, NJ 08625-0800

Dear Lieutenant Governor Oliver:

Enclosed please find Resolution #18-6-131 entitled "RESOLUTION DETERMINING THAT THE REAL PROPERTY DESCRIBED AS BLOCK 28004, LOT 7 AND BLOCK 28005, LOT 66 (TAX ASSESSMENT MAPS REV. 2017) GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF STATE ROUTE 206 AND COUNTY ROUTE 518), KNOWN AS THE KEPNER-TREGOE STUDY AREA, SHALL BE A NON-CONDEMNATION REDEVELOPMENT AREA". This Resolution was adopted by the Montgomery Township Committee on June 7, 2018.

Also enclosed is a copy of the Preliminary Investigation of an Area in Need of Redevelopment (Non-Condemnation) by Clarke Caton Hintz and a Resolution of the Planning Board of the Township of Montgomery.

Very truly yours,

Donna Kukla

Donna Kukla,
Township Clerk

cc: Kristina P. Hadinger, Esq. ✓
Lori Savron, Township Planning Director ✓

TOWNSHIP OF MONTGOMERY
SOMERSET COUNTY, NEW JERSEY

RESOLUTION #18-6-131 - RESOLUTION DETERMINING THAT THE REAL PROPERTY DESCRIBED AS BLOCK 28004, LOT 7 AND BLOCK 28005, LOT 66 (TAX ASSESSMENT MAPS REV. 2017) GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF STATE ROUTE 206 AND COUNTY ROUTE 518), KNOWN AS THE KEPNER-TREGOE STUDY AREA, SHALL BE A NON-CONDEMNATION REDEVELOPMENT AREA

WHEREAS, By Resolution #18-4-88 adopted April 5, 2018, the Township Committee of the Township of Montgomery directed the Montgomery Township Planning Board to conduct an investigation into whether the real property designated as Block 28004, Lot 7 and Block 28005, Lot 66 (Tax Assessment Maps Rev. 2017) and generally located northwest of the intersection of State Route 206 and County Route 518 (hereinafter the "Property" or the "Kepner-Tregoe Study Area) constitutes and shall be established as a non-condemnation redevelopment area under the criteria set forth in the Local Redevelopment and Housing Law, *N.J.S.A.* 40A:12A-1 *et seq.* (hereinafter the "Statute"), as that term is defined by the Statute;

WHEREAS, The Planning Board completed its investigation of the Property to determine whether it should be designated as a non-condemnation redevelopment area in accordance with the criteria and procedures set forth in *N.J.S.A.* 40A:12A-5 and 40A:12A-6; and

WHEREAS, As part of its preliminary investigation, the Board received and reviewed the report of its experts Michael F. Sullivan, ASLA, AICP and Emily Goldman, PP, AICP titled "Preliminary Investigation of an Area in Need of Redevelopment (Non-Condemnation): Kepner-Tregoe Study Area" (hereinafter the "Report"); and

WHEREAS, In addition to the foregoing, Mr. Sullivan and Ms. Goldman prepared a map showing the boundaries of the proposed redevelopment area and locations of parcels of property included therein, along with a statement setting forth the basis for its investigation in accordance with *N.J.S.A.* 40A:12A-6(b)(1); and

WHEREAS, A public hearing was conducted by the Planning Board on May 21, 2018, with notice having been properly given pursuant to *N.J.S.A.* 40A:12A-6(b)(3); and

WHEREAS, At the public hearing, the Planning Board reviewed the Report, the map and associated documents and heard testimony from Emily Goldman, PP/AICP; and

WHEREAS, At the public hearing, members of the general public were given an opportunity to be heard and to address questions to the Board concerning the potential designation of the Property as a non-condemnation redevelopment area; and

WHEREAS, After completing its investigation and public hearings on this matter, the Planning Board concluded that there was sufficient evidence to support findings and satisfy the criteria set forth in the Statute for designating the Property as a non-condemnation redevelopment area and that said designation is necessary for the effective redevelopment of the Property; and

WHEREAS, In accordance with the Statute, the Planning Board acted to recommend that the Property be declared a non-condemnation redevelopment area pursuant to the Statute, said action being memorialized by resolution of May 21, 2018;

WHEREAS, The Township Committee has also reviewed the Report and the Planning Board's resolution at its regularly scheduled meeting on June 7, 2018 and concurs with the Planning Board's findings; and

WHEREAS, The Township Committee further finds that due to the Property's close proximity to other commercial and residential development and Routes 206 & 518, as well as its access to public water and sewer, the Property is situated in an area in which redevelopment is to be encouraged.

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery, in Somerset County, New Jersey as follows:

1. The preamble to this Resolution is incorporated and made a part hereof as if set forth at length herein.

2. Pursuant to the Statute, and consistent with the recommendation of the Planning Board and the Report, the Property, also known as the Kepner-Tregoe Study Area, is hereby determined to be a non-condemnation redevelopment area per the Local Redevelopment and Housing Law, *N.J.S.A.* 40A:12A-1 *et seq.*

3. The designation of the Kepner-Tregoe Study Area as a non-condemnation redevelopment area shall not authorize the Township to exercise the power of eminent domain to acquire any property in the Kepner-Tregoe Study Area.

4. The Clerk shall forthwith transmit a copy of this Resolution and the Report to Lieutenant Governor Sheila Y. Oliver, Commissioner, Department of Community Affairs, State of New Jersey by commercial overnight courier, courier fees prepaid.

5. The Planning Board is directed to prepare a redevelopment plan for the Property, and the Clerk shall forward a copy of this Resolution to the Planning Board.

6. Within ten (10) days of the Township Committee's adoption of the within Resolution, the Clerk of the Township of Montgomery shall serve notice of the Township Committee's determination and the within Resolution upon all record owners of property within the non-condemnation redevelopment area, those whose names are listed on the Tax Assessor's records, and upon each person who filed a written objection thereto and stated, in or upon the written submission, an address to which notice of the determination and Resolution may be sent.

CERTIFICATION
I HEREBY CERTIFY THE ABOVE TO BE A TRUE COPY OF A RESOLUTION ADOPTED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MONTGOMERY AT A MEETING HELD

June 7, 2018

Township Clerk

EXHIBIT B

PAYMENT IN LIEU OF TAXES AGREEMENT

AGREEMENT FOR PAYMENTS IN LIEU OF TAXES

THIS AGREEMENT FOR PAYMENTS IN LIEU OF TAXES (this "**Agreement**") is made as of this 16th day of April, 2018 between **PIRHL ACQUISITIONS, LLC**, an Ohio-limited liability company, and its Permitted assigns (the "**Sponsor**"), having its principal office at 800 W. St. Clair Avenue, Cleveland, OH 44113 and its permitted assigns, and the **TOWNSHIP OF MONTGOMERY** (the "**Municipality**"), a municipal corporation in Somerset County, New Jersey, with its offices at 2261 Van Home Road, Belle Mead, New Jersey 08502.

WITNESSETH:

WHEREAS, the Sponsor is the contract purchaser of that certain tract of land located at the intersection of Research Road and Hartwick Drive, comprising 4.09± acres in the Township of Montgomery, Somerset County, New Jersey, also being designated as Block 28004, Lot 7 (Tax Assessment Maps rev. 2017), and more fully described in Exhibit A, attached hereto (the "**Property**");

WHEREAS, the Sponsor intends to construct and operate an 86-unit affordable family rental housing project, together with such other improvements as may be necessary in connection therewith, such as leasing offices, community meeting space, landscaping, curbing, and paving (the "**Project**");

WHEREAS, the Sponsor will receive financing for the Project from the New Jersey Housing and Mortgage Finance Agency (the "Agency");

WHEREAS, the Municipality is authorized, pursuant to the New Jersey Housing and Mortgage Finance Agency Law of 1983, N.J.S.A. 55:14K-1 et seq. (the "**HMFA Law**"), to grant an exemption for real estate taxes to housing projects that meet an existing housing need if the project's owner agrees to pay to the Municipality an annual charge for municipal services supplied to the Project;

WHEREAS, the Municipality has determined in a Resolution of the Township Committee of the Municipality (the "**Resolution**"), adopted on March 15, 2018 that the Project meets an existing housing need;

WHEREAS, implementation of the Project, which has been approved by the Superior Court of the State of New Jersey, Somerset County in a "Fairness Hearing" conducted in connection with the Municipality's resolution of affordable housing litigation in In the Matter of the Application of the Township of Montgomery, County of Somerset, Docket No. SOM-L-924-15, will help to satisfy the Municipality's constitutional "Mt. Laurel" obligation to provide low and moderate income housing;

WHEREAS, the Municipality has agreed to grant an exemption to the Project for real estate taxes and the Sponsor has agreed to make payments to the Municipality in lieu of real estate taxes; and

WHEREAS, the Sponsor and the Municipality desire to enter into this Agreement to memorialize the Sponsor's exemption from real property taxes and its obligation to make payments in lieu of such real property taxes.

NOW, THEREFORE, the Sponsor and the Municipality, in consideration of the mutual undertakings set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby covenant and agree as follows:

1. This Agreement is made pursuant to the authority contained in Section 37 of the HMFA Law and the Resolution, and with the approval of the Agency, as required by the HMFA Law. This Agreement is subject to N.J.S.A. 55:14K-37 and shall be submitted to the Agency for review. Any exemption from taxation pursuant to the provisions of N.J.S.A. 55:14K-37 shall not extend beyond the date on which the eligible loan made by the Agency on the Project is paid in full.

2. On the date (the "**Tax Exemption Commencement Date**") of the Sponsor's execution of a mortgage encumbering the Property and the Project with a permanent (not merely construction) mortgage lien in favor of the Agency (the "**Agency Mortgage**"), the land and improvements comprising the Property and the Project shall be exempt from all ad valorem real property taxes, provided that the Sponsor shall make payments in lieu of taxes to the Municipality as provided hereinafter. The exemption of the Property and the Project from ad valorem real property taxation and the Sponsor's obligation to make payments in lieu of taxes shall apply until the earlier of (a) satisfaction and discharge of the Agency Mortgage or (b) the expiration of thirty (30) years from the Tax Exemption Commencement Date (such earlier event being the "**Tax Exemption Expiration Date**").

Prior to the Tax Exemption Commencement Date, the Sponsor shall make payment to the Municipality in an amount equal to the amount currently payable on an annual basis (pursuant to the HMFA Law, the annual amount may not exceed the amount of taxes due on the Property for the year preceding the recording of the Agency Mortgage).

3. The land comprising the Property shall be assessed in accordance with the rules and regulations governing the taxation of vacant land in the State of New Jersey and Sponsor agrees to pay the real estate taxes arising out of such assessment from the time Sponsor takes title to the Property until the Tax Exemption Commencement Date, subject to Sponsor's statutory rights to appeal such assessment. From the time of the execution of this Agreement until the Tax Exemption Commencement Date, the Municipality agrees that no assessment shall be made upon any improvements constructed in connection with the Project, whether by added/omitted assessment, revaluation, interim assessment or any other manner permitted by law.

4. (a) From the Tax Exemption Commencement Date until the Tax Exemption Expiration Date, the Sponsor shall pay to the Municipality an annual service charge in lieu of taxes to the Municipality in an amount equal to 5% of Project Revenues, as defined below (the "**Annual Service Charge**").

(b) As used herein, "**Project Revenues**" means the total annual gross rental or carrying charge or other income of the Sponsor from the Project less the costs of utilities furnished by the Project, which shall include the costs of gas, electricity, heating fuel, water supplied, and sewage charges, if any. Project Revenues shall not include any subsidy contributions received from any federal or state program.

(c) The estimated amounts of the Annual Service Charge to be paid each year pursuant to this Agreement are set forth in Exhibit B attached hereto. It is expressly understood and agreed that the revenue projections provided to the Municipality as set forth in Exhibit B and as part of the Sponsor's application for an agreement for payments in lieu of taxes are estimates only. The actual payments in lieu of real estate taxes to be paid by the Sponsor shall be determined as set forth in this Agreement.

5. (a) Payments of the Annual Service Charge by the Sponsor shall be made on a quarterly basis in accordance with bills issued by the tax collector of the Municipality in the same manner and on the same dates as real estate taxes are paid to the Municipality and shall be based upon 5% of Project Revenues of the previous quarter.

(b) No later than three (3) months following the end of the Sponsor's fiscal year for each year that this Agreement is in effect after the Tax Exemption Commencement Date, the Sponsor shall submit to the Municipality a certified, audited financial statement of the operation of the Project (the "**Audit**"), setting forth (i) the Project Revenues for the previous year and (ii) the total Annual Service Charge due to the Municipality, calculated at 5% of Project Revenues, for the previous year (the "**Audit Amount**"). The Sponsor simultaneously with the submission of the Audit shall pay the difference, if any, between (i) the Audit Amount and (ii) the quarterly payments in lieu of real estate taxes made by the Sponsor to the Municipality for the preceding year. The Municipality may accept any such payment without prejudice to its right to challenge the amount due. In the event that the payments made by the Sponsor for any fiscal year shall exceed the Audit Amount for such fiscal year, the Municipality shall credit the amount of such excess to the account of the Sponsor.

(c) All payments pursuant to this Agreement shall be in lieu of taxes and, subject to the provisions of this Agreement, the Municipality shall have all the rights and remedies of tax enforcement granted to Municipalities by law just as if such payments constituted regular tax obligations on real property within the Municipality. If, however, the Municipality disputes any Audit Amount, it may apply to the Superior Court, Chancery Division, Somerset County for an accounting of the Project Revenues in accordance with this Agreement and HMFA Law. The Municipality must commence any such action to challenge an Audit Amount within six months of the receipt of the corresponding Audit.

(d) In the event of any delinquency in the payments required under this Agreement, the Municipality shall give notice of the delinquency to the Sponsor and the Agency in the manner set forth in Section 10(a) below and allow Sponsor or Agency thirty (30) days to cure the delinquency prior to taking any legal action.

6. The tax exemption herein shall apply only so long as the Sponsor or its successors and assigns and the Project remain subject to the provisions of the HMFA Law and Regulations made thereunder and the supervision of the Agency, but in no event after the Tax Exemption Expiration Date.

7. (a) Notwithstanding anything to the contrary contained herein, the Municipality and the Sponsor agree that Sponsor may sell, transfer, or convey the Project and the Property to a special purpose limited liability company formed by Sponsor to own and operate the Project and the Property (the "**Owner Entity**"). The withdrawal, removal and/or replacement of the Owner Entity's managing member(s) for cause in accordance with the operating agreement of the Owner Entity (the "**Operating Agreement**") shall not require the consent of the Municipality and shall not constitute a default under this Agreement. If the investor member of the Owner Entity exercises its right to remove a member thereof under the Operating Agreement, the Municipality shall not unreasonably withhold its consent to any substitute managing member proposed by the investor member. In no event shall Municipality's consent be required if the investor member or its affiliate decides to serve as the substitute managing member. Notwithstanding the foregoing, the substitute managing member shall assume all of the rights and obligations of the removed managing member under this Agreement. In the event of (1) a sale, transfer or conveyance of the Project by the Sponsor to the Owner Entity or (b) a change in the organizational structure of the Sponsor or the Owner Entity pursuant to this Section 7(a), this Agreement shall be assigned to the Sponsor's successor without the Municipality's consent, but upon prior written notice to the Municipality and shall continue in full force and effect only if the successor entity assumes the Agency Mortgage and qualifies under HMFA Law or any successor thereto for the tax exemption provided by this Agreement. In no event may this Agreement be voluntarily terminated without notice to and consent of the Agency.

(b) Except as provide in Section 7(a) above, the Project shall not be sold or transferred for a period of five (5) years from the First Tax Credit Closing. Thereafter, the Project may be sold or transferred with the prior written consent of the Municipality, which consent shall not be unreasonably withheld, subject to all statutory and regulatory requirements and conditions applicable to the Project. Sponsor agrees that the Municipality shall not be deemed unreasonable in refusing to consent to the sale or transfer of the Project if (a) the Sponsor, or the Owner Entity is in material default under this Agreement or the HMFA Law, and such default has continued beyond any applicable cure period; (b) the Municipality reasonably believers that the risk of a breach of any covenant or agreement contained in this Agreement would be increased as a result of such sale or transfer; (c) the Municipality reasonably believes that the prospective transferee has insufficient experience or net worth to operate the Project in a manner satisfactory to the Municipality, or has willfully violated affordability or management covenants with the Municipality or other public agencies; or (d) the Municipality reasonably believes that such sale or transfer will result in the loss of the Project's exemption from real estate taxes, without satisfactory payment or arrangement therefor. No such sale or transfer shall be effective until the transferee signs an assumption agreement that is acceptable to the Municipality and that obligates the transferee to keep all the covenants and agreements contained in this Agreement and/or the Financing, Deed Restriction and Regulatory Agreement that will be recorded in connection with the NJHMFA first mortgage. In the

event of (a) a sale, transfer or conveyance of the Project by the Sponsor pursuant to this Section 7(b), this Agreement shall be assigned to the Sponsor's successor with the Municipality's consent, not to be unreasonably withheld, and shall continue in full force and effect only if the successor entity assumes the Agency Mortgage and qualifies under the HMFA Law or any successor thereto for the tax exemption provided by this Agreement. In no event may this Agreement be voluntarily terminated without notice to and consent of the Agency.

8. Upon any termination of such tax exemption, whether by affirmative action of the Sponsor, its successors and assigns, or by virtue of the provisions of the HMFA Law, or any other applicable state law, the Property and the Project shall be taxed as omitted property in accordance with the law.

9. The Sponsor, and its successors and assigns, shall, upon request, permit duly authorized representatives of the Municipality to inspect and examine (a) the Property, (b) the equipment, buildings and other facilities of the Project, and (c) all documents and papers relating to the Project. Any such inspection or examination shall be made during reasonable hours of the business day, in the presence of an officer or agent of the Sponsor, or its successors and assigns.

10. Any notice or communication sent by either party to the other hereunder shall be sent by certified mail, return receipt requested, addressed follows:

(a) When sent by the Municipality to the Sponsor, it shall be addressed to PIRHL Developers, LLC, 800 W. St. Clair Avenue, Cleveland, OH 44113, attention: Property Management, or to such other address as the Sponsor may hereafter designate in writing and a copy of such notice or communication by the Municipality to the Sponsor shall be sent by the Municipality to the New Jersey Housing and Mortgage Finance Agency, 637 South Clinton Avenue, P.O. Box 18550, Trenton, New Jersey 08650-2085.

(b) When sent by the Sponsor to the Municipality, it shall be addressed to the Municipality, 2261 Van Horne Road, Belle Mead, New Jersey 08502, attention: Municipal Clerk, or to such other address as the Municipality may designate in writing and a copy of such notice or communication by the Sponsor to the Municipality shall be sent by the Sponsor to the New Jersey Housing and Mortgage Finance Agency, 637 South Clinton Avenue, P.O. Box 18550, Trenton, New Jersey 08650-2085.

11. In the event of a breach of this Agreement by either party or a dispute arising between the parties in reference to the terms and provisions as set forth herein, either party may apply to the Superior Court, Chancery Division, Somerset County to relief in such fashion as will tend to accomplish the purposes of the HMFA Law.

12. This Agreement sets forth all of the promises, covenants, agreements, conditions and understandings between the parties with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements and understandings, inducements or conditions, express or implied, oral or written, with respect thereto.

13. If any clause, sentence, subdivision, paragraph, section or part of this Agreement be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part hereof directly involved in the controversy in which said judgment shall have been rendered.

14. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument.

15. Subject to the terms of Agency financing, this Agreement may be assigned by the Sponsor to an affiliate of the Sponsor, provided that such affiliate develops the Project in accordance with the terms and conditions set forth in this Agreement.

16. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

PIRHL ACQUISITIONS, LLC

Allison Bradford

By: David A. Burg

MUNICIPALITY:
TOWNSHIP OF MONTGOMERY

ATTEST:

Donna Kukla

Donna Kukla, Township Clerk

By: Mark Conforti

Name: Mark Conforti
Title: Mayor

Exhibit A

BOUNDARY AND TOPOGRAPHIC SURVEY

BLOCK 28004, LOT 7

AFFORDABLE HOUSING DEVELOPMENT

TOWNSHIP OF MONTGOMERY, SOMERSET COUNTY, NEW JERSEY

SHEET 1 of 1

ESE CONSULTANTS

ENGINEERING • PLANNING • SURVEYING • ENVIRONMENTAL

ESE Consultants, Inc.

99 Route 173 West • Suite 1A • Hampton, NJ 08827

T: 908-238-1270

PAUL B. HOENIG

PROFESSIONAL LAND SURVEYOR

NEW JERSEY LIC. NO. 24GS04

NOTES

1. THE BOUNDARY SHOWN IS BASED ON NEW JERSEY STATE PLANE COORDINATE SYSTEM NAD83 DERIVED FROM GPS OBSERVATIONS.
2. THE VERTICAL DATUM SHOWN IS BASED ON NAVD88. BENCHMARK USED: BENCHMARK PID: AB5701 ELEVATION: 69.89
3. FIELD WORK PERFORMED: [illegible] DECEMBER 2021
4. THE ULTIMATE RIGHT-OF-WAY SHOWN HEREON WAS DETERMINED FROM THE ULTIMATE RIGHT-OF-WAY PURSUANT TO N.J. STATUTES AND CASE LAW (N.J.S.A. 40:48-1 AND CASE LAW).

REFERENCE PLANS:

THIS SURVEY WAS PREPARED IN ACCORDANCE WITH THE FOLLOWING:

1. ALTA/NSPS LAND TITLE SURVEY, PREPARED BY [illegible], DATED [illegible], LAST REVISED [illegible].
2. [illegible]

ACADIA LANE

50' ROW

MYSTIC DRIVE

50' ROW

RESEARCH ROAD

50' ROW

BLOCK 28004
LOT 7
[illegible] SQ. FT.
[illegible] ACRES

GRAPHIC SCALE

(IN FEET)

1 inch = [illegible] ft.

LOCATION MAP

NOT TO SCALE

Exhibit B

PILOT CALCULATION

Montgomery Family - Sharbell
Research Road
9%, New Construction

pirhl

Income	2.00%
Expenses	3.00%
Vacancy Rate	7.00%

		Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15
REVENUE																
Net Rental Revenue		1,054,658	1,075,752	1,097,267	1,119,212	1,141,596	1,164,428	1,187,717	1,211,471	1,235,700	1,260,414	1,285,623	1,311,335	1,337,562	1,364,313	1,391,599
Other Income		3,164	3,227	3,292	3,358	3,425	3,493	3,563	3,634	3,707	3,781	3,857	3,934	4,013	4,093	4,175
Vacancy		(74,048)	(75,529)	(77,039)	(78,580)	(80,151)	(81,754)	(83,390)	(85,057)	(86,759)	(88,494)	(90,264)	(92,069)	(93,910)	(95,788)	(97,704)
Total Apartment Revenue		983,775	1,003,450	1,023,519	1,043,990	1,064,869	1,086,167	1,107,890	1,130,048	1,152,649	1,175,702	1,199,216	1,223,200	1,247,664	1,272,618	1,298,070
APPLICABLE EXPENSES																
Utilities		80,840	83,265	85,763	88,336	90,986	93,716	96,527	99,423	102,406	105,478	108,642	111,901	115,259	118,716	122,278
Total Operating Expenses		80,840	83,265	85,763	88,336	90,986	93,716	96,527	99,423	102,406	105,478	108,642	111,901	115,259	118,716	122,278
TOTAL PROJECT REVENUES		902,935	920,185	937,756	955,654	973,883	992,451	1,011,363	1,030,625	1,050,243	1,070,224	1,090,574	1,111,299	1,132,406	1,153,901	1,175,792
PILOT	5.00%	45,147	46,009	46,888	47,783	48,694	49,623	50,568	51,531	52,512	53,511	54,529	55,565	56,620	57,695	58,790

		Year 16	Year 17	Year 18	Year 19	Year 20	Year 21	Year 22	Year 23	Year 24	Year 25	Year 26	Year 27	Year 28	Year 29	Year 30
REVENUE																
Net Rental Revenue		1,419,431	1,447,820	1,476,776	1,506,312	1,536,438	1,567,167	1,598,510	1,630,480	1,663,090	1,696,352	1,730,279	1,764,884	1,800,182	1,836,186	1,872,909
Other Income		4,258	4,343	4,430	4,519	4,609	4,702	4,796	4,891	4,989	5,089	5,191	5,295	5,401	5,509	5,619
Vacancy		(99,658)	(101,651)	(103,684)	(105,758)	(107,873)	(110,031)	(112,231)	(114,476)	(116,765)	(119,101)	(121,483)	(123,913)	(126,391)	(128,919)	(131,497)
Total Apartment Revenue		1,324,031	1,350,512	1,377,522	1,405,073	1,433,174	1,461,838	1,491,074	1,520,896	1,551,314	1,582,340	1,613,987	1,646,267	1,679,192	1,712,776	1,747,031
APPLICABLE EXPENSES																
Utilities		125,946	129,724	133,616	137,625	141,753	146,006	150,386	154,898	159,545	164,331	169,261	174,339	179,569	184,956	190,505
Total Operating Expenses		125,946	129,724	133,616	137,625	141,753	146,006	150,386	154,898	159,545	164,331	169,261	174,339	179,569	184,956	190,505
TOTAL PROJECT REVENUES		1,198,085	1,220,787	1,243,906	1,267,448	1,291,421	1,315,832	1,340,688	1,365,998	1,391,769	1,418,009	1,444,726	1,471,928	1,499,623	1,527,820	1,556,526
PILOT	5.00%	59,904	61,039	62,195	63,372	64,571	65,792	67,034	68,300	69,588	70,900	72,236	73,596	74,981	76,391	77,826

EXHIBIT C

PROMISSORY NOTE

PROMISSORY NOTE

$1,300,000.00 _____, 2019

FOR VALUE RECEIVED, MONTGOMERY LIHTC LLC, a New Jersey limited liability company **("Maker"),** with an address of 400 West St. Clair Avenue, 4th Floor, Cleveland, Ohio 44113, hereby promises to pay to the order of the TOWNSHIP OF MONTGOMERY (the **"Lender"),** with an address of 2261 Route 206, Belle Mead, New Jersey 08502, the principal amount of ONE MILLION THREE HUNDRED THOUSAND DOLLARS ($1,300,000.00), or so much thereof as has been disbursed to Maker, subject to the terms set forth herein. All capitalized terms not defined herein shall have the meanings ascribed to them in that certain Affordable Housing Agreement between Montgomery LIHTC LLC and Lender dated as of _____, 2019 (the **"Loan Agreement").**

As of the date hereof, Lender has disbursed to Maker the principal amount of ONE MILLION THREE HUNDRED THOUSAND DOLLARS ($1,300,000.00) (the **"Funds").**

The Funds shall bear no interest. All unpaid principal of the Funds shall be repaid by Maker to Lender upon the **"Maturity Date"** on the date which the Project's extended low-income housing period required by Section 42(h)(6) of the Internal Revenue Code expires. Prior to the Maturity Date, no amounts are due under this Note except as may be provided below. The outstanding balance of principal due hereunder may be prepaid in whole or in part, at any time, without any premium or penalty. Any payments received by Lender on account of this Note prior to demand or acceleration shall be applied first, to any costs, expenses, or charges then owed to Lender by Maker, and second, to the unpaid principal balance hereof. Any payments received after demand or acceleration shall be applied in such a manner as Lender may determine. Notwithstanding anything to contrary contained herein or in the Loan Agreement, the Development Loan and this Note shall be non-recourse to Maker.

All amounts payable by Maker to Lender hereunder shall be paid directly to Lender at 2261 Route 206, Belle Mead, New Jersey 08502 (or at such other address of which Lender shall give written notice to Maker).

Except as otherwise provided in this Paragraph, the Lender may not exercise any remedy provided herein by reason of a default hereunder unless the Lender shall have given the Maker prior written notice thereof (the **"Default Notice")** and the Maker shall have failed to cure the default within the applicable cure period stated below:

(a) If the default consists of the failure to pay money, the applicable cure period shall be ten (10) days from the date on which the Default Notice is delivered.

(b) If the default consists of something other than the failure to pay money, the applicable cure period shall be as set forth in the Loan Agreement.

Any failure by Maker to perform any obligation under this Note or any Event of Default under the Loan Agreement shall constitute an event of default **("Event of Default")** hereunder, subject to any rights of Maker to cure any such defaults.

Upon the happening of any Event of Default and the expiration of the applicable cure period, Lender may immediately declare due and payable, by giving written notice of such declaration to the Maker as set forth above, the entire unpaid principal balance of the Funds and any other sum due and payable hereunder.

Payment of any and all amounts due and owing by Maker hereunder may be enforced and recovered in whole or in part at any time at law or in equity by one or more of the remedies provided to the Lender herein, or as otherwise made available to Lender under applicable law and in any such case the Lender may also recover all costs of suit and other expenses in connection therewith, together with reasonable attorneys' fees for the collection.

Notwithstanding anything to the contrary in this Note or the Loan Agreement, the indebtedness evidenced by this Note is subject and subordinate in all respects to the indebtedness evidenced by any note(s) from Maker to any hard-money lender to the Project and NJHMFA, as each may be extended, modified, assigned, replaced or renewed from time to time.

The parties to this Note hereby waive, to the event legally waiveable, presentment for payment, protest, and demand for notice of protest, demand for and notice of dishonor and notice of nonpayment of this Note, and consent that Lender may extend the time of payment and, at the request of Maker and with the consent of Maker, otherwise modify the terms of payment of any part or the whole of the debt evidenced by this Note and such consent shall not alter or diminish the rights and liability of any person hereunder.

If any provision hereof is found by a court of competent jurisdiction to be prohibited or unenforceable, it shall be ineffective only to the extent of such prohibition or unenforceability, and such prohibition or unenforceability shall not invalidate the balance of the provision to the extent it is not prohibited or unenforceable, nor invalidate the other provisions hereof, all of which shall be liberally construed in favor of Lender in order to effect the provisions hereof.

The Maker and Lender agree that this Note shall be governed by the internal substantive laws of the State of New Jersey. Maker submits to the jurisdiction of the courts of the State of New Jersey for all purposes with respect to this Note, any collateral given to secure the liabilities, obligations and indebtedness to Lender, and Maker's relationship with Lender.

The terms **"Maker"** and **"Lender"** as used herein refer to Maker, Lender and their respective heirs and assigns.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the undersigned has hereunto executed this Promissory Note as of the day and year first above written.

WITNESS:

Name:

MONTGOMERY LIHTC LLC
a New Jersey limited liability company

By: _____
Name: David Burg
Title: Managing Director

ACKNOWLEDGED:

_____
Donna Kukla, Clerk

TOWNSHIP OF MONTGOMERY

By: _____
Sadaf Jaffer, Mayor

20. Third Round: Harlingen Village

MONTGOMERY TOWNSHIP PLANNING BOARD
COUNTY OF SOMERSET

Application No. PB-03-23

Harlingen Associates LLC – Applicant/Owner
Block 6001, Lots 33, 34, 34.01, 35, 35.01 and 36-Route 206

FINDINGS OF FACT, CONCLUSIONS AND RESOLUTION GRANTING PRELIMINARY AND FINAL MAJOR SUBDIVISION AND SITE PLAN APPROVAL WITH VARIANCES, DESIGN WAIVERS AND RSIS EXCEPTIONS

WHEREAS, Harlingen Associates, LLC ("the Applicant") has filed an application seeking preliminary and final major subdivision and site plan approval with bulk variances, design waivers and RSIS exceptions to allow the construction of three two-story affordable market rate mix housing apartment buildings with 18 apartments and 36 three-bedroom townhomes on NJSH Route 206, Montgomery Township, New Jersey (being Block 6001, Lots 33, 34, 34.01, 35, and 35.01 and 36 on the Montgomery Township Tax Map), in the SSIZ-3 Site Specific Inclusionary Zone 3 ("the Property"); and

WHEREAS the Board held a public hearing on the application on November 13, 2023; and

WHEREAS the Board entertained jurisdiction over the application pursuant to *N.J.S.A.*40:55D-37 and the Montgomery Township municipal ordinances; and

WHEREAS, the Applicant has complied with the notification and publication requirements of the Municipal Land Use Law. All property taxes due and owing for the subject Property are paid in full as are the current professional fees/escrow account in connection with the within application; and

WHEREAS, the Applicant was represented by Richard Schatzman, Esq., Schatzman Baker; and

WHEREAS, the Board considered the application, subdivision and site plans and related documents, testimony and exhibits presented at the hearings as follows:

(1) Applicant's Exhibits and Witnesses

Testimony was provided by Michael K. Ford, P.E., P.P., Van Cleef Engineering; Scott Nehring, Holliday Architects; Gary Dean, P.E. Dolan & Dean, Consulting Engineers; Thomas Auffenorde, PWS, Ecolsciences; and Scott Van Cleef, Principal, Harlingen Associates LLC.

The Applicant placed the following exhibits into evidence:

Exhibit A-1: Proposed Conditions Plan, prepared by Michael Ford, P.E., dated January 17, 2023, revised through July 28, 2023;

Exhibit A-2: Existing Conditions Plan, prepared by Michael Ford, P.E., dated January 17, 2023;

Exhibit A-3- Sheets SK1-SK20, Townhome renderings, townhome floor plans, apartment buildings, floor plans, elevations, storage sheds, prepared by Holliday Architects, dated August 23, 2018, revised through May 15, 2023.

Testimony of Michael K. Ford

Mr. Ford testified that he is a licensed professional engineer in the State of New Jersey, serves as project engineer and has previously been accepted as an expert witness in land use engineering before the Board as well as numerous land use boards. The Board accepted him as an expert witness in land use engineering.

Mr. Ford testified regarding the application and Exhibits A-1 and 2. He provided an overview of the project, noting that the Property is 22 acres in size, currently undeveloped and located in the Site-Specific Inclusionary Zone 3. Mr. Ford further testified that the project will contain 18 apartments (7 market rate and 11 low and moderate income) which will be located in three, two-story buildings. In addition, the project will contain 36 market rate townhomes which will be structured for fee simple ownership with the ownership of the townhouse and the lot on which it is located. Mr. Ford explained that the Property will be subdivided into 40 lots, with 36 lots attributed to the townhouse units, one 8.846-acre open space lot, one 8.868-acre lot containing a stream corridor and freshwater wetlands, one 1.812-acre lot containing the three multi-family apartment buildings and an 0.508-acre lot for a sanitary sewer pump station. The project will also contain a play area, dog park, sidewalks and seating areas, shared open space, enclosed trash receptacles, and a pump station. He testified that the project has received NJDOT permit approval for the proposed access from NJSH Route 206 and has also received approval from the Delaware Raritan Canal Commission.

Mr. Ford noted that the Applicant will construct a force main, pump station and gravity line which will be built to municipal specifications and dedicated to the Township. He further confirmed that the Applicant has revised its proposed sewer alignment and anticipates that the sewer line will go through the municipal site occupied by the Township Public Works Department down Harlingen Road to the existing sewer collection system on Rutland Road. Mr. Ford confirmed that the Applicant is working with the municipal engineers to finalize its plans and that the sewer alignment will require approval of the Montgomery Township Committee.

Mr. Ford reviewed the trash collection method and collection route and confirmed that the roads will be private. He noted that the project will require a design waiver to allow resident storage for the apartments to be located in a separate building on-site and variances to allow fence heights of six feet along the rear of the townhomes and a fence height of eight feet around the pump station. Mr. Ford confirmed that project meets the municipal stormwater management requirements. Mr. Ford testified that the Applicant will comply with the comments and recommendations made by the Board Engineer, Rakesh Darji, P.E., P.P., CME as set forth in his review memos, except for items discussed hereinafter by Richard Schatzman Attorney.

Testimony of Scott Nehring

Scott Nehring provided testimony regarding the application. Mr. Nehring testified that he is a Senior Project Manager and Designer and is a principal of Holliday Architects, the architects of record for the project. Mr. Nehring provided testimony regarding the building design referencing Exhibit A-3.
Mr. Nehring reviewed the townhome renderings and floor plans, advising that all townhome units will have three bedrooms. Mr. Nehring reviewed the affordable unit buildings. He confirmed that the first-floor units of the affordable buildings will be ADA adaptable / accessible. Mr. Nehring also reviewed the affordable housing unit mix.

Mr. Nehring testified that the project will require a variance for the roof treatment to allow a one-foot projection of the roof eave rather than the ordinance requirement of a two-foot projection. He advised that he believes that the one-foot projection of the roof eave is consistent with industry standards. In response to Board questions, Mr. Nehring testified that the townhomes and apartments will comply with the International Residential Code and International Building Code standards, including those regarding fire separation.

Testimony of Gary Dean

Gary Dean, P.E. of Dolan and Dean, Consulting Engineers, testified regarding traffic aspects of the application. He advised that he is a professional engineer in New Jersey with forty years of professional experience in traffic engineering and has been accepted as an expert in traffic engineering by many land use boards in New Jersey. The Board agreed to accept him as an expert in traffic engineering. Mr. Dean confirmed that the proposed access design for the project was reviewed and approved by NJDOT.

In response to Mr. Fishinger's review memos, Mr. Dean advised that he believes the Applicant has met the stopping sight distance standards but is willing to add a stop sign at the Johannes Drive intersection. As a result of a colloquy with Mr. Fishinger, it was agreed that there will not be a stop sign at that intersection and that the Applicant will work with Mr. Bartolone to ensure that the proposed landscaping does not interfere with sight distances at all project intersections.

Mr. Dean testified regarding the Applicant's requested RSIS exceptions. He advised that the Applicant requests exceptions to allow 18-foot width driveways for street facing garages and 20-foot-wide driveways for side-entry garages and a length of 22 foot per space for parallel parking spaces. Mr. Dean explained that complying with the RSIS standards would reduce green space and increase impervious coverage, resulting in a less preferable design. He noted that the project is small with relatively narrow internal roads and that the intention is for residents to park on the townhome driveways rather than on the road.

Thomas Auffenorde

Thomas Auffenorde testified on behalf of the Applicant. Mr. Auffenorde advised that he is a professional water specialist and environmental scientist and is employed as a Vice President with Ecolsciences. Mr. Auffenorde testified that he has previously been accepted as an expert witness in environmental science by the Montgomery Planning Board and by other land use boards in New Jersey and the Board agreed to so accept him. Mr. Auffenorde explained that he prepared the Environmental Impact Statement submitted by the Applicant as part of the project application.

Mr. Auffenorde addressed the comments provided by the Township Environmental Commission, as set forth in its review memo dated August 3, 2023. He advised that the Applicant will apply to NJDEP for the appropriate permits to allow filling of wetlands. Mr. Auffenorde also addressed comments regarding endangered species raised in Ms. Wasilauski's review memos. He advised that the majority of the Property is not ranked by NJDEP mapping as suitable habitat for endangered species. Mr. Auffenorde advised that the U.S. Fish and Wildlife Service ("Fish and Wildlife") regulates tree clearing as it relates to protected species. He testified that NJDEP would inform Fish and Wildlife of the Applicant's project permits and would allow Fish and Wildlife to decide whether it wished to place time restrictions on tree clearing. Mr. Auffenorde confirmed that the Applicant would comply with the direction provided by Fish and Wildlife with respect to time restrictions on tree clearing.

Scott Van Cleef

Scott Van Cleef testified on behalf of the Applicant. He advised that he is a principal of the Applicant entity. Mr. Van Cleef testified that in deference to concerns raised by the Township Landmarks Commission in its review memos the name "Harlingen" would not be used in the name of the project.

Counsel Comments

Mr. Schatzman confirmed that the Applicant will comply with the comments and recommendations set forth in the review memos/letters provided by: Michael Sullivan, PP, AICP and James Clavelli, PP, AICP, of Clarke Caton Hintz, dated April 27, 2023, July 17, 2023 and final revision October 12, 2023, except as to the cross easements in Section 5.3 of the report where the cross easements are to be placed, i.e. in a separate document or the HOA documents to be worked out by the Applicant and Township Attorney, and as to 7.5 of the report not to reconfigure the architectural plans relative to bathrooms; Rakesh Darji, P.E., P.P. C.M.E. of Environmental Resolutions, Inc. dated April 28, 2023, July 18, 2023 and finally revised November 1, 2023, with the exception of providing individual lot descriptions for the townhomes and providing beginning points for each lot (but will comply with the requirements of the Map Filing Act (N.J.S.A. 46:2B-1 et seq.); Joseph Fishinger, Jr., P.E., P.P., PTOE dated July 17, 2023 and final revision of September 8, 2023, except as set forth hereinabove with respect to a stop sign on Johannes Drive; and Richard Bartolone, ASLA, Landscape Architect, dated April 25, 2023, July 17, 2023 and final revision October 16, 2023. Mr. Schatzman advised that the Applicant believes it has adequately addressed the comments set forth in the review memos of Lauren A. Wasilauski, Township Open Space & Stewardship Director, dated April 24, 2023, July 14, 2023 and final revision October 16, 2023, except that the construction will be as per the testimony of Thomas Auffenorde above stated regarding the endangered species and per the wetland delineation methodology, lighting deferred to the Planning Board Planner's report, no additional swings, no enlargement of the play area, no walking path and the lofts and study spaces will be restricted as to conversions into bedrooms in the HOA documents; the Township Environmental Commission, dated August 3, 2023; the Landmarks Commission dated March 10, 2023, July 17, 2023 and revised July 27, 2023; and the Shade Tree Committee, dated April 25, 2023 and revised July 17, 2023.

Mr. Schatzman noted that the new sewer alignment proposed by the Applicant would avoid the need to run sewer access through a municipally owned open space area (Montfort Drive detention basin lot) and that the Applicant was working with the municipal engineers to finalize its sewer plans which would be subject to the approval of the Montgomery Township Committee. Mr. Schatzman also confirmed that the Applicant was amenable to a condition of approval which prohibited the conversion of loft spaces or study spaces in the townhome units to additional bedrooms and would also add this restriction to the homeowner association documents.

(2) The Application, Plans and related documents:

The Applicant applied for preliminary and final major subdivision and site plan approval, variances and waivers and RSIS exceptions with related documents as follows:

(3) Staff and Professional Consultant Memos

The Board considered the following review and comment memos provided by the Township staff and Board consultants:

Michael Sullivan, PP, AICP and James Clavelli, PP, AICP, of Clarke Caton Hintz, dated April 27, 2023, July 17, 2023 and October 12, 2023; Rakesh Darji, P.E., P.P. C.M.E. of Environmental Resolutions, Inc. dated April 28, 2023, July 18, 2023, and November 1, 2023; Joseph Fishinger, Jr., P.E., P.P., PTOE, Brightview Engineering, dated July 12, 2023 and September 8, 2023; Montgomery Township Environmental Commission dated August 3, 2023; Lauren A. Wasilauski, Township Open Space & Stewardship Director, dated April 24, 2023, July 14, 2023 and October 16, 2023; Richard Bartolone, ASLA, Landscape Architect, dated April 25, 2023, July 17, 2023 and October 16, 2023; Shade Tree Committee, dated April 25, 2023 and July 17, 2023; Landmarks Commission, dated March 10, 2023, July 17, 2023 and July 27, 2023.

(4) Testimony of Board Professionals:

James Clavelli, PP, AICP

James Clavelli, PP, AICP, Clarke Caton Hintz, the Board's consulting planners, testified regarding their review memos. Mr. Clavelli advised that the Applicant had addressed the variances and waivers identified in the review memos and responded to Board questions and had no problems with same.

Rakesh R. Darji, P.E., P.P., C.M.E.

Rakesh Darji, PE, PP, CME, Environmental Resolutions, Inc., the Board's consulting engineer, testified regarding his review memos. He noted that the Applicant has indicated its willingness to comply with his recommendations as set forth in his review memos and his comments during the hearing, with the exception of the provision of legal descriptions for the individual townhome lots and beginning points for each lot. Mr. Darji confirmed that the foregoing will be acceptable to him, subject to the Applicant's compliance with the state Map Filing Act.

Joseph Fishinger, PE, PTOE

Joseph Fishinger, PE, PTOE of BrightView Engineering, the Board's traffic engineering consultant, testified regarding his review and responded to Board questions and Applicant comments.

Richard Bartolone, ASLA

Richard Bartolone, ASLA confirmed that the Applicant's requested waivers for replacement and location of street trees are acceptable to him, subject to the Applicant's compliance with his recommendations as set forth in his review memos.

(5) Public Comment and Objector Exhibits

The application was opened to the public for comment and the following members of the public provided comment which was considered by the Board:

Elizabeth Palius, Montgomery Township, asked that the name of the development be changed to avoid use of the name "Harlingen", that additional landscape screening be provided by the Applicant and asked for clarification regarding the proposed stormwater management.

Kristine Mineo, Harlingen Road, inquired regarding the proposed sewer alignment and pump station capacity.

Jessie Havens, Montgomery Township, asked that the name of the development be changed to remove any reference to "Harlingen".

AND WHEREAS, based upon review of the foregoing testimony, exhibits and the application, plans and related documents, the Planning Board makes the following findings of facts and conclusions:

(1) Harlingen Associates, LLC ("the Applicant") has filed an application seeking preliminary and final major subdivision and site plan approval with bulk variances and design waivers to allow the construction of three two-story affordable market rate mix housing apartment buildings with 18 apartments (7 market rate and 11 low and moderate income) located in three two-story buildings, and 36 three-bedroom townhomes on Route 206,

Montgomery Township, New Jersey (being Block 6001, Lots 33, 34, 34.01, 35, and 35.01 and 36 on the Montgomery Township Tax Map), in the SSIZ-3 Site Specific Inclusionary Zone 3 ("the Property").

(2) The Board entertained jurisdiction over the application pursuant to *N.J.S.A.* 40:55D-37 and the Montgomery Township municipal ordinances.

(3) The Applicant has complied with the notification and publication requirements of the Municipal Land Use Law. All property taxes due and owing for the subject Property are paid in full as are the current professional fees/escrow account in connection with the within application.

(4) The use of the Property for the proposed multi-family project is permitted by the standards of the SSIZ-3 Site Specific Inclusionary Zone 3.

(5) The project will contain 18 apartments (7 market rate and 11 low- and moderate-income) which will be located in three two-story buildings. In addition, the project will contain 36 market rate townhomes which will be structured for fee simple ownership with the ownership of the townhouse and the lot on which it is located. The townhomes will have driveways and garages. The Property will be subdivided into 40 lots, with 36 lots attributed to the townhouse units, one 8.846-acre open space lot, one 8.868-acre lot containing a stream corridor and freshwater wetlands, one 1.812-acre lot containing the three multi-family apartment buildings and an 0.508-acre lot for a sanitary sewer pump station. The project will also contain a play area, dog park, sidewalks and seating areas, shared open space, enclosed trash receptacles and a pump station.

(6) Access to the Property will be provided by single access from Route 206. The Applicant proposes driveway widths of 18 feet and a limited number of parallel parking spaces with a length of 22 feet per space, in order to preserve green space and reduce impervious coverage.

(7) There are wetlands on site which are subject to regulation by NJDEP. The project will require permit approval by NJDEP. Stormwater management for the project will be constructed by the Applicant in compliance with current NJDEP regulations and municipal requirements.

(8) The proposed project requires the following bulk variances, design waivers and RSIS exceptions:

Variances:

Section 16-5.3b to allow six-foot privacy fences at the rear of the townhome units and an eight-foot fence at the proposed sanitary sewer pump station;

Section 16-4.14.c.8(c) to allow a one-foot projection of the roof eave as opposed to a two-foot projection.

RSIS Exceptions

RSIS Section 5:21-4.14(d)3 to allow driveway widths of 18 feet for the street facing garages and 20 feet for the side-entry garages;

RSIS Section 5:21-4.14(f) to allow an on-street parallel parking length of 22 feet for each space.

Per figure of RSIS pavement section for residential access/neighborhood street is 1.5" HMA Surface Course/3" HMA base course/4" DGA. Applicant is proposing to exceed the standard by providing 2" I-5 Surface Course, 4" I-2 Base Course, and 4" DGA.

Design Waivers:

Section 16-5.6c to allow import of 5000 CY of soil.

Section 16-5.6d(3) to allow replacement tree planting based on limit of disturbance which is 12.27 acres requiring 172 trees;

Section 16-5.6d(15) to allow placement of proposed street trees at 50-foot intervals along NJSH Route 206 on the interior side of the sidewalk as opposed to the exterior between the sidewalk and curbing;

Section 16-6.3c to allow 20 parallel parking spaces along interior streets.

Section 16-6.3g to allow additional storage area for the apartments in a separate building rather than in the apartment buildings themselves.

(9) The Applicant has revised its proposed sewer alignment and anticipates that the alignment will generally follow a path from the Property to the municipal site occupied by the Township Public Works Department, down Harlingen Road to the existing Rutland Road sewer collection system. The Applicant has testified that it will construct a force main, pump station, and gravity lines which will be built to municipal specifications and dedicated to the Township. The Applicant has further represented that it is working with the municipal engineers to finalize its plans and that the sewer alignment plan will require approval of the Montgomery Township Committee.

(10) The Municipal Land Use Law gives the Board the power to grant a C (2) "flexible" variance where the Board determines that the purposes of zoning and the Municipal Land Use Law, N.J.S.A. 40:55D-1 et. seq. would be advanced by a deviation from the zoning requirements, that the variances can be granted without substantial detriment to the public good, that the benefits of the deviation would be substantially outweigh any detriment and that the variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance. The Board finds that the proposed use is permitted in the SSIZ-3 Site Specific Inclusionary Zone 3. The Board further finds that the requested variances will promote the purposes of zoning pursuant to the Municipal Land Use Law, NJSA 40:55D-2(a) and (c) by facilitating an appropriate use of the Property and adequate light, air and space and that the facility configuration on the site, and proposed buffering will minimize any negative impact on the surrounding uses. The Board finds all of the variances and waivers are reasonable based on the testimony of Applicant's witnesses contained in the record and also finds there is no detrimental effect of the proposed variances and waivers on the neighborhood and zoning plan. The one foot roof overhang should not cause any significant impact and the fence heights provide for more privacy at the rear of the townhomes and more security around the pump station.

Based on the foregoing, the Board finds that, as conditioned by the Board, the variances can be granted without substantial detriment to the public good, that the benefits of the deviation will substantially outweigh any detriment and that the variances will not substantially impair the intent and purpose of the zone plan.

The Board further finds that the requested waivers are reasonable because the tree replacement and location of street trees will adequately screen the project from surrounding uses and will be done in compliance with the recommendations of the Board's Landscape Architect, Richard Bartolone, ASLA. The Board further finds that the requested RSIS exceptions are *de minimus* and will facilitate retention of green space and reduction of impervious coverage and the 20 parallel parking along interior streets provide extra parking without impeding traffic flow and safety and the storage area for the apartments in a separate building rather than in the

apartment buildings themselves is a better alternative for storage for the apartment residents instead of crowding storage items in the apartment units themselves. The Board also finds the importation of 5000 CY of soil is reasonably necessary to properly develop the site.

The Municipal Land Use Law further authorizes the Board to grant preliminary and final major subdivision and site plan approval pursuant to N.J.S.A 40:55D-37. The Board finds that the professional staff has testified that the Applicant has met the municipal site plan standards and recommends preliminary and final major subdivision and site plan approval with conditions. The Board adopts the staff recommendation and finds that the record before the Board supports the issuance of preliminary and final major subdivision and site plan approval with variances and waivers, as conditioned by the Board.

NOW, THEREFORE, BE IT RESOLVED based upon the foregoing findings of fact and conclusions, the Montgomery Township Planning Board does hereby grant to Harlingen Associates LLC preliminary and final major subdivision and site plan approval with bulk variances, design waivers, RSIS exceptions and approval to import 5000 CY of soil to construct three two-story affordable market rate mix housing apartment buildings with 18 apartments, and 36 three-bedroom townhomes with related site improvements including a play area, dog park, sidewalks and seating areas, shared open space, enclosed trash receptacles, and a pump station as set forth in the Board's foregoing findings and conclusions, consistent with the testimony presented by the Applicant, revised plans, reports and exhibits, and subject to the Applicant's compliance with the following conditions:

(1) Compliance with the comments and recommendations of the Board Engineer, Rakesh R. Darji, P.E. P.P., CME of Environmental Resolutions, Inc. as set forth in Mr. Darji's memorandum dated November 1, 2023, and his testimony, and any subsequent comments in connection with conformance review by staff with the exception of the requirement to provide legal descriptions for the individual townhouse lots and providing beginning points for each lot, but will comply with the requirements of the Map Filing Act, (N.J.S.A.46:2B-1 et seq.) .

(2) Compliance with the comments and recommendations of Michael Sullivan, PP AICP and James Clavelli, PP, AICP of Clarke Caton Hintz, as set forth in their memorandum of October 12, 2023 except as to cross easements in Sec. 5.3 of the report where the cross easements are to be placed – i.e. in a separate document or in the HOA documents to be worked out by the Applicant and Township Attorney, and as to 7.5 of said report not to reconfigure the architectural plans relative to bathrooms, Mr. Clavelli's testimony, and any subsequent comments in connection with conformance review by staff;

(3) Compliance with the comments and recommendations, if not done so already, set forth in the memorandum of Richard Bartolone, ASLA, dated October 16, 2023, and any subsequent comments in connection with conformance review by staff;

(4) Compliance with the comments and recommendations set forth in the review letters from Joseph A. Fishinger, PE, PTOE, Bright View Engineering, dated September 8, 2023, his testimony, and any subsequent comments in connection with conformance review by staff, except as set forth hereinabove with respect to a stop sign on Johannes Drive;

(5) The Applicant's proposed sewer alignment is contingent upon approval of the Montgomery Township Committee and municipal engineers. The Applicant will construct a force main, pump station and gravity line in connection with the proposed sewer alignment which shall be built in accordance with Township specifications and dedicated to the Township. The proposed pump station lot will have less than 50% impervious coverage. In the event that the Applicant does not receive the required municipal

approvals for the proposed sewer connections for the Property, or if the final pump station design exceeds the maximum impervious coverage of 50%, the Applicant shall be unable to proceed with the project and shall be required to return to the Planning Board for further approvals.

(6) The development of the Property shall be implemented with the approved plans and the revisions described herein. In the event that the Applicant shall make or propose any changes to the project and structures on the Property from those shown on the approved plans and exhibits approved for this application, as well as the required revisions described in this Resolution, whether such changes are voluntarily undertaken or required by any regulatory agency, the Applicant shall resubmit such changes to the Township Planning Department, for review and determination as to whether the extent of such changes will require formal review and approval by the Board.

(7) The Township reserves the right to request such additional minor and reasonable site improvements should actual field conditions vary from those depicted on the project plans, subject to the mutual agreement of the Township and the Applicant.

(8) The Applicant shall submit construction cost estimates, post all required guarantees for the proposed improvements, and maintain with Montgomery Township an escrow account sufficient to pay professional review/and construction inspection fees for this Project. Guarantee amounts and escrow fees shall be determined by the Township Engineer in accordance with the provisions of the Township ordinances and the Municipal Land Use Law. The Applicant shall submit cost estimates for review. Cost estimates and guarantees are subject to the approval of the Township Attorney and/or Township Engineer. Maintenance guarantees will be required in accordance with the Municipal Land Use Law.

(9) The Applicant shall obtain all required approvals from the following agencies, if not done so already, as well as any and all other approvals, licenses, and permits required by any other board, agency or entity having jurisdiction over the subject application or over the subject Property, as applicable:

a. Somerset County Planning Board
b. Somerset-Union Soil Conservation District
c. Delaware & Raritan Canal Commission
d. New Jersey Department of Environmental Protection BSDW
e. New Jersey Department of Environmental Protection TWA
f. New Jersey Department of Environmental Protection DLRP (formerly DLUR)
g. New Jersey Department of Environmental Protection Freshwater Wetlands General Permit
h. Montgomery Township Engineering Department
i. Montgomery Township Sewer Utility
j. Montgomery Township Committee
k. Montgomery Township Fire Marshal
l. Any and all others as required.

Copies of all approvals shall be provided to the Township as part of Planning Board Resolution conformance review, prior to applying for construction permits.

(10) All deeds, easements and other legal documents are subject to review and approval of the Township Attorney and Township Engineer. The applicant shall obtain approval and record all instruments associated with the project, as applicable, including, but not limited to sight triangle easements, utility easements, landscape buffer easements, cross easements for use and access of the common elements, access and/or emergency access easements, conservation deed restriction, stormwater facility deed restriction, stormwater operations and maintenance manual, drainage easements, and amendments or

vacations of existing instruments. Stormwater facility deed restriction must include provisions to prevent modification or alteration without Township Engineer approval.

(11) If applicable, any improvements proposed to be dedicated to the Township are subject to the Township Engineer's review and Township Committee approval. The Homeowners Association shall be responsible for maintenance of the new stormwater management facilities.

(12) The Applicant shall enter into a "Developer's Construction Sequence Agreement", subject to authorization by the Township Committee. The Agreement shall conform to applicable Township Code including but not limited to Section 16-9.2. The "Developer's Construction Sequence Agreement" is subject to review and approval by the Township Attorney and Township Engineer.

(13) The Applicant shall enter into a "Sewer Participation/ Capacity Agreement" with the Township Committee and pay sewer capacity charges in accordance with Section 12-7.4 of the Montgomery Township Code.

(14) The Applicant is subject to the requirements of the Sewer Utility including but not limited to payment of sewer capacity charges, analysis of the collection system and downstream pump stations to demonstrate there is adequate capacity for the additional flow, any necessary upgrades to the collection system and pump stations, conformance with Township standard details, Township Code requirements, and other applicable standards.

(15) The Applicant must provide NJDEP Tier A MS4 required forms to the Township Engineer, including Attachment D Stormwater Summary, 5G3 Authorization, annual BMP maintenance reports, inspection logs, and other relevant information needed by the Township Engineer for annual reporting.

(16) The Stormwater Management Facility Operations and Maintenance Manual is subject to the review and approval of the Board and Township Engineers. The Operations and Maintenance Manual will be recorded with the Somerset County Clerk's office. The Applicant's stormwater Operations and Maintenance must require annual reporting in accordance with Township Code.

(17) The Applicant shall be required to post the sewer payments in full for as a condition of approval of final plats.

(18) An address or address map must be provided to the Township Engineer for review and approval.

(19) The Applicant will yield Title 39 jurisdiction to the Township for private roads, parking lots, and driveways, subject to acceptance of jurisdiction by the Township. The applicant shall submit a letter requesting that the Township accept Title 39 jurisdiction at the time of filing the final map of the subdivision in the Somerset County Clerk's Office. The applicant shall also provide any maps or exhibits necessary for the Township Title 39 traffic ordinance update.

(20) In the event that any soil removal, exportation, or importation is required for this project, the Applicant shall obtain a Soil Hauling Permit from the Township Engineer. Soil removal, exportation, or importation from or to the Property for the proposed project shall not exceed a cumulative total of 5,000 cubic yards without further approval by the Board exclusive of soil previously imported to the Property approved under case PB-11-20.

(21) The Applicant shall execute and record a deed restriction with respect to affordability of the affordable housing units in accordance with Township municipal ordinances, subject to review and approval by the Township Attorney.

(22) The Applicant will comply with any restrictions on tree clearing which are imposed by the U.S. Fish and Wildlife Service and/or NJDEP in connection with protection of endangered species.

(23) No conversion of loft spaces or study spaces in the townhome units to additional bedrooms will be allowed as a condition of this approval. The Applicant shall also cause the project's homeowner association documents to reflect this restriction.

(24) The word "Harlingen" shall not be used in the name of the project.

(25) The Applicant will enter into a COAH Developer's Agreement for the apartment units, such agreement to be approved by Applicant and the Township Committee.

ROLL CALL VOTE ON MOTION TO GRANT PRELIMINARY AND FINAL MAJOR SUBDIVISION AND SITE PLAN APPROVAL WITH VARIANCES, WAIVERS, and RSIS EXCEPTIONS
(November 13, 2023)

Moved by: Blodgett

Seconded by: Campeas

Those in Favor: Blodgett, Khan, Matthews, Campeas

Those Opposed: Hamilton

Those Abstaining: Keenan, Todd

Those Recused: Roberts, Glockler, Mani

ROLL CALL VOTE ON MOTION TO APPROVE
RESOLUTION OF MEMORIALIZATION (January 8, 2024)

Moved by: Blodgett

Seconded by: Khan

Those in Favor: Blodgett, Khan, Campeas

LORI SAVRON
PLANNING BOARD SECRETARY
TOWNSHIP OF MONTGOMERY
STATE OF NEW JERSEY

21. Third Round: Montgomery Five

DECLARATION OF COVENANTS AND RESTRICTIONS PURSUANT TO N.J.S.A. 40A:12A-9

E1004A, LLC, a New Jersey limited liability company (hereinafter "**Declarant**"), having an address of 1125 State Road, Princeton, New Jersey 08540, is the owner of certain lands and premises located in the Township of Montgomery, County of Somerset and State of New Jersey, known as 980, 966 & 958 State Road (Route 206), also known as Block 34001, new Lot 60.01 (formerly Lots 60, 61 & 62 on the Montgomery Township Tax Assessment Maps (rev. ed. 2017)), and also being the same lands and premises subject to a certain "Consolidation Deed," dated March 30, 2018 and recorded in the Somerset County Clerk's Office on April 3, 2018, in Book 7033, Pages 2524-2531 (hereinafter the "**Property**").

In accordance with the Local Redevelopment and Housing Law, **N.J.S.A. 40A:12A-1 et seq.**, (hereinafter "**LRHL**"), and pursuant to Resolution No. 17-8-196 adopted by the Montgomery Township Committee, the Property has been designated as a non-condemnation area in need of redevelopment. The Township Committee also adopted Ordinance No. 17-1559 establishing a redevelopment plan for the Property.

In accordance with the established redevelopment plan, Declarant obtained approvals from the Montgomery Township Planning Board (Case No. PB-06-17) for the construction and/or installation of an automobile dealership and associated service center, off-street parking, underground stormwater management basin, signage, lighting, fences, walls, and landscaping and other amenities on the Property (hereinafter the "**Project**").

Declarant and the Township of Montgomery, in Somerset County, a municipal corporation of the State of New Jersey (hereinafter "**Township**") entered into a redevelopment agreement pertaining to the Property and Project on December 7 2017 (hereinafter the "**Redevelopment Agreement**").

The Property has been referenced in a certain settlement agreement entered into by the Township and Fair Share Housing Center, arising out of In re the Matter of the Township of Montgomery, Docket No. SOM-L-924-15 establishing certain affordable housing requirements for the Township because, previously, some affordable housing units were to be located on the Property.In lieu thereof, under the current redevelopment plan, Declarant is obligated to make a payment to the Township's affordable housing trust fund instead of constructing housing units. Declarant satisfied the requirement to make said payment.

The LRHL, specifically N.J.S.A. 40A:12A-9 requires the imposition of certain covenants running with the land upon redevelopment projects, including the Project.

NOW, THEREFORE,

THIS DECLARATION OF COVENANTS AND RESTRICTIONS (hereinafter "**Declaration**") is made the 9th day of April, 2018, by Declarant to memorialize and establish certain covenants and restrictions upon the Property, as follow:

1. Declarant shall only construct the uses established in the approved redevelopment plan upon the Property;

2. Construction of the Project shall commence not later than May 22, 2018;

3. Declarant shall not sell, lease, or otherwise transfer the Property or Project without written consent of the Township; and

4. Upon completion of the Project and all required improvements and issuance of the Certificate of Completion and Compliance in recordable form as provided for by the Redevelopment Agreement, the conditions determined to exist at the time the Property was determined to be in need of redevelopment shall be deemed to no longer exist.

This Declaration shall be binding upon the Declarant, its grantees, heirs, successors, and assigns, and shall be deemed to be covenants and restrictions running with the land, until terminated as pursuant to the terms, covenants and conditions of the Redevelopment Agreement.

IN WITNESS WHEREOF, Declarant has duly executed this Declaration as of the date first above written.

WITNESS:

RICHARD SCHATZMAN
Attorney at Law of New Jersey

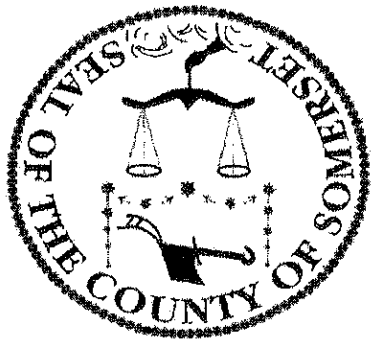
E1004A, LLC, a New Jersey Limited Liability Company

By: _____
Joshua Kalafer, Managing Member

STATE OF NEW JERSEY)
) ss.
COUNTY OF Somerset)

BE IT REMEMBERED that on this 9th day of April, 2018, before me, the subscriber, an attorney-at-law of the State of New Jersey, personally appeared Joshua Kalafer, the Managing Member of E1004A, LLC, the New Jersey limited liability company that executed this Declaration, and he acknowledged that he signed, sealed and delivered this Declaration as the Managing Member of limited liability company as and for its voluntary act and deed for the uses and purposes therein expressed, and that he is duly authorized by E1004A, LLC to act on behalf of and bind E1004A, LLC to this Declaration.

_____
Richard Schatzman
Attorney-at-law of the State of New Jersey



STEVE PETER
SOMERSET COUNTY CLERK
20 GROVE STREET
P.O. BOX 3000
SOMERVILLE, NJ 08876-1262

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Recorded: 04/10/2018 11:31:12 AM

Book: OPR 7035 Page: 1649-1652

Instrument No.: 2018012894

AGTDEED 4 PGS $53.00

Recorder: PREMPEH

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DO NOT DISCARD



2018012894

PLANNING BOARD
TOWNSHIP OF MONTGOMERY
CASE NO. PB-06-17

WHEREAS, E1004A, LLC (Jaguar Land Rover Princeton) has applied to the Planning Board of Montgomery Township for Preliminary & Final Site Plan approval with submission waivers, design waivers and bulk variances for the premises known as Block 34001, Lots 60, 61 and 62, to construct a Jaguar/Land Rover automobile dealership and associated service center, off-street parking, an underground stormwater management basin, signage, lighting, fences and walls and plantings. The subject property is a 1.63 acre tract located along NJ State Highway Route 206 in the Montgomery Five Redevelopment Area (MFRA) district; and

WHEREAS, the application was presented at the December 18, 2017 Planning Board meeting by Richard Schatzman, Esq., of the firm of Schatzman Baker, PC, attorney for applicant; Joshua Kalafer, a principal of the applicant; Michael Ford, PE, of Van Cleef Engineering Associates, applicant's civil engineer; John Mannino of Cerminara Architects, applicant's architect; and Gary Dean, PE of Dolan & Dean, applicant's traffic consultant; and

WHEREAS, an application for a variance for the height of the flagpole was presented again at the January 22, 2018 Planning Board meeting; and

WHEREAS, the application was reviewed by the Township Planners, Michael Sullivan, ASLA/AICP, and Emily Goldman, PP/AICP, of Clarke Caton Hintz; the Planning Board Engineer, Jason A. Cline, PE, of the firm of Remington & Vernick Engineers; the Township Landscape Architect, Richard Bartolone, ASLA; Joseph Fishinger, PE, of NV5, the Township's traffic engineer; Lauren Wasilauski, the Township's Open Space Coordinator; the Township Environmental Commission; the Township Health Department; the Montgomery Township Police Department and the Township Shade Tree Committee; and

WHEREAS, the following reports and review letters were submitted by the Board professionals and the Township staff and were made part of the record:

1) Engineering review memorandum dated 11/13/17 submitted by Jason A Cline, PE/CME of Renington & Vernick Engineers, Board Engineers;
2) Planning review memorandum dated 11/10/17 revised 12/11/17 submitted by Michael Sullivan, ASLA/AICP and Emily Goldman, PP/AICP of Clarke Caton Hintz, Township Planner;
3) Memorandum dated 11/1/17 submitted by Joseph A Fishinger, Jr, PP/PP/PTOE of NV5, the Board's traffic consultant;

4) Memorandum dated 11/20/17 submitted by Richard Bartolone, ASLA, the Township Landscape Architect;
5) Memorandum dated 11/8/17 submitted by Lauren A Wasilauski, Township Open Space Coordinator;
6) Memorandum dated 11/13/17 submitted by the Township Shade Tree Committee;
7) memorandum dated 11/10/17 submitted by the Montgomery Township Police Department;
8) memorandum dated 11/13/17 submitted by the Montgomery Township Environmental Commission;
9) memorandum dated 10/24/17 submitted by Stephanie D Carey, Health Officer; and

WHEREAS, the Board, after considering the evidence produced by the applicant and the Township professionals, has made the following factual findings:

A. The Project & Site Description.

1. Block 34001, Lots 60, 61 and 62 is a 1.63 acre tract located along NJ State Highway Route 206 in the Montgomery Five Redevelopment Area (MFRA) district. Each of the three lots previously contained abandoned improvements including two residential buildings and one commercial building that was most recently a car rental office. The buildings were demolished some time during late 2012/early 2013. Currently, the tract contains gravel driveways and parking areas on both Lot 60 and 62 and unmaintained vegetation on all three lots. Access to the site is via NJ State Highway Route 206 and a driveway easement through Block 34001, Lot 65 from the loop road.

2. The applicant is requesting preliminary and final site plan approval with bulk variances to construct a Jaguar/Land Rover automobile dealership and associated service center, off-street parking, an underground stormwater management basin, signage, lighting, fences and walls and plantings.

3. The applicant requires a bulk variance for the fence height and the flagpole (an accessory structure) and design exceptions. The applicant is also requesting partial submission and/or design waivers for submission of information within 200 feet of the site.

B. Testimony of Michael Ford, applicant's civil engineer.

4. Mr. Ford provided the Board with an overview of the application, described existing conditions in Exhibit A-1 (a colorized version of Sheet 3 of the site plan dated 10/15/17, last revised 12/5/17). He then presented Exhibit A-2 (a colorized version of the existing features/demolition plan Sheet 2 dated 10/5/17 last revised 11/6/17) and testified that the applicant's proposal was in accordance with the requirements of the Montgomery Five Redevelopment Area District.

5. He testified that the applicant was proposing parking spaces that are 9 feet wide by 18 feet in length. The LDO requires that a parking space be not less than 9 feet wide by 20 feet in length, except that the length of a parking space may be reduced to 18 feet in length subject to approval of the Board in those instances where a 2-foot overhang area exists beyond the curb and where such overhang does not interfere with any proposed and/or required landscaping. Mr. Ford testified that 9 feet by 18 feet parking spaces is the industry standard and is adequate for the proposed use of the property. He further testified that there is a sufficient 2-foot overhang that would not interfere with the landscaping and that the applicant preferred to maintain the landscaping as opposed to providing the 20-foot length of the parking spaces. The applicant requested an exception from the design requirements of the ordinance. The Board accepted his testimony.

6. The applicant requested a variance from the architectural screening section of the ordinance which requires that a fence have a maximum height of 6 feet. The applicant is proposing a 6-foot metal fence on top of a retaining wall of variable heights. The maximum height of the retaining wall is 5.15 feet along the northern property line; therefore the total maximum height of the architectural screening is 11.15 feet. Mr. Ford testified that the retaining wall, which ranges from 2 feet to 5 feet high, will accommodate the grading of the property and is necessary to comply with sound engineering practices. The fence cannot exist without the retaining wall. The Board accepted his testimony.

7. The design exception is required from that section of the LDO which states that each off-street parking area shall have a minimum area equivalent to 1 parking space for every 30 spaces landscaped with approximately one-half of the area having shrubs no higher than 3 feet and the other half having trees with branches no lower than 7 feet. Mr. Ford informed the Board that the applicant is proposing 36 parking spaces along Route 206 without any plantings to break the view of the parked cars. He testified that the applicant could provide landscaping based on the proposed use of the property (a permitted use). However, the applicant feels it is more desirable to have the 6 additional parking spaces. The Board agreed with the applicant's explanation and granted the design waiver.

8. Mr. Ford then addressed the November 13, 2017 memorandum issued by Remington & Vernick Engineers (hereinafter RVE):

- He described the stormwater management system as including an underground detention basin and testified that the applicant will comply with all of the Board Engineer's recommendations set forth in Section F of RVE's memorandum (stormwater management) and agrees that such satisfaction of the stormwater management comments of RVE will be a condition of Board approval.
- The applicant is proposing "brick pavers" in front of the building and requires a design waiver from the LDO because brick pavers are not "asphalt". Mr. Ford testified that the brick pavers would act as a "visual enhancement" to the project and provide the same loading strength as asphalt. Mr. Ford agreed to demonstrate that the proposed pavers would provide the required loading strength to RVE's

satisfaction. Upon satisfaction of this condition, the Board granted this design waiver.

9. Mr. Ford then reviewed the November 20, 2017 memorandum issued by Richard Bartolone, the Township's Landscape Architect, and agreed with Mr. Bartolone calculation that 24 trees are required but the applicant was only proposing 14 trees. The applicant agreed that the deficit of 10 trees would be satisfied by contributing the value of those trees to the Township Tree Bank (Township Code Section 16-5.6d3(b)(2)) at the rate of $300.00 per missing tree. Mr. Bartolone, in item 11 of his memorandum, noted that the proposed "buffer" on the northerly property line will leave an 11.5 foot tall barrier (retaining wall with a 6-foot tall fence) on the property line it shares with its residential neighbor to the north. Mr. Bartolone suggested that the Board should consider requiring the applicant to either plant a significant vegetative buffer on the neighboring property to mitigate the visual effect it will have on the residence or supply funds to the neighbor to install a vegetative buffer by a contractor of their choice. The applicant agreed to approach the neighbor to satisfy Mr. Bartolone's concern and, if the neighbor did consent to the landscaping, the applicant would install additional landscaping subject to the review and approval of the Township Landscape Architect.

10. Mr. Ford then presented testimony in support of the submission waiver as to the requirement of identifying properties within 200 feet of the site. He testified that nothing off-site within 200 feet of the property would change the design or create a site plan issue. The applicant has already obtained an LOI and there are no wetlands or buffers required. The property is not in a flood plain nor does it have critical areas. Based on this, the Board granted the submission waiver.

C. Testimony of John Mannino, applicant's architect

11. Mr. Mannino presented Exhibit A-3 (a color rendition of the elevations) and described the exterior of the building as "modern" with 3 tones of gray. The height of the building is 35.5 feet to the highest rooftop limit.

12. The proposed fence would be a gray metal louvre panel fence with a similar gray tone to match the building.

- No sign variances were requested. Exhibit A-4 (sign elevations) showed a 15-foot high flagpole as an accessory structure. The applicant proposed a flagpole as a desirable accessory structure to the principal use. The Board discussed the height of the flagpole with the applicant and concluded that a variance should be granted to allow a 25-foot high flagpole with a maximum 4 foot by 8 foot flag.
- The 25-foot flagpole would be a better zoning alternative and work much better with the size and scale of the principal structure.

13. Mr. Mannino testified that the proposed bollards would be illuminated as per the manufacturer's requirement and responded to the Board Engineer's comment that

the applicant would coordinate the bollards between the applicant's architectural plans and site plans.

D. Testimony of Gary Dean, applicant's traffic consultant

14. Mr. Dean prepared and submitted to the Board a traffic impact analysis dated October 17, 2017, which traffic impact analysis is part of the record.

15. He reviewed the NV5 memorandum issued by Mr. Fishinger on November 1, 2017. With respect to the site plan portion of the memorandum, Mr. Dean testified as follows:

- Regarding item #8, he informed the Board that bulk car deliveries will not occur on this site but would occur on a nearby off-site location and that vehicles will be brought to the site on an as-needed basis.
- With respect to item #9, the applicant did provide HCS printouts and acknowledged that the levels of service would not be improved on Route 206.
- With respect to item #10, he stated that "queuing" issues will not affect driveway operations 100% of the time
- Based on the TIS, the development will be a low trip generator that will have minimal impact on the adjacent roadway network.
- Mr. Dean testified that there would be a right turn only movement from the driveway and that vehicles that needed to make a left turn to go north on Route 206 would be making that left turn from the connector road.
- Mr. Dean informed the Board that the applicant would accept the Township's Title 39 jurisdiction as a condition of approval.

E. Applicant Attorney's review of Board professional memos & Testimony of Joshua Kalafer and Michael Ford

16. Michael Ford testified as follows with respect to RVE's November 13, 2017 memorandum:

- The applicant will comply with the stormwater management section of RVE's memorandum (section F) and revise its plans accordingly
- The applicant expects to complete construction of the project by December 2018
- The number of employees on site at any one time during a typical workday would be in the 20's to low 30's
- The applicant will comply with all site requirements/layout and circulation comments set forth in section D of RVE's memorandum
- The applicant agreed to comply with all of the grading comments set forth in section E of RVE's memorandum
- The applicant is unaware of any existing environmental areas of concern on the site and is not proposing to reuse carwash runoff; although carwash runoff is a common gray water source for beneficial reuse, the Board Engineer is not suggesting that the Board impose the reuse as a condition of approval
- The applicant agreed to comply with all of the remaining items set forth in the RVE memorandum

17. In reviewing the Township Planner's memorandum, revised December 11, 2017, the applicant's attorney represented the following:

- The applicant will submit wastewater calculations to the Township Engineer for a determination of sufficiency of sewer allocation so as to determine sufficient sewer capacity and payment of any required sewer fees
- The applicant agreed to extend public water supply to the site subject to the requirements of the water supply authority
- The applicant agreed to provide an in lieu payment or other mechanism such that the Township will receive credit for 4 units of required affordable housing; the affordable housing requirement shall be detailed further within both the Redevelopment Agreement which contained these provisions regarding the affordable housing provisions
- The applicant represented that a Redevelopment Agreement dated December 7, 2017 was signed by the Township and was about to be signed by the applicant
- The applicant agreed to eliminate and restore the existing encroachments of clearing access, dumping, pavement, etc on the neighboring parcels including the Public Service parcel and agreed to provide a copy of the temporary construction/access easement and/or submit an affidavit of ownership form on behalf of the landowner of Block 34001, Lot 65
- The applicant will comply with the Township's soil hauling ordinance (Section 16-5.6.c). In accordance with that ordinance, the Planning Board has pre-approved that the applicant may remove or import up to 1600 cubic yards of soil subject to the applicant complying with the ordinance which requires, among other things, the approval of the Township Engineer. This pre-approval means that there will be no need to return to the Planning Board for approval of up to 1600 cubic yards of soil removal or importation unless the 1600 cubic yard threshold is exceeded
- The site plan last revised December 5, 2017 identifies a total of 67 parking spaces allocated as follows:
  A) 10 customer parking spaces adjacent to the automobile sales center
  B) 8 demo parking spaces adjacent to the automobile sales center
  C) 22 inventory display parking spaces along Route 206
  D) 14 employee parking spaces as needed along Route 206
  E) 9 service/loaner parking spaces easterly of the service center
  F) 4 employee parking spaces southerly of the service center
- Michael Ford testified that the 18 employee parking spaces proposed are sufficient for employee parking

18. Josh Kalafer, a principal of the applicant, testified that refuse trucks would access the site every one or two weeks and that there would be no bulk parts deliveries on site; all bulk parts would be delivered from the neighboring Land Rover Princeton dealership located on Route 206 at Block 35001, Lot 13, where Mr. Kalafer is also a principal of the entity known as Empire Holdings LRP, LLC. The expectation is that the parts department of that facility will transport any necessary parts to the site on an as needed basis.

19. Mr. Kalafer further testified that any delivery vehicles to this site would be by way of box truck; the loading and unloading of deliveries will occur at the other car dealership.

20. It is anticipated that the service hours of operation will be from 8 am to 7 pm.

21. Regarding the other staff memos, Mr. Schatzman informed the Board as follows:

- The applicant will comply with item #2 of the Open Space Coordinator's memo dated November 8, 2017 and will make a contribution to the Township Tree Bank as permitted by Code Section 16-5.6.d.3.b(2) planting on site and will further provide a 2-year guarantee for plant materials as required by Township Code Section 16-5.6.d.10 as per the Open Space Coordinator's item #3
- With respect to the Shade Tree Committee's memo dated November 13, 2017, the applicant will contribute to the Montgomery Township Tree Replacement Fund and will provide native species subject to the review and approval of the Township Landscape Architect
- The applicant's attorney noted that the Board of Health has no objections to the application
- The applicant's attorney noted that regarding the Police Department's November 10, 2017 memo, the applicant is in agreement that the applicant should attempt to deter left turns onto Route 206. The applicant will place a no left turn sign at the driveway and create an island to deter that movement. Furthermore, the applicant is in agreement that the Township can impose Title 39 jurisdiction for the site and will accept Title 39 jurisdiction as a condition of approval.

22. Michael Ford testified that the applicant will comply with the Township Landscape Architect's memorandum dated November 20, 2017 except that with respect to item #5, it is the applicant's preference to keep landscaping and a sidewalk between the building and the planting bed subject to Mr. Bartolone approving a species of plantings to permit the sidewalk.

23. The applicant further agreed with the suggestion of a Board member to provide low hedges on the Route 206 frontage of the property to partially buffer or shield portions of the vehicles fronting on Route 206; the plantings are subject to the review and approval of the Township Landscape Architect.

24. Mr. Schatzman reviewed the Environmental Commission's report dated November 13, 2017 and indicated that the applicant would not be providing solar panels on the roof or a green roof but would agree to provide native species for the plantings and to contribute to the Tree Bank for any tree deficit. The applicant further agreed to provide a picnic table or benches on the site for lunch for employees and a waiting place for customers waiting for their cars. The applicant further agreed that it will provide "no idling" signs in the parking area in front of the building and any place visitors might be

likely to keep their cars running. Automobiles will not be delivered to the site by tractor trailer; rather, they will be driven over from the nearby car dealership located at Block 35001, Lot 13.

25. Josh Kalafer testified that the Land Rover car dealership located at Block 35001, Lot 13 remains open and that he does not anticipate sales at that location; that location will be used for additional parking, service and parts delivery for this site.

F. The flagpole variance

26. At the January 22, 2018 meeting, the applicant made a re-presentation of its application for approval of a flagpole as an accessory structure. The Board accepted jurisdiction based on the applicant providing the appropriate notice and having a flagpole plan on file ten days prior to the hearing. The Board again concluded that a 25-foot flagpole with a flag no larger than 4 by 8 is preferable to a 15-foot flagpole based on the size and scale of the principal building and thus presents a better zoning alternative.

WHEREAS, during its deliberation, the Board carefully considered all of the applicant's submissions, the exhibits that were marked into the record, the sworn testimony of the applicant's witnesses, the arguments of counsel and the review letters and memoranda submitted by the Board's professionals and hereby makes the following FINDINGS, CONCLUSIONS AND DETERMINATIONS:

1. The site is in the Montgomery Five Redevelopment Area District and the applicant's proposal is in accordance with the requirements of that district.
2. The request for a submission waiver and the design exception requests are supported by the evidence presented and should be granted.
3. The necessity to comply with sound engineering practices and install a retaining wall beneath the required 6-foot fence together with the fact that the fence cannot exist without the retaining wall justify the grant of that variance. The need for a retaining wall to support the fence is an exceptional situation uniquely affecting this property. The Board concludes that the applicant's proofs satisfy the positive criteria for the grant of a c1 variance.
4. The variance for a 25-foot high flagpole as opposed to a 15-foot high flagpole presents a better zoning alternative and works much better with the size and scale of the principal structure. The applicant's proofs satisfy the requirements of the grant of a c2 variance in that this better zoning alternative is advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation do substantially outweigh any detriment.
5. The applicant has demonstrated that both variances can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Montgomery on this 22nd day of January, 2018, that the application of E1004A, LLC (Jaguar Land Rover Princeton) for preliminary and final site plan approval

with submission waivers, design waivers and bulk variances for construction of a Jaguar/Land Rover automobile dealership and associated service center, off-street parking, an underground stormwater management basin, signage, lighting, fences and walls and plantings be approved in accordance with the following plans and documents submitted by the applicant, which plans and documents are to be revised to be consistent with the approval set forth herein:

1) Township of Montgomery Planning/Zoning Application dated 10/17/17;

2) cover letter prepared by Van Cleef Engineering Associates, signed & sealed by Michael K. Ford, PE, dated 11/6/17;

3) engineering plans entitled "Preliminary & Final Site Plan and Construction Plans prepared for Lots 60, 61 & 62 in Block 34001, situated in Montgomery Township, Somerset County, New Jersey," prepared by Van Cleef Engineering Associates, signed & sealed by Michael K Ford, PE, dated 10/5/17 with most recent revisions dated 11/6/17, consisting of 9 sheets;

4) Plan of Survey prepared by Van Cleef Engineering Associates, signed & sealed by Daniel A Nagy, PLS, dated 1/15/09;

5) Storm Sewer Calculations and Stormwater Management Report and Stormwater Measures Maintenance Plan prepared by Van Cleef Engineering Associates, signed & sealed by Michael K Ford, PE, dated 1/3/13 with most recent revisions dated 10/6/17;

6) architectural plan set entitled "Jaguar Land Rover Princeton" prepared by Cerminara Architect, signed & sealed by Carmine Cerminara, RA, dated 10/17/17 with most recent revisions dated 11/6/17, consisting of 2 sheets;

7) traffic impact analysis prepared by Dolan & Dean Consulting Engineers, LLC, signed & sealed by Gary W Dean, PE/PP and Elizabeth Dolan, PE, dated 10/17/17;

8) environmental report entitled "Environmental Impact Statement for Block 34001 – Lots 60, 61 & 62, Township of Montgomery, Somerset County, NJ," prepared by Ecolsciences Inc, dated 10/19/17;

9) Leadership in Energy and Environmental Design (LEED) project checklist and cover letter dated 11/2/17;

10) Freshwater Wetlands Letter of Interpretation (LOI) issued by the NJDEP dated 10/19/17;

11) application to Somerset County Planning Board dated 10/18/17;

12) application to the Somerset-Union Soil Conservation District dated 10/18/17;

13) DRCC application dated 10/18/17;

Subject, however, to the following conditions:

1. Compliance with the recommendations of the Township Planner in the memorandum dated December 11, 2017, as set forth in finding of fact #17 hereinabove.

2. Compliance with the recommendations of the Township Landscape Architect, Richard Bartolone, in his report of November 20, 2017, as set forth in findings of fact #9 and #22 hereinabove.

3. Compliance with the recommendations of the Board Engineer, Jason Cline of Remington, Vernick Engineers, in the November 13, 2017 memorandum, as set forth in findings of fact #8 and #16 hereinabove.

4. Compliance with the recommendations of the Open Space Committee in its November 8, 2017 memorandum, as set forth in finding of fact #21 hereinabove.

5. Compliance with the recommendations of the Shade Tree Commiittee's November 13, 2017 memorandum as set forth in finding of fact #21 hereinabove.

6. Compliance with the recommendations of the Police Departments's November 10, 2017 memorandum as set forth in finding of fact #21 hereinabove.

7. Compliance with the recommendations of the NV5 memorandum issued by Joseph Fishinger dated November 1, 2017, as set forth in finding of fact #15 hereinabove.

8. Compliance with the recommendations of the memorandum issued by the Township Environmental Commission dated November 13, 2017, as set forth in finding of fact #24 hereinabove.

9. The development of this property shall be implemented in accordance with the plans submitted and as approved. In the event the applicant shall make or propose any changes to the project or structures on the property from those shown on the revised and approved plans and exhibits approved for this application, whether such changes are voluntarily undertaken or required by any other regulatory agency, applicant shall resubmit any such changes to this Board for review and determination.

10. The Township reserves the right to request additional site improvements should actual field conditions vary from what is depicted on the plans and/or is indicated by the designs.

11. Site work shall not commence prior to compliance with the terms and conditions set forth herein.

12. The applicant shall establish and maintain with the Township of Montgomery an escrow account sufficient to pay the professional review and inspection fees related to this application and all construction required in conjunction therewith.

13. In the event that any soil removal is required, the applicant is placed on notice that a permit will be required in accordance with the Township Ordinances. The applicant shall consult with the Township Engineer before any removal of topsoil to determine whether the Township can use the topsoil at some other location. In the event the applicant needs to haul in or remove more than 1600 cubic yards of topsoil, the applicant shall return to the Planning Board for the Planning Board's review and approval.

14. The applicant shall post a performance guarantee for public improvements in accordance with the provisions of the Township Ordinances and the Municipal Land Use Law.

15. The applicant shall obtain from any other agency, board, committee, bureau or commission which may have jurisdiction over any aspect of the application either an approval or a letter of determination that no approval is required. Copies of all of the other approvals or letters of determination shall be provided to the Planning Board prior to the issuance of any construction permits.

16. The applicant shall enter into a "Developer's Construction Sequence Agreement" with the Township Committee in accordance with Section 16-9.2 of the Land Development Ordinance of Montgomery Township.

17. The performance guarantee referred to in condition #14 above is subject to the review and approval of the Township Attorney and the Township Engineer.

18. The applicant is either to provide an in lieu payment or other mechanism such that the Township will receive credit for 4 units of required affordable housing; the affordable housing requirement shall be detailed further within the Redevelopment Agreement. The applicant will comply with anyother coditions set out in the Redevelopment Agreement.

19. The applicant shall provide any necessary sight triangle easements satisfactory to the Township Attorney and the Township Engineer.

20. The applicant must meet all requirements of the Township of Montgomery Ordinance Section16-9.2 for guarantees, start of construction and inspections related to major site plans.

21. All conditions contained in this Resolution and in the record of proceedings in this matter including any agreements made by applicant were essential to the Board's decision to grant the approval set forth herein.

22. There will be no bulk car deliveries to the site. In the event the applicant requires that bulk car deliveries be made to the site, the applicant is required to make application to the Planning Board for amended site plan approval.

23. The applicant is accepting Title 39 jurisdiction.

24. Elimination and restoration of the existing encroachments of clearing access, dumping, pavement, etc on the neighboring parcels including the Public Service parcel.

25. The applicant will provide a copy of the temporary construction/access easement and/or submit an affidavit of ownership form on behalf of the landowner of

Block 34001, Lot 65, or like agreement, subject to the approval of the Township Attorney and the Township Engineer.

26. No parts will be delivered to the site in bulk; all parts will be delivered by the neighboring Land Rover Princeton dealership located on Route 206 at Block 35001, Lot 13 on an as needed basis.

27. The applicant shall make a contribution to the Township Tree Bank as permitted by Code Section 16-5.6.d.3.b(2) as set forth in findings of fact #9 and #21 hereinabove.

28. Bollards shall be illuminated as per the manufacturer's requirement and the applicant will coordinate the bollards between the applicant's architectural plans and site plan.

29. The applicant will provide low hedges on the Route 206 frontage of the property to partially buffer or shield portions of the vehicles fronting on Route 206, which plantings are subject to the review and approval of the Township Landscape Architect.

Roll Call Vote

Those in Favor: Conforti, DeRochi, Matthews and Trzaska

Those Opposed: None

The foregoing is a true copy of a resolution adopted by the Planning Board of the Township of Montgomery at its meeting on January 22, 2018, as copied from the minutes of said meeting.

The within resolution memorializes action that was taken by the Planning Board of the Township of Montgomery at its meetings on December 18, 2017 and January 22, 2018.

LORI SAVRON
PLANNING BOARD SECRETARY
TOWNSHIP OF MONTGOMERY
STATE OF NEW JERSEY

22. Third Round: Village Shopper (Village Walk)

Kepner-Tregoe Redevelopment Plan:

Village Walk Amendment



ADOPTED MAY 15, 2025

Montgomery Township, Somerset County, New Jersey

Clarke Caton Hintz | 100 Barrack Street | Trenton, NJ | 08608

Kepner-Tregoe Redevelopment Plan:

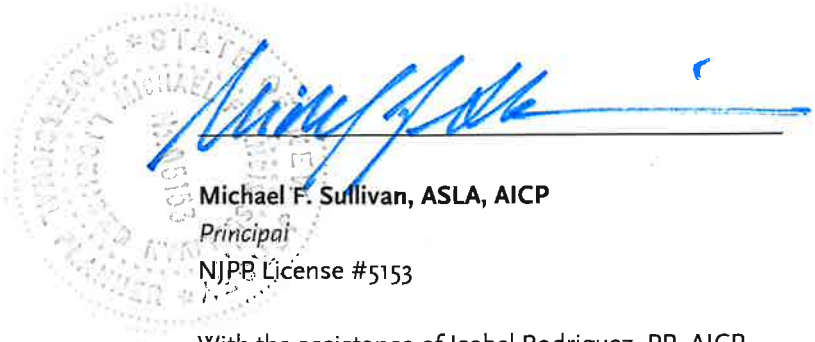
Village Walk Amendment

Montgomery Township, Somerset County, New Jersey

Adopted by the Montgomery Township Committee on May 15, 2025 for the area designated as an Area in Need of Redevelopment (Non-Condemnation) pursuant to N.J.S.A. 40A: 12-1, et. seq., The New Jersey Local Redevelopment and Housing Law.

Prepared for Montgomery Township by:

Clarke Caton Hintz, by



Michael F. Sullivan, ASLA, AICP
Principal
NJPP License #5153

With the assistance of Isabel Rodriguez, PP, AICP
NJPP License #6554

A signed and sealed copy is available at the municipal building.

TOWNSHIP COMMITTEE

Neena Singh, *Mayor*

Vincent P. Barragan, *Deputy Mayor*

Patricia Taylor Todd, Esq.

Dennis Ahn

Mike Martin

TOWNSHIP PLANNING BOARD

David Campeas, *Chair*

Arun Mani, *Vice-Chair*

Neena Singh, *Mayor*

Patricia Taylor Todd, Esq.

AI-Tereek Battle

Paul Blodgett

Brian Hamilton

Donald Matthews

Sarah Roberts

Anthony Glockler, *Alternate #1*

Ibad Khan, *Alternate #2*

STAFF AND CONSULTANTS

Lori Savron, PP, AICP,
Township Administrator,
Planning Director

Cheryl Chrusz
Assistant Planning Director

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Township Attorney

Karen L. Cayci, Esquire,
Planning Board Attorney

Rakesh Darji, PE, CME,
Planning Board Engineer
Environmental Resolutions, Inc.

Richard Bartolone, ASLA,
Planning Board
Landscape Architect

Michael F. Sullivan, ASLA, AICP
Isabel Rodriguez, AICP
Planning Consultant
Clarke Caton Hintz

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INTRODUCTION

The Township Committee of Montgomery directed the Planning Board, pursuant to Resolution #18-4-88 (adopted on April 5, 2018), to conduct a preliminary investigation to determine whether the the Kepner-Tregoe Study Area qualified as an area in need of redevelopment (AINR), pursuant to the criteria established at N.J.S.A. 40A:12A-1 et seq., known as the "Local Redevelopment and Housing Law" (a.k.a "LRHL", See Appendix A). The Kepner-Tregoe Study Area was composed of Block 28004, Lot 7, and Block 28005, Lot 66.

Pursuant to the Township and Planning Board direction, a preliminary investigation, dated May 3, 2018, found that the Kepner-Tregoe study area satisfied the criteria for designation as an area in need of redevelopment. The Planning Board recommended that the Township designate Kepner-Tregoe as a redevelopment area (Resolution dated May 21, 2018). The Township Committee considered the Planning Board's recommendation and designated the Kepner-Tregoe study area as an area in need of redevelopment (non-condemnation) on June 7, 2018 (Resolution #18-6-131). Following the designation, a redevelopment plan was prepared for the Kepner-Tregoe redevelopment area and was adopted by the Township Committee on July 5, 2018 (Ordinance #18-1582).

In December 2024 the Township Committee directed the Planning Board to complete a study for certain properties that are partially located within the Kepner-Tregoe redevelopment area (Resolution #24-12-421, adopted December 19, 2024).

These properties were planned to be developed in concert with the existing redevelopment area, as they share common infrastructure and community design elements that are critical to the successful completion of improvements within the existing redevelopment area. These properties are located within the adjacent Village Walk mixed use residential and commercial project and consist of Block 28007, Lots 1 and 2.

On March 24, 2025, the Kepner-Tregoe Redevelopment Area was amended to include Block 28007, Lots 1 and 2. This amendment to the Kepner-Tregoe Redevelopment Plan contains the requirements for the redevelopment of Block 28007, Lots 1 and 2 to fully implement the plans for the project entitled "Village Walk at Montgomery" which will complete the redevelopment of the Kepner-Tregoe Redevelopment Area.

This amendment maintains all the existing goals, objectives, regulations and requirements of the original Kepner-Tregoe Redevelopment Plan but includes new requirements applicable only to the "Village Walk at Montgomery" project.

REDEVELOPMENT REGULATIONS APPLICABLE TO BLOCK 28007, LOTS 1 AND 2

Zoning and Land Development Regulations

Redevelopment of Block 28007, Lots 1 and 2 shall be substantially consistent with the approved plans for the project known as "Village Walk at Montgomery." Village Walk was approved pursuant to the PMUD Planned Mixed Use Development Overlay Zone and it shall comply with the regulations and standards of the PMUD Zone, which shall remain applicable to Block 28007 Lots 1 and 2. The approvals were memorialized in Planning Board resolution # PB-04-18 and #PB-02-21. Any deviations from the approved plans, other than requirements contained herein, shall require an amendment to the Kepner-Tregoe Redevelopment Plan.

The remainder of the Kepner-Tregoe Redevelopment Area shall continue to be subject to the provisions of Chapter 16, Subsection 16-6.5 k of the Code of Montgomery Township, entitled "Planned Mixed-Use Development".

Where the provisions of this subsection are silent, regulations of Chapter 16 Land Development shall apply.

Affordable Housing

The Redeveloper shall be responsible for the provision of affordable housing. The required affordable housing shall be detailed further within an Agreement with the Township. The number of affordable dwellings to be developed shall be no less than 12 multifamily rental units. The original Village Walk approval includes 11 affordable housing units, subject to the required and approved breakdown between low- and moderate-income units. The 12th affordable housing unit may be a one-bedroom, moderate-income unit.

The Redeveloper shall be exempt from development fees pursuant to §15-15 of the Township's Affordable Housing Ordinance and *N.J.S.A.* 52:27D-329.2(e) of the Fair Housing Act.

The affordable dwellings shall consist of restricted, affordable rental units pursuant to COAH's regulations at N.J.A.C. 5:93-5.8 and the Fair Housing Act, N.J.S.A. 52:27D-301 et seq.

Public Improvements

Public improvements are required and shall be installed at the full expense of the designated redeveloper consistent with the design policies and standards that are contained within this Plan. The redeveloper is expected to install necessary public improvements on the property they control as well as abutting rights-of-way. There will be no municipal financial assistance in the form of contributions towards the construction of off-site and/or off-tract improvements necessitated by future development. No recapture of off-site improvement expenses from future development should be anticipated. However, nothing contained herein shall be construed to preclude the ability of the municipality or

redeveloper from obtaining any governmental programs, grants, loans, or other financial support or incentives for public infrastructure improvements or other construction, or from the municipality to consider a recapture provision in the agreement.



Village Walk at Montgomery Illustrative Plan

Public Sidewalk

The redeveloper shall install a public sidewalk that extends along NJSH Route 206 between the intersection of Village Drive and the northern boundary of the commercial property to the north of Village Drive. The construction of said sidewalk shall provide a continuous pedestrian connection between the northern terminus of the sidewalk and the existing sidewalk on Village Drive. The sidewalk shall be constructed in accordance with Township standards and is subject to review and inspection by the Township Engineer.



Pole-Mounted Banners

The redeveloper shall install banners on lighting support poles along a portion of Village Drive and Brecknell Way. The number of banners, and the content, messaging and design of the banners, shall be subject to approval of the Township.

APPENDIX A

TOWNSHIP RESOLUTION # 18-4-88:

DESIGNATING THE KEPNER-TREGOE AREA IN NEED OF REDEVELOPMENT

TOWNSHIP OF MONTGOMERY
SOMERSET COUNTY, NEW JERSEY

RESOLUTION #18-4-88 - A RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MONTGOMERY AUTHORIZING THE MONTGOMERY TOWNSHIP PLANNING BOARD TO UNDERTAKE A PRELIMINARY INVESTIGATION TO MAKE A DETERMINATION AS TO WHETHER THE REAL PROPERTY DESIGNATED AS BLOCK 28004, LOT 7, AND BLOCK 28005, LOT 66 (TAX ASSESSMENT MAPS REV. 2017) AND GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF STATE ROUTE 206 AND COUNTY ROUTE 518 SHOULD BE DECLARED A NON-CONDEMNATION AREA IN NEED OF REDEVELOPMENT PURSUANT TO *N.J.S.A.* 40A:12A-1 *ET SEQ.*

WHEREAS, The Township Committee of the Township of Montgomery is concerned about the conditions real property, or portions thereof, designated as Block 28004, Lot 7, and Block 28005, Lot 66 on the Montgomery Township Tax Assessment Maps rev. 2017), and generally located northwest of the intersection of State Route 206 and County Route 518 (hereinafter and collectively, the "Property");

WHEREAS, The Township Committee is concerned that buildings and other improvements on the Property are substandard, dilapidated and/or obsolescent;

WHEREAS, The Township Committee is concerned that the Property, including buildings previously used for commercial purposes that have fallen into disrepair, has been unused for lengthy periods of time;

WHEREAS, The Township Committee is concerned that the Property contains areas with faulty arrangements or design, and obsolete layouts;

WHEREAS, The Local Redevelopment and Housing Law, *N.J.S.A.* 40A:12A-1 *et seq.* (hereinafter the "Statute"), provides a mechanism to empower and assist municipalities in efforts to promote redevelopment;

WHEREAS, With the exception of the power of eminent domain (condemnation), the Township Committee is interested in employing the powers and authority vested in municipal governing bodies by the Statute, and seeks a determination as to whether the Property constitutes a "redevelopment area" or "area in need of redevelopment" under the Statute; and

WHEREAS, In accordance with the Statute, the Township Committee wishes to assign the conduct of the investigation into whether the Property constitutes a "redevelopment area" or "area in need of redevelopment" to the Township Planning Board;

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery as follows:

1. The preamble to this Resolution is incorporated and made a part hereof as if set forth at length herein.

2. The Montgomery Township Planning Board is directed to undertake a preliminary investigation to determine whether the Property constitutes and shall be established as a "Non-Condemnation Redevelopment Area" pursuant to the criteria set forth in the Statute.

3. Upon completion, the preliminary investigation shall be submitted to the Township Committee its review and action.

4. The Township Clerk is directed to provide certified, true copies of this resolution to the Planning Board, Planning Director, Township Planner, Planning Board Attorney, and Township Engineer.

CERTIFICATION
I HEREBY CERTIFY THE ABOVE TO BE A TRUE COPY OF A RESOLUTION ADOPTED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MONTGOMERY AT A MEETING HELD

April 5, 2018

Margaret M Crawford
Deputy Township Clerk

APPENDIX B

TOWNSHIP RESOLUTION # 25-4-128:

DESIGNATING AN AMENDED AREA IN NEED OF REDEVELOPMENT

TOWNSHIP OF MONTGOMERY
SOMERSET COUNTY, NEW JERSEY

RESOLUTION #25-4-128

DESIGNATING APPROXIMATELY 3.3 ACRES CONSISTING OF LOTS 1 AND 2 IN BLOCK 28007 AS SHOWN ON THE TAX MAP OF THE TOWNSHIP OF MONTGOMERY AS A NON-CONDEMNATION AREA IN NEED OF REDEVELOPMENT UNDER THE NEW JERSEY LOCAL REDEVELOPMENT AND HOUSING LAW (N.J.S.A. 40A:12A-1 ET SEQ.)

WHEREAS, the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the "LRHL") authorizes municipalities to determine whether certain parcels of land within the municipality constitute a "non-condemnation area in need of redevelopment" as described in Section 5 of the Redevelopment Law; and

WHEREAS, to determine whether a certain parcel of land constitutes an area in need of redevelopment, the Township Committee of the Township of Montgomery (the "Township Committee") by way of Resolution #24-12-421 dated December 19, 2024, authorized and directed the Township of Montgomery Planning Board (the "Board") to conduct a preliminary investigation to determine whether Lots 1 and 2 in Block 28007 as shown on the Tax Map of the Township of Montgomery consisting of approximately 3.3 acres (the "Study Area"), meets the criteria set forth in Section 5 of the LRHL and should be designated as a "non-condemnation area in need of redevelopment;" and

WHEREAS, the Board authorized the undertaking of the preliminary investigation as to whether the Study Area, or a portion thereof, constitutes an area in need of redevelopment in accordance with the LRHL; and

WHEREAS, the LRHL requires the Board to conduct a public hearing prior to making its determination whether the Study Area should be designated as "an area in need of redevelopment," at which hearing the Board shall hear all persons who are interested or would be affected by a determination that the Study Area is a redevelopment area; and

WHEREAS, the LRHL further requires that such notice be mailed at least ten (10) days prior to such public hearing to the last owner(s) of the relevant properties in accordance with the Township's assessment records; and

WHEREAS, the Board held a public hearing (the "Public Hearing") to determine whether the Study Area is a "non-condemnation area in need of redevelopment" under the criteria set forth in Section 5 of the LRHL at a regular meeting of the Board on March 24, 2025; and

WHEREAS, notice of the Public Hearing was provided in the official newspaper of the Township on two consecutive weeks, the last being not less than ten (10) days before the Public Hearing; and

WHEREAS, the Board also provided notice to property owners in the Study Area; and

WHEREAS, at the Public Hearing, Michael Sullivan, ASLA, AICP, of Clarke Caton Hintz presented a report dated March 6, 2025 entitled Amended Preliminary Investigation of an Area in Need of Redevelopment (Non-Condemnation) for the Kepner-Tregoe Redevelopment Area: Village Walk; and

WHEREAS, at the Public Hearing, the Board reviewed the Report and considered testimony of Mr. Sullivan; and

WHEREAS, the Board also gave members of the public an opportunity to speak and ask questions related to this matter; and

WHEREAS, after the conclusion of the Public Hearing, and in consideration of the Report and the testimony presented, the Board, on March 24, 2025, determined Block 28007, Lots 1 and 2 meets the criteria in the definition of a redevelopment area, as articulated at N.J.S.A. 40A:12A-3 in conjunction with the Original Kepner-Tregoe redevelopment area, and to designate the Study Area as a "non-condemnation area in need of redevelopment," which determination is to be memorialized by way of Planning Board Resolution at the April 14, 2025 meeting; and

WHEREAS, the Township Committee agrees with the recommendation of the Board that the Study Area be designated as a "non-condemnation area in need of redevelopment" pursuant to the LRHL.

WHEREAS, the Township Committee now desires to authorize and direct the Board to cause a redevelopment plan to be prepared for the Study Area and present same to the Township Committee pursuant to N.J.S.A. 40A:12A-7(f).

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Montgomery, County of Somerset, New Jersey, as follows:

1. The Township Committee hereby designates Lots 1 and 2 in Block 28007 as shown on the Tax Map of the Township of Montgomery consisting of approximately 3.3 acres, as a "non-condemnation area in need of redevelopment" (the "Determination") pursuant to the LRHL.

2. The Determination shall authorize the Township of Montgomery to use all of the powers provided by the Legislature for use in a redevelopment area excluding the use of eminent domain, thus designating it a "Non-condemnation Redevelopment Area."

3. The Township Clerk is hereby directed to transmit a certified copy of this Resolution by regular and certified mail to the Commissioner of Community Affairs (the "Commissioner") for review. The Determination of the Study Area as a "non-condemnation area in need of redevelopment" shall not take effect without first receiving the review and approval of the Commissioner. If the Commissioner does not issue an approval or disapproval within thirty (30) calendar days of transmittal, the Determination shall be deemed approved.

4. Notice of the Determination (the "Notice) shall be served within ten (10) days of the Determination, upon all record owners of property located within the delineated area, those whose names are listed on the Tax Assessor's records, and upon each person who filed a written objection thereto and stated, in or upon the written submission, an address to which the notice of Determination may be sent.

5. A property owner who received notice of Determination as set forth above who does not file a legal challenge to the Determination affecting his or her property within 45 days of receipt of such notice shall thereafter be barred from filing such a challenge

CERTIFICATION

I, Lisa Fania, Clerk of the Township of Montgomery, County of Somerset, do hereby certify that the foregoing is a true and correct copy of a resolution duly adopted by the Township Committee at a Regular Meeting held on April 3, 2025.

Lisa Fania, RMC
Township Clerk

APPENDIX C

TOWNSHIP ORDINANCE # 25-1757:

ADOPTING THIS REDEVELOPMENT PLAN

TOWNSHIP OF MONTGOMERY
SOMERSET COUNTY, NEW JERSEY

ORDINANCE #25-1757

AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY IN SOMERSET COUNTY, AMENDING THE KEPNER-TREGOE REDEVELOPMENT PLAN PURSUANT TO N.J.S.A. 40A:12-7, TO INCLUDE THE VILLAGE WALK AMENDMENT FOR THE PROPERTY DESCRIBED AS BLOCK 28007, LOTS 1 AND 2, KNOWN AS THE VILLAGE WALK STUDY AREA

WHEREAS, the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., (the "LRHL") authorizes municipalities to determine whether certain parcels of land within the municipality constitute an area in need of redevelopment; and

WHEREAS, Township Committee of the Township of Montgomery (the "Township Committee") directed the Township of Montgomery Planning Board (the "Board"), pursuant to Resolution #18-4-88 (adopted on April 5, 2018), to conduct a preliminary investigation to determine whether the Kepner-Tregoe Study Area, composed of Block 28004, Lot 7, and Block 28005, Lot 66, qualified as an area in need of redevelopment (AINR), pursuant to the criteria set forth in N.J.S.A. 40A:12A-5 of the LHRL; and

WHEREAS, on behalf of the Planning Board, Clarke Caton Hintz prepared a report dated May 3, 2018 which concluded, for the reasons stated therein, that the Kepner-Tregoe study area satisfied the criteria for designation as an area in need of redevelopment; and

WHEREAS, the Board recommended that the Township Committee designate Kepner-Tregoe as a redevelopment area (Resolution dated May 21, 2018); and

WHEREAS, the Township Committee considered the Planning Board's recommendation and designated the Kepner-Tregoe study area as an area in need of redevelopment (non-condemnation) on June 7, 2018 by Resolution #18-6-131; and

WHEREAS, a redevelopment plan was prepared for the Kepner-Tregoe redevelopment area and was adopted by the Township Committee on July 5, 2018, Ordinance No. 18-1582; and

WHEREAS, on December 19, 2024, the Township Committee adopted Resolution #24-12-421, which authorized and directed the Board to complete a study of certain properties, Block 28007, Lots 1 and 2 (the "Village Walk Study Area"), that are partially located within the Kepner-Tregoe redevelopment area to determine whether those additional properties should be included in the Kepner-Tregoe redevelopment designation; and

WHEREAS, the Board held a duly noticed public hearing to determine whether the Village Walk Study Area is a "non-condemnation area in need of redevelopment" under the criteria set forth in Section 5 of the LRHL at a regular meeting of the Board on March 24, 2025; and

WHEREAS, at the Public Hearing, Michael Sullivan, ASLA, AICP, of Clarke Caton Hintz presented a report dated March 6, 2025 entitled "Amended Preliminary Investigation of an Area in Need of Redevelopment (Non-Condemnation) for the Kepner-Tregoe Redevelopment Area: Village Walk" ("Preliminary Investigation"); and

WHEREAS, at the March 24, 2025, public hearing, the Board further concurred and agreed with the reasons stated in the Preliminary Investigation that the Village Walk Study Area constitutes and meets one or more criteria under the LRHL supporting the recommendation that Block 28007, Lots 1 and 2 (the "Property") be determined and declared a non-condemnation "area in need of redevelopment"; and

WHEREAS, on April 3, 2025, the Township Committee adopted Resolution #25-4-128 declaring the Property a non-condemnation area in need of redevelopment; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-7, Clarke Caton Hintz prepared the "Kepner-Tregoe Redevelopment Plan: Village Walk Amendment" dated April 2025 (the "Redevelopment Plan") for the Property, a copy of which is attached hereto as Exhibit A; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-7(d)-(e), upon introduction of this Ordinance, the Redevelopment Plan shall be referred to the Township Planning Board for review of the Redevelopment Plan and a determination of its consistency with the Montgomery Township Master Plan within forty-five (45) days of referral.

NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Montgomery, County of Somerset, State of New Jersey, that:

Section 1. All of the above recitals are hereby incorporated by reference as if fully set forth as findings herein.

Section 2. Pursuant to N.J.S.A. 40A:12A-7 the Township Committee hereby accepts and approves the Redevelopment Plan, as attached hereto as Exhibit A and as set forth herein, and hereby adopts said Redevelopment Plan.

Section 3. If any section, paragraph, subsection, clause, or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

Section 4. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

Section 5. To the extent that any portion of the Redevelopment Plan conflicts with or amends or modifies any provision of any other of the Township's development regulations, the Redevelopment Plan shall supersede or amend or modify, as applicable, such development regulations and the zoning district map included in the Township's zoning ordinance shall be deemed amended accordingly.

Section 6. This Ordinance shall take effect upon passage, publication, and its filing with the Somerset County Planning Board, all in accordance with applicable law.

DATE ADOPTED: May 15, 2025

ATTEST:

Lisa Fania, RMC
Township Clerk

TOWNSHIP OF MONTGOMERY
COUNTY OF SOMERSET

Neena Singh
Mayor

MONTGOMERY TOWNSHIP PLANNING BOARD
COUNTY OF SOMERSET

Application No. PB-02-21

Village Shoppes at Montgomery LLC
1320, 1330, 1340, 1350 and 1360 US Highway 206
Block 28007, Lots 1, 2, 3 and 4

FINDINGS OF FACT, CONCLUSIONS AND RESOLUTION GRANTING AMENDED PRELIMINARY AND FINAL SITE PLAN APPROVAL WITH BULK VARIANCES

WHEREAS, the Board previously granted preliminary and final major subdivision and site plan approval with conditional use approval, bulk variances, a design exception and a *de minimis* RSIS exception by Resolution PB-04-18 on October 15, 2018 for the construction of a mixed use development, two Master Plan loop roads, parking, a pump station, stormwater management, lighting, signage and other associated improvements (the "Prior Approvals") for property located at US Highway 206 and being Block 28007, Lots 1, 2 3, and 4 (formerly Block 28005, Lots 60, 65, part of 66, 68 & 69) on the Montgomery Township Tax Map in the Planned Mixed Use Development ("PMUD") zoning district, said project known as Village Walk at Montgomery (the Property);

WHEREAS, the Applicant, Village Shoppes at Montgomery LLC , has now applied for amended preliminary and final site plan approval with bulk variances and design exception for revisions to the Anchor Building, Buildings A and B, the parking lot configuration adjacent to the proposed Starbucks in Building C/D, the dumpster enclosure northwest of pad A, the material of the pump station enclosure, the elimination of the water feature in front of the mixed-use building and the introduction of a decorative wall with an identity sign with landscaping and up-lighting in front of the mixed-use building and changes to the project phasing and as more set out specifically in Applicant's notice of hearing to which reference is hereby made; and

WHEREAS, the Board held a public hearing on the application on April 25, 2022; and

WHEREAS, the Board entertained jurisdiction over the application pursuant to *N.J.S.A.* 40:55D-70 (c), *N.J.S.A.* 40:55D-37 and the Montgomery Township municipal ordinances; and

WHEREAS, the Applicant has complied with the notification and publication requirements of the Municipal Land Use Law. All property taxes due and owing for the subject property are paid in full as are the current professional fees/escrow account in connection with the within application; and

WHEREAS, the Applicant was represented by Richard Schatzman, Esq. and

WHEREAS, the Board considered the application, site plan and related documents, testimony and exhibits presented at the hearings as follows:

1. Exhibits and Witnesses

(A) Applicant's Testimony and Exhibit

Testimony was provided by Christopher Szalay, PE of Menlo Engineering Associates, James Kyle, PP, AICP, Vincent Pugliese, President, Pugliese Properties, Brett Pugliese, Vice-Present of Pugliese Properties and Robert Rabouin, LN Rothberg & Son, Project Manager. Michael V. Testa, AIA and Scott Kennel were in attendance but did not testify.

The Applicant placed the following exhibit into evidence:

Exhibit A-1 - Aerial photo of the existing conditions at the Property before the Prior Approval and ongoing construction.
Exhibit A-2 - Colorized rendering of the Prior Approvals site plan.
Exhibit A-3 - Aerial photo of the current ongoing construction on the Property;
Exhibit A-4 – Colorized rendering of the currently submitted site plan for the amended approval.
Exhibit A-5: Sheet SK1, entitled 'Identity Wall Sign" dated October 13, 2021, prepared by Michael V. Testa, AIA.

Testimony of Brett Pugliese

Mr. Pugliese confirmed that Pugliese Properties is a member of the Applicant Entity. He presented a brief background of the project. Mr. Pugliese testified that the Village Shopper III project is one of a few multitenant structures in the greater Montgomery area with a 100% occupancy rating. With respect to the ongoing construction of the subject Village Shoppes project, he advised that numerous site improvements and utility infrastructure have been completed. Mr. Pugliese also confirmed that Building C/D containing approximately 10,000 square feet of retail space has been completed and is fully leased. In response to Board questions, Mr. Pugliese testified that with the new phasing plan, once the front of the site is completed, they will be able to keep the construction staging and activity in the rear. In addition, he confirmed that the traffic signal improvements at the intersection of US Route 206 and Village Drive should be completed by the mid to end of June 2022.

Testimony of Christopher Szalay, PE

Christopher Szalay, PE testified on behalf of the Applicant. Mr. Szalay advised that he is a licensed professional engineer in the State of New Jersey and has previously been accepted as an expert witness in land use engineering before numerous land use boards. The Board accepted him as an expert witness in land use engineering.

Mr. Szalay testified regarding the proposed application and Exhibits A-1-A-4. He reviewed the Property configuration, location, surrounding uses and site access. Mr. Szalay testified that the Property is approximately 11.64 acres, is located on the southbound side of Route 206 within the HC zone and is

identified in the Township's Planned Mixed-Use Optional Development Ordinance as Area B. Using Exhibit A-2, Mr. Szalay summarized the Prior Approvals including the demolition of Village Shopper I and II, the construction of five new buildings, the two Master Plan loop roads and various improvements. He explained that Buildings A and B, as identified in the Prior Approvals, were previously approved for 5,752 and 5,726 square feet respectively as retail/restaurant combos. In addition, the Building C/D was approved for 9,788 square feet and included an end unit with a drive through under the Prior Approvals.

Mr. Szalay testified that the mixed-use building was previously approved for retail on the first floor (20,970 square feet) and 52 residential apartments, including 11 affordable units, on the top two floors. In addition, a 4,500 square foot open space plaza in front of the mixed -use building was part of the Prior Approvals. Mr. Szalay further testified that the Anchor Building was previously approved for 12,000 square feet of space with an exterior loading area with 501 parking spaces.
Mr. Szalay further testified regarding project phasing under the Prior Approvals noting that:

Phase I of the project included the demolition of Village Shopper I and the construction of Building C/D, a portion of Brecknell Way, the right in right out entrance, the mixed- use building and associated parking; Phase II included the demolition of Village Shopper II and the construction of the Anchor Building, Buildings A & B, the Route 206 modified signal and the completion of Village Drive. He noted that the Applicant was obligated to accommodate existing retail tenants who had not yet relocated but that all previous tenants have now vacated the Property.

Mr. Szalay described the new phasing proposal as follows:

Phase 1A would continue to consist of Building C/D which is now complete along with the completion of Brecknell Way from US Route 206 to the intersection of Tamworth Drive;

Phase 1B will be revised to consist of Buildings A and B along with the parking lot west of these buildings, construction of the improvements along US Route 206, the signalization intersection at US Route 206 and proposed Village Drive and construction of Village Drive to a point approximately 50 feet beyond the parking lot drive aisle;

Phase 2A: Construction of the Anchor Building and completion of Village Drive to the intersection with Tamworth Drive;

Phase 2B: Construction of the Mixed-Use Building with parking improvements which include parking immediately to the east of the Mixed-Use building and the entire western parking area behind the Mixed Use and Anchor buildings and that they will complete the Mixed Use Building and associated parking.

Mr. Szalay testified regarding the grading on the site. He advised Village Drive cannot be constructed until the structural components of the Anchor Building are constructed due to the significant differences in site gradients between the subject Property and the adjacent Sharbell site.

In response to Board questions, Mr. Szalay confirmed that the Applicant is awaiting deliveries of the necessary drainage piping to complete Brecknell Way and anticipates completion of that road by the end of 2022.

Mr. Szalay described the additional proposed changes to the plan:

(a) The Starbucks patio has been reconfigured to provide additional seating and landscaping area. A 25 square foot Starbucks sign has been added to the eastern face façade of Building C/D and the low wall approved along the landscape area west of the building has been eliminated and additional landscaping will be provided;

(b) The retail pads for A and B have been reduced from 5,752 square feet and 5,726 square feet respectively to each being 5,277 square feet and both buildings will be reduced height. The patio on the north side of Building A has been expanded for additional seating. Building A & B will both have an option for a 1,400 square foot basement. The dumpster pad that was located within the parking area has been relocated to be closer to Buildings A and B and increased in size slightly and will back on Village Drive;

(c) The Anchor Building has been reduced in size from 12,000 square feet to 9,996 square feet. Eleven additional parking spaces have been provided in front of the building and the pedestrian walkway in front of the building has been expanded. The reconfiguration of the parking area in front of the Anchor Building allows for a gain of 12 spaces. The loading area has been enclosed inside the building and accessed by a 15' driveway. Also the sidewalk was widened, and dumpsters for refuse and recycling are located within the service bay The Anchor Building was originally designed for a single tenant use but Mr. Szalay testified market conditions indicate it would work better as a multi-tenant use. If it is a multi-tenant use, there will be 50 square foot signs for each tenant space in compliance with the ordinance. If there is one tenant, a variance for one 100 square foot primary façade sign on the front of the building and an additional secondary 50 square foot sign on the north face of the building is being requested.

(d) The water feature in the plaza in front of the mixed use building will be eliminated and in its place, a 4 foot high brick and stone identity wall with an approximate 10 square foot lettered sign is proposed.

(e) The pump station enclosure was previously approved as a masonry enclosure and is now proposed after-the-fact of installation as a 6-foot-high white vinyl fence. Mr. Szalay testified that the appearance of the fence matches the architecture.

(f) The walls on the south side of the proposed mixed use Building have been modified to accommodate the gas meters that needed to be installed on the outside of the building. The wall was previously approved in this location as a retaining wall and the gas meters were subsequently added at the direction of PSE&G.

(g) Eight EV charging stations are being installed as well as four make ready stations.

(h) Two PSE&G transformers were added to the plans along the Route 206 frontage as directed by the utility company.

(i) The gain of the 12 parking spaces allows the total restaurant space allotment of seats to be increased to 321 seats from the previously approved 234 seats. The total parking required and provided is 513 parking spaces including a RSIS de minimis exception that was previously approved.

(j) The lighting and landscaping has been modified to work with the reconfiguration of the parking area

and the buildings. Nine 20-foot-high LED pole mounted lights, 8 15½ foot high LED pole mounted lights, 25 13 ½ foot high LED pole mounted lights and 4 13-foot-high LED pole mounted lights in addition to 18 bollards and 29 ground up-lights that focus on different aesthetic features have been provided. The lighting has been designed to be safe and adequate. It meets the minimum 0.2 footcandle requirement. Within the commercial parking lot, 0.4 footcandles are being provided. The average of 1.62 footcandles is provided where 1.0 is required and a 10.25 max to min uniformity ratio where the max ratio is 20:1. In the residential lot 0.4 footcandles minimum are provided, 1.0 average and max to min of 9.5:1. Mr. Szalay testified that these all meet the ordinance requirements other than the average footcandle within the commercial area which is needed for safety.

Mr. Szalay reviewed the proposed variances as follows:

1) Minimum buffer to Route 206 where 15 feet is required, 12 feet was previously approved and 3.5 feet is proposed due to the PSE&G equipment that has been installed.
2) Minimum buffer to Sub Area A-2 (Sharbell Development) a 5-foot buffer is required; 3.29 feet was previously approved and 2.96 is proposed due to a modification in the land that was acquired from Sharbell.
3) The principal building setback to Brecknell Way where 10 feet is required, 8.48 feet was previously approved and 8.67 feet is proposed.
4) Minimum off-street parking setback where 5 feet is required, 3.29 feet was previously approved and 2.96 is proposed.
5) The pedestrian walkway along the front of the Mixed Use and Anchor buildings where 16 feet is required, 10 feet was previously approved and 13.3 feet is proposed.
6) The minimum buffer between Area B and C which is located south of the site is required to be 10 feet. A two-foot buffer was previously approved and 3.3 feet is proposed to accommodate the pump station enclosure.
7) A eight-foot-high wall located within the side yard at the Mixed-Use Building as a protective gateway to the gas meters.
8) The Applicant is permitted a total of three monument signs, excluding the existing monument signs on Village Shopper III. The Applicant is now proposing four monument signs, three along the Route 206 frontage and one at the open space plaza which requires variance relief.
9) Variance relief is needed for the additional wall sign on the eastern side of the Starbucks in the area of the drive-through to allow a 25 square foot sign which will be letterset, internally illuminated channel letters with white face.
10) Additional relief is being requested for the sign area on the Anchor Building. If one tenant occupies the building, the Applicant seeks relief to permit one 100 square foot primary sign. Relief for a sign 50 sf on north face of anchor building is also being requested.
11) Maximum illumination levels at the property line where 0.1 footcandles is permitted and 1.7 footcandles is proposed. The Property is completely surrounded by public rights-of-way so there will be no spillage onto neighboring property.
12) The parking lot illumination where 1 footcandle average is required and they are providing 1.62 footcandles within the front commercial parking area.

Mr. Szalay testified that the required utility improvements have been installed and confirmed that the original Phase 1A has been completed. Mr. Szalay reviewed the memorandum issued by the Board

Engineer Rakesh Darji, PE, PP, CME, Environmental Resolutions, Inc. dated April 22, 2022, and advised that the Applicant would comply with Mr. Darji's recommendations.

In response to Board questions, Mr. Szalay advised that time period for completion of Village Drive pursuant to the phasing plan under the Prior Approvals would be approximately 2.5 to 3 years but that under the proposed new phasing that period would be reduced to 1.5 to 2 years. In response to Board questions, he testified that the completion time for proposed Phases 1B and 2A would be approximately 9 to 12 months per phase and both phases will be complete in about 1.5 to 2 years. Mr. Szalay noted that work in proposed Phase IB, it being the NJDOT traffic light upgrade was starting the week of April 25, 2022.

Testimony of James Kyle, PP, AICP

James Kyle PP, AICP testified on behalf of the Applicant. Mr. Kyle is a licensed professional planner in the State of New Jersey and a member of the American Institute of Certified Planners. He has previously been accepted as an expert witness in land use planning by the Board. The Board agreed to again so accept him.

Mr. Kyle reviewed the variances which are needed by the Applicant for new or different relief beyond those variances in the Prior Approvals. He noted that the project is attractive and well designed and that construction is already underway. Mr. Kyle further testified that the requested additional variance relief is with respect to focused locations on the Property. He advised that he believes the variances should be considered by analyzing the benefits and burdens of the Applicant's entire project pursuant to the holding in Pullen v. Tp. Of South Plainfield, 291 N.J. Super.1 (App. Div.1996)

Mr. Kyle further testified regarding the following variances which he believes are generated by the configuration of the Property and fall within the category of c (1) hardship variances:

(a) Buffering variance along US Route 206 where 15 feet is required, 12 feet was previously approved and the relief being sought is for 3.5 feet. Mr. Kyle advised that this relief is specifically for the two equipment pads which are being located pursuant to PSE&G's direction. He argued that this is a very small area and landscaping has already been installed around the transformers to shield them so there is no substantial impact to surrounding properties or the travelling public. Accordingly, Mr. Kyle believes the intent of the ordinance is still met.

(b) Buffering variance along Tamworth Drive on the western side of the site. The required buffer in this area is 5 feet and the Board previously granted a variance for 3.29 feet. The Applicant seeks relief for a reduced buffer of 2.96 feet due to the change in the amount of property that was acquired from Sharbell. He advised that none of the improvements were moved but the right-of-way line was shifted. Mr. Kyle opined that the variance is a small reduction in a fairly refined area that will not have a substantial impact. He noted that there is a row of evergreens that will shield the residential development across the street.

(c) Minimum distance to the inner loop road where 10 feet is required, a variance for 8.48 feet was previously approved and the Applicant seeks a variance to increase the distance to 8.67 feet. Mr. Kyle explained that this variance is sought for the southern portion of the site near the Mixed-Use Building. He advised that the variance is required in order to satisfy the required angle of the right-of-way for Brecknell

Way. Mr. Kyle opined that the reduction is not significant, is only for a distance of 30 to 40 feet and any impact will be mitigated with landscaping.

Mr. Kyle further testified regarding the requested relief which he believes satisfy the criteria for c(2) variances as follows:

(a) Mr. Kyle advised that ordinance standards require the buffer between Area B and Area C, the southern side of the site, to be 10 feet with a maximum permitted 4-foot high fence. He noted that the Board previously approved variance relief for a 2-foot buffer and a 6-foot fence pursuant to the Prior Approvals. The Applicant now proposes a minimum buffer of approximately 3.3 feet. In addition, the Applicant now proposes a retaining wall with a maximum height of 8 feet to screen the gas meters along the southern façade of the Mixed-Use Building. Mr. Kyle argued that the variance will promote the purposes of zoning by promoting the general welfare and providing a desirable visual environment. N.J.S.A. 40:55D-2 (a) and (i). He noted that in addition to screening the gas meters, substantial landscaping will be provided on the front side of the wall which will avoid any substantial impact on surrounding properties.

(b) Mr. Kyle testified that relief is needed for the number of monument signs. He noted that three signs were approved by the Prior Approvals. The Applicant now seeks a fourth monument sign consisting of a four-foot masonry identity wall with "Village Walk" in raised block lettering which would be located along the open space plaza as shown in Exhibit A-5. Mr. Kyle opined that the wall will provide separation between the open space plaza and the parking area and will be an attractive accent for the project. There will be no tenant signage on the wall. The monument sign will replace the fountain feature which Mr. Kyle opined would create more usable space in the plaza. In addition, Mr. Kyle noted that the sign will be internal to the project and accordingly will have no substantial impact on surrounding properties. He opined that the variances will satisfy the c(2) variance criteria by promoting the general welfare and creating a desirable visual environment. N.J.S.A. 40:55D-2 (a) and (i).

(c) Mr. Kyle testified that additional variance relief is needed for the additional wall sign on the eastern side of the Starbucks in the area of the drive-through to allow a 25 square foot sign which will be letterset, internally illuminated channel letters with white face. He advised that additional relief is being requested for the sign area on the Anchor Building. Mr. Kyle explained that if one or two tenants occupy the building, the Applicant seeks relief to permit 100 square foot primary sign and have the additional 50 square foot secondary sign on the north side of the building. Mr. Kyle opined that the Property is unique as it will have frontage on four public streets with customers coming from all directions to the Property and that the signage is important for identifying the uses and for wayfinding. He further opined that the larger sign on the Anchor Building will promote a desirable visual environment given the scale of the building and will help with wayfinding. He opined that the signage will promote the general welfare and free flow of traffic. N.J.S.A. 40:55D-2 (a) and (h). Mr. Kyle testified that he believes the sign package fits the scale and design of the buildings, will not create visual clutter or an overabundance of signage and accordingly, there will not be a substantial impact to the neighboring properties.

(d) Mr. Kyle addressed the requested variance relief for exceedance of the permitted illumination from 1 footcandle to 1.7 footcandle at the property boundaries and 1.6 footcandle for the front parking areas. He opined that the lighting departures are not significant to the naked eye and that most of the increase in the lighting is on the commercial side. Mr. Kyle further testified that the increase in illumination at the property line along Tamworth Drive is minor and is needed for safety along the public sidewalk. He opined

that the increase on the commercial side will provide better safety for both pedestrians and vehicles, there will be no excess spillage or glare and accordingly the intent of the ordinance is met. Mr. Kyle opined that the variance meets the c(2) criteria as it will promote the general safety and welfare and will not create a substantial detriment. N.J.S.A. 40: 55D-2 (a).

(e) Mr. Kyle advised that the Prior Approvals granted relief for the 10-foot pedestrian walkway width in front of the Anchor Building from the required 16 feet. He advised that the Applicant now seeks a variance of 13.3 feet for the pedestrian walkway. Mr. Kyle testified that the proposed pedestrian walkway width will allow a consistent line for parking along the front and will provide adequate pedestrian circulation in front of the buildings, thereby promoting the general safety and welfare and without substantial detriment to neighboring properties. N.J.S.A. 40:55D-2 (a).

Testimony of Vincent Pugliese

Vincent Pugliese, President of Pugliese Properties, testified regarding the application. He confirmed that the Applicant will revise the area of the gateway monument sign to comply with the municipal ordinance standards. In addition, Mr. Pugliese advised that the Applicant will revise the proposed gateway monument signage to comply with the municipal ordinance standard and confirmed that the lighting fixture height at the open space plaza will comply with the ordinance requirements. He further confirmed that the proposed lighting will have downward facing fixtures with the exception of the proposed up lighting fixtures which will be on timers.

Mr. Pugliese testified that the proposed new phasing will facilitate completion of the project. He advised that it would be infeasible for the Applicant to obtain financing to work on all phases of the project simultaneously. Mr. Pugliese further testified that the proposed phasing would help to ensure that the site is fully leased and would avoid having empty buildings without tenants. Mr. Pugliese noted the huge difference in site grades between the subject site and the adjacent site being developed by Sharbell Development Corporation for multi-family housing necessitates the installation of the structural components of the Anchor Building before Village Drive can be completed. Following a colloquy with the Board regarding approval conditions with respect to the construction of Village Drive, Mr. Pugliese agreed that the Applicant would be allowed to obtain only up to 50% of temporary tenant certificates of occupancy for proposed Buildings A and B (representing up to 5,300 cumulative square feet) after which the Applicant would be obligated to complete at least 50% of the structural components of the Anchor Building in Phase 2A in order to facilitate the completion of Village Drive, (as determined by the Township Engineer or his designee, in consultation with the Applicant) following which the Applicant would be allowed to proceed with receiving temporary certificates of occupancy for Buildings A & B while Village Drive is being completed.

(2) Comments by Applicant's Attorney

Mr. Schatzman advised that the Applicant would work with the Board's Landscape Architect, Richard Bartolone, ASLA and the Township Shade Tree Committee with respect to the appropriate variety of native, non-native and invasive trees to be planted on the Property. In addition, he advised that the Applicant comply with the following comments in the Township Environmental Commission memorandum dated April 20, 2022: Paragraph B, Sections 2 (LED lighting only) and 3; Paragraph D,

Sections 1-3 and Paragraph E, Section 1. Mr. Schatzman further confirmed that the Applicant would comply with the following comments in the Open Space Coordinator's memo dated April 18, 2022; Paragraph C, Section 3; Paragraph D and Paragraph E.

(B) The Application, Plans and related documents:

The Applicant applied for amended preliminary and final major site plan approval with submission waivers and bulk variances as follows:

1. Montgomery Township Land Development Application, dated September 23, 2021.
2. Response letter, prepared by Menlo Engineering, dated March 10, 2022.
3. Checklist, Final Major Subdivision Plats and Final Major Site Plan dated September 23, 2021.
4. Amended Preliminary and Final Major Subdivision and Site Plan, prepared by Menlo Engineering, dated March 16, 2018, with revisions through February 25, 2022, consisting of the following:

a. Title Sheet, sheet 1 of 35.
b. PMUD Overall Plan, 2 of 35.
c. Existing Conditions Plan, sheet 3 of 35.
d. Overall Plan, sheet 4 of 35.
e. Final Map, sheet 5 of 35, revised through June 24, 2020.
f. Demolition Plan, Phase 1, sheet 6 of 35.
g. Geometry Plan, Phase 1, sheet 7 of 35.
h. Grading and Utility Plan, Phase 1, sheet 8 of 35.
i. Lighting Plan, Phase 1, sheet 9 of 35.
j. Landscape Plan, Phase 1, sheet 10 of 35.
k. Demolition Plan, Phase 2, sheet 11 of 35.
l. Geometry Plan, Phase 2, sheet 12 of 35.
m. Grading and Utility Plan, Phase 2, sheet 13 of 35.
n. Lighting Plan, Phase 2, sheet 14 of 35.
o. Landscape Plan, Phase 2, sheet 15 of 35.
p. Woodlands Management Plan, sheet 16 of 35.
q. Roadway Profiles, sheet 17 of 35.
r. Utility Profiles, sheets 18 and 19 of 35.
s. Soil Erosion and Sediment Control Plan, Phase 1, sheet 20 of 35.
t. Soil Erosion and Sediment Control Plan, Phase 2, sheet 21 of 35.
u. Soil Erosion and Sediment Control Details, Phase 1, sheet 22 of 35.
v. Soil Erosion and Sediment Control Details, Phase 2, sheet 23 of 35.
w. Construction Details, sheets 24-32 of 35.
x. Construction Phasing Plan, sheet 33 of 35.
y. Jurisdictional Plan, sheet 34 of 35.
z. ADA Ramp Details, sheet 35 of 35.

5. Architectural, Anchor Building, prepared by Michael V. Testa Architect, LLC, dated March 16, 2018, revised to September 20, 2021, consisting of the following:

a. First Floor Plan, PB-1

b. Proposed Elevations, PB-2
c. Proposed Elevations, PB-3

6. Architectural, Building A and B, prepared by Michael C. Testa Architect, LLC, dated March 16, 2018, revised to April 15, 2021, consisting of the following:
a. Proposed Building A and Building B, PB-1
b. Proposed Building A and Building B, Elevations, PB-2

The Board considered the following review and comment memorandums provided by the Township staff and Board consultants:

Memorandum issued by Rakesh R. Darji, PE, PP, CME, of Environmental Resolutions, Inc. dated April 22, 2022; Memorandum issued by Michael Sullivan, ASLA, AICP and Emily Goldman, PP, AICP dated April 21, 2022; Memorandum issued by Lauren A. Wasilauski, Township Open Space Coordinator, dated April 18, 2022; Memorandum issued by the Montgomery Township Environmental Commission, dated April 20, 2022; Memorandum issued by the Montgomery Township Shade Tree Committee, dated April 20, 2022; Review Letter dated April 6, 2022 issued by Joseph A. Fishinger, Jr., PE, PP, PTOE, Bright View Engineering; Memorandum issued by the Montgomery Township Health Department dated March 18, 2022.

(C) Testimony of Board Professionals

Emily Goldman, PP, AICP

Emily Goldman, PP, AICP of Clarke Caton Hintz, referenced her review memo dated April 21, 2022. Ms. Goldman responded to the testimony provided by the Applicant's planner. In addition to his review of variances, Ms. Goldman advised that new variance relief is needed for the off-street parking setback of 2.9 feet and a design exception is needed for the required tree planting. She noted that the Board previously approved a deficiency of 53 trees and the deficiency now will be 57 trees. She recommended that the Applicant contribute money to the Township tree bank for the difference.

Ms. Goldman discussed the change from masonry wall to vinyl fence around the pump station. She noted that the installed white vinyl fence does match the closest building architecture but the visual aspect of being so close to Brecknell Way needs to be considered.

Ms. Goldman said the inconsistencies in the sign package can be reviewed as part of conformance as long as there are no new variances. She noted that there are inconsistencies in the sign lighting that needs to be addressed. In addition, Ms. Goldman said a variance may be needed for the area of the gateway monument sign since it is 79.75 square feet and 75 square feet is permitted. There are inconsistencies in the sign lighting that needs to be addressed. Mr. Kyle testified that the Applicant will comply with the ordinance standards and the plans will be revised. Ms. Goldman noted that with the addition of the 12 parking spaces and the EV and make ready spaces counting as two spaces, they are deficient by eight spaces rather than 21. Ms. Goldman also indicated the Board should determine if one of the EV spaces should be accessible whereas the Applicant indicated they would make one EV space accessible. She confirmed that the project is consistent with the Master Plan.

Rakesh R. Darji, P.E., P.P., C.M.E.

Rakesh R. Darji, P.E., P.P., C.M.E. of Environmental Resolutions, Inc. testified regarding his memorandum dated April 22, 2022. He advised that the testimony presented at the hearing on behalf of the Applicant has satisfactorily addressed his review comments, as the Applicant has agreed to comply with his comments and recommendations. With regard to the Applicant's requested variances with regard to an increase in footcandle intensity beyond the permitted maximum, Mr. Darji noted that the increased footcandle intensity will address the need for additional lighting for pedestrian safety in the front parking area in light of the proposed mixed use. In response to Board colloquy regarding the appropriate conditions to insure the construction of Village Drive, Mr. Darji advised that the critical component is the installation of the structural components of the Anchor Building which are needed to facilitate construction of Village Drive given the site gradients and noted that the Applicant has posted performance guarantees to insure the construction of the road itself. He noted that the memorandum pointed out that the Applicant's Application does not affect the prior approved stormwater plan, which is still satisfactory.

Joseph Fishinger, PE, PP, PTOE

Joseph Fishinger, PE, PTOE of Bright View Engineering, testified regarding his review letter dated April 6, 2022. He noted that he had requested a trip generation analysis be provided by the Applicant to contrast the traffic generated by the previous site improvements with the current site improvements to determine the required road improvements. Mr. Fishinger advised that the overall square footage on the Property pursuant to the pending application would be reduced by approximately 5000 square feet and accordingly, the traffic generation for the site will be reduced compared to the prior approval. He advised that as long as the signalization improvements at the intersection of US Route 206 and Village Drive are done before any other buildings are opened, the traffic numbers are acceptable.

In response to Board comments, Mr. Fishinger noted that there is a sight triangle easement located just in front of the vinyl fencing as depicted on the site plan which limits the extent of landscape screening that can be provided to screen the fence.

(3) The application was opened to the public for comment and the following comment was provided:

Corey Wingerter, 1290 Route 206, testified in support of the application. Mr. Wingerter, as a member of the Board of the Montgomery Business Association, read a letter of support for the application into the record. In addition, in his capacity as the owner of the Tigers Tale restaurant, Mr. Wingerter advised that Mr. Pugliese has been a great business neighbor.

AND WHEREAS, based upon review of the foregoing testimony, exhibits and the application, plans and related documents, the Planning Board makes the following findings of facts and conclusions:

(1) Village Shoppes at Montgomery LLC is the owner of property located at 1320, 1330, 1340, 1350 and 1360 US Highway 206 and being Block 28007, Lots 1, 2, 3, and 4 on the Montgomery Township Tax Map (the Property) in the Planned Mixed Use Development ("PMUD") zoning district and the Applicant in the subject application.

(2) The Property previously received preliminary and final major subdivision and site plan approval with

conditional use approval, bulk variances, a design exception and a *de minimis* RSIS exception by Resolution PB-04-18 on October 15, 2018 for the construction of a mixed use development, two Master Plan loop roads, parking, a pump station, stormwater management, lighting, signage and other associated improvements (the "Prior Approvals") .

(3) The Applicant now seeks amended preliminary and final major site plan approval with bulk variances and design exception for revisions to the Anchor Building, Buildings A and B, the parking lot configuration adjacent to the proposed Starbucks in Building C/D, the dumpster enclosure northwest of pad A, the material of the pump station enclosure, the elimination of the water feature in front of the mixed-use building and the introduction of a decorative wall with an identity sign with landscaping and up-lighting in front of the mixed-use building and changes to the project phasing as follows:

(a) The Starbucks patio has been reconfigured to provide additional seating and landscaping area. A 25 square foot Starbucks sign has been added to the eastern face façade of Building C/D and the low wall approved along the landscape area west of the building has been eliminated and additional landscaping will be provided;

(b) The retail pads for A and B have been reduced from 5,752 square feet and 5,726 square feet respectively to each being 5,277 square feet. The patio on the north side of Building A has been expanded for additional seating. Building A & B will both have an option for a 1,400 square foot basement and have been reduced in height. The dumpster pad that was located within the parking area has been relocated to be closer to Buildings A and B and will back on Village Drive and has increased in size slightly;

(c) The Anchor Building has been reduced in size from 12,000 square feet to 9,996 square feet. Eleven additional parking spaces have been provided in front of the building and the pedestrian walkway in front of the building has been expanded. The reconfiguration of the parking area in front of the Anchor Building allows for a gain of 12 spaces. The loading area has been enclosed inside the building and will be accessed by a 15 foot driveway and contain an overhead door. Dumpsters for refuse and recycling are to be located within the service bay The Anchor Building was originally designed for a single tenant use but market conditions may indicate it would work better as a multi-tenant use. If it is a multi-tenant use, there will be 50 square foot signs for each tenant space in compliance with the ordinance. If there is one tenant, a variance for a 100 square foot primary façade sign on the front of the building and an additional secondary 50 square foot sign on the north face of the building is being requested.

(d) The water feature in the plaza in front of the mixed-use building will be eliminated to and in its place, a 4 foot high brick and stone identity wall with an approximate 10 square foot lettered sign is proposed.

(e) The pump station enclosure was previously approved as a masonry enclosure and is now proposed after-the-fact since it was previously installed as a 6-foot-high white vinyl fence.

(f) The walls on the south side of the proposed mixed-use Building have been modified to accommodate the gas meters that needed to be installed on the outside of the building. The wall was previously approved in this location as a retaining wall and the gas meters were subsequent added at the direction of PSE&G. Variance relief for a maximum wall height of 8-foot is required.

(g) Eight Electric Vehicle charging stations are being installed as well as four make-ready stations.

(h) Two PSE&G transformers were added to the plans along the Route 206 frontage as directed by the utility company.

(i) The modifications reduce the retail tenant space to 49,034 square feet from the previously approved 54,756 square feet.

(j) The reduction in retail tenant space and the gain of the 12 parking spaces allows the total restaurant space allotment of seats to be increased to 321 seats from the previously approved 234 seats. The total parking required and provided is 513 parking spaces including a RSIS de minimis exception that was previously approved.

(k) The lighting and landscaping have been modified to work with the reconfiguration of the parking area and the buildings. Nine 20-foot high LED pole mounted lights, 8 15½ foot high LED pole mounted lights, 25 13 ½ foot high LED pole mounted lights and 4 13 foot high LED pole mounted lights in addition to 18 bollards and 29 ground up-lights that focus on different aesthetic features have been provided. In the commercial lot an average of 1.62 footcandles is provided where 1.0 is required (a minimum of 0.4 footcandles) and a 10.25 max to min uniformity ratio where the max ratio is 20:1. In the residential lot 0.4 footcandles minimum are provided, 1.0 average and max to min of 9.5:1. The project proposes 1.7 foot candles at the property line where 0.1 is required as the maximum.

(l) The proposed project phasing is as follows:

Phase 1A would continue to consist of Building C/D which is now complete along with the completion of Brecknell Way from US Route 206 to the intersection of Tamworth Drive;

Phase 1B will revised to consist of Buildings A and B along with the parking lot west of these buildings, construction of the improvements along US Route 206, the signal improvements at US Route 206 and proposed Village Drive and construction of Village Drive to a point approximately 50 feet beyond the parking lot drive aisle;

Phase 2A: Construction of the Anchor Building and completion of Village Drive to the intersection with Tamworth Drive;

Phase 2B: Construction of the Mixed Use Building with parking improvements which include parking immediately to the east of the Mixed Use building and the entire western parking area behind the Mixed Use and Anchor buildings.

(4) The Applicant seeks the following variances and design exception:

a) Minimum buffer to Route 206 where 15 feet is required, 12 feet was previously approved and 3.5 feet is proposed due to the PSE&G equipment that has been installed.
b) Minimum buffer to Sub Area A-2 (Sharbell Development) a 5-foot buffer is required; 3.29 feet was previously approved and 2.96 is proposed due to a modification in the land that was acquired from Sharbell
c) The principal building setback to Brecknell Way where 10 feet is required, 8.48 feet was previously approved and 8.67 feet is proposed.

d) Minimum off-street parking setback where 5 feet is required, 3.29 feet was previously approved and 2.96 is proposed.
e) The pedestrian walkway along the front of the Mixed Use and Anchor buildings where 16 feet is required, 10 feet was previously approved and 13.3 feet is proposed.
f) The minimum buffer between Area B and C which is located south of the site is required to be 10 feet. Two feet was previously approved and 3.3 feet is proposed to accommodate the pump station enclosure.
g) An eight-foot-high wall located within the side yard at the Mixed-Use Building as a protective gateway to the gas meters.
h) The Applicant is permitted a total of three monument signs, excluding the existing monument signs on Village Shopper III. The Applicant is now proposing four monument signs, three along the Route 206 frontage and one at the open space plaza which requires variance relief.
i) Variance relief is needed for the additional wall sign on the eastern side of the Starbucks in the area of the drive-through to allow a 25 square foot sign which will be letterset, internally illuminated channel letters with white face.
j) Variance relief is being requested for the sign area on the Anchor Building. If one tenant occupies the building, the Applicant seeks relief to permit one 100 square foot primary façade sign whereas the maximum permitted sign area is 50 square feet, and an additional secondary 50 foot sign on the north side of the building.
k) Maximum illumination levels at the property line where 0.1 footcandles is permitted and 1.7 footcandles is proposed.
l) The parking lot illumination where 1 footcandle average is required and the Applicant proposes 1.62 footcandles within the front commercial parking area and residential parking areas.
m) Design exception for tree planting. The Prior Approvals allowed a deficiency of 53 trees and the Applicant now proposes a deficiency of 57 trees. The Applicant agrees to work with the Township Landscape Architect, Richard Bartolone, ASLA to upgrade the size of the proposed tree planting and will contribute to the Township Tree fund with respect to the 57 tree deficiency as directed by Mr. Bartolone.
n) Minimum footcandles for Building A/B mixed use building and the maximum footcandles for the residential area as set forth above.

(5) The Board finds that proposed phasing plan will expedite the period for completion of Buildings A and B along with US Route 206 frontage improvements, signalization at US Route 206 and Village Drive and completion of the Village Drive, all of which will promote efficient traffic circulation and increased economic vitality and needs to be changed because all of the buildings in Village Shopper I and II are now vacant. The Board further finds that the proposed variances for buffering along US Route 206 and Tamworth Drive and the minimum distance to the inner loop road are caused by the configuration of the Property and in response to changes required by PSE&G, and compliance with the right of way for Brecknell Way. The Board finds that denial of the variances would cause exceptional practical difficulty to the Applicant pursuant to the c(1) criteria. In addition, the Board finds that the variances will not substantially impair the intent and purpose of the zone plan or cause substantial detriment to surrounding properties as the variances impact small areas of the Property and any impacts will be mitigated by landscaping.

(6) The Board further finds that the balance of the variances meet the criteria for a c(2) variance approval.

Specifically, the Board finds that the variances for the buffer between Area B and Area C and the height of the proposed retaining wall will promote the purposes of zoning by promoting the general welfare and

providing a desirable visual environment. N.J.S.A. 40:55D-2 (a) and (i). In addition to screening the gas meters, substantial landscaping will be provided on the front side of the wall which will avoid any substantial impact on surrounding properties and will not substantially impair the intent and purpose of the zone plan.

The Board further finds that the requested relief for the number of monument signs and the proposed identity sign will provide separation between the open space plaza and the parking area and will be an attractive accent for the project. There will be no tenant signage on the wall. The monument sign will replace the fountain feature which will create more usable space in the plaza. The sign will be internal to the project and accordingly will have no substantial impact on surrounding properties and will satisfy the c(2) variance criteria by promoting the general welfare and creating a desirable visual environment. N.J.S.A. 40:55D-2 (a) and (i).

The Board further finds that the variance relief is needed for the additional wall sign on the eastern side of the Starbucks in the area of the drive-through and the sign area on the Anchor Building will facilitate wayfinding because the Property will have frontage on four public streets with customers coming from all directions to the Property and will promote the general welfare and free flow of traffic. N.J.S.A. 40:55D-2 (a) and (h) in accordance with c(2) criteria. The Board further finds that signs are appropriate for the scale of the buildings and will not create visual clutter. Accordingly, there will not be a substantial impact to the neighboring properties.

The Board finds that the requested variance relief for exceedance of the permitted illumination from 1 footcandle to 1.7-foot candle at the property boundaries and 1.6 footcandle for the front parking areas are appropriate for pedestrian and vehicles and are located primarily on the retail side of the Property. Accordingly, the Board finds that the variance meets the c(2) criteria as it will promote the general safety and welfare pursuant to N.J.S.A. 40: 55D-2 (a) and will not cause substantial detriment to the zone plan or surrounding properties as the increase in illumination is not significant.

The Board also finds that the requested variance relief for the pedestrian walkway width in front of the Anchor Building will allow a consistent line for parking along the front and will provide adequate pedestrian circulation in front of the buildings, thereby promoting the general safety and welfare and without substantial detriment to neighboring properties. N.J.S.A. 40:55D-2 (a).

(7) The Board finds that the requested design exemption for tree planting represents a de minimis increase over the exemption granted in the Prior Approvals and the Applicant has agreed to make a contribution to the Township Tree Bank in lieu of planting onsite under the direction of the Township Landscape Architect.

(8) The Municipal Land Use Law further authorizes the Board to grant preliminary and final site plan approvals pursuant to N.J.S.A 40:55D-37. The Board finds that the professional staff memoranda and testimony indicate that the Applicant has met the municipal site plan ordinance standards and recommends preliminary and final major site plan approval with conditions. The Board adopts the staff recommendation and finds that the record before the Board supports the issuance of preliminary and final major site plan approval with a design waiver and submission waivers since the site is now under construction and the Board can make an informed decision for the relief sought by applicant and variances, as conditioned by the Board.

(9) The variance relief and design exception is not a detriment to the Master Plan as set forth in the Sullivan and Goldman Memorandum of April 21, 2022 and the Board adopts their conclusions.

Based on the foregoing and staff memoranda and testimony, the Board further finds that the proposed site plan satisfies the criteria for major site plan approval pursuant to the Municipal Land Use Law and the Montgomery Township land use ordinances.

NOW, THEREFORE, BE IT RESOLVED based upon the foregoing findings of fact and conclusions, the Montgomery Township Planning Board does hereby grant to the Applicant Village Shoppes at Montgomery LLC amended preliminary and final major site plan with bulk variances and design exception, and submission waivers as set forth in the within Findings of Fact and Conclusions, for approval of revisions to the Anchor Building, Buildings A and B, the parking lot configuration adjacent to the proposed Starbucks in Building C/D, the dumpster enclosure northwest of pad A, the material of the pump station enclosure, the elimination of the water feature in front of the mixed-use building and the introduction of a decorative wall with an identity sign with landscaping and up-lighting in front of the mixed-use building, increase in illumination intensity and changes to the project phasing in accordance with the application, supporting documents and testimony, subject to the following conditions:

(1) The Applicant shall comply with the comments and recommendations, except as already testified by Applicant and its professionals at the hearing, set forth in the professional memos of Rakesh R. Darji, PE, PP, CME, of Environmental Resolutions, Inc. dated April 22, 2022; Memorandum issued by Michael Sullivan, ASLA, AICP and Emily Goldman, PP, AICP dated April 21, 2022; and Review Letter dated April 6, 2022 issued by Joseph A. Fishinger, Jr., PE, PP, PTOE, Bright View Engineering. The Applicant shall work with the Board's Landscape Architect, Richard Bartolone, ASLA and the Township Shade Tree Committee with respect to the appropriate variety of native trees to be planted on the Property. The Applicant will comply with the following comments in the Township Environmental Commission memorandum dated April 20, 2022: Paragraph B, Sections 2 (only LED lighting) and 3; Paragraph D, Sections 1-3 and Paragraph E, Section 1. The Applicant shall comply with the following comments in the memorandum of Lauren A. Wasilauski, Open Space Coordinator memo dated April 18, 2022: Paragraph C, Section 3; Paragraph D and Paragraph E.

(2) The Applicant shall provide 8 Electrical Vehicle Supply/Service Equipment (EVSE) and 4 Make-Ready spaces. One of the EVSE spaces shall be ADA accessible.

(3) All up lighting fixtures shall be on timers to minimize any detrimental impacts.

(4) The Applicant will be allowed to obtain up to 50% of the temporary certificates of occupancy for proposed Buildings A and B, not to exceed 5300 cumulative square feet of building space. No further certificates of occupancy shall be issued for Buildings A and B until the Applicant has completed the Anchor Building structural components needed to facilitate completion of Village Drive. The Construction Sequence Agreement will include provisions for the Applicant to provide a New Jersey Licensed Professional Engineer's structural report and certification for the Anchor Building's (or portions thereof) ability to support Village Drive, its construction, and continued operation to the Township Engineer. Upon

acceptance by the Township Engineer, the Applicant may then obtain temporary certificates of occupancy for the balance of Buildings A and B while completing the remainder of the Anchor Building.

(5) The Applicant shall enter into an agreement with the Township to periodically have a New Jersey Licensed Professional Engineer evaluate the structural integrity of the retaining walls and Anchor Building components that support portions of Brecknell Way and Village Drive. The agreement shall be subject to Township Engineer and Township Attorney review. At a minimum, structural evaluations shall be performed prior to Brecknell Way and Village Drive opening to the public.

(6) The Applicant shall work with the Township Landscape Architect to upgrade the size of the tree plantings and shall make a contribution to the Township Tree Bank under the direction of the Township Landscape Architect in lieu of planting 57 additional trees on site.

(7) The Applicant shall enter into an amended "Developer's Construction Sequence Agreement" with the Township Committee in accordance with Section 16-9.2 of the Land Development Ordinance of Montgomery Township. Said Agreement shall demonstrate the construction staging, traffic control measures, and other information needed to accommodate the amended phasing and proposed changes but in accordance with case law cannot enlarge upon any of the site plan requirements set forth in this resolution.

(8) The Applicant shall post Guarantees, amend existing Guarantees, and post inspection escrow in a form satisfactory to the Township Attorney and Township Engineer. This shall include Guarantees to ensure the construction of both the Phase 1B and 2B portions of Village Drive. Guarantees and inspection escrow amounts will be determined in accordance with the current Municipal Land Use Law and Montgomery Township Code Section 16-9.2 if not done so already.

(9) Revised retaining wall designs, calculations, details, and certifications by a New Jersey Licensed Professional Engineer shall be submitted to the Township Engineer. The Applicant shall demonstrate how the changes in the wall design impact improvements in the Brecknell Way right-of-way that are to be dedicated to the Township. It shall also be demonstrated whether the wall footing, guide rail, and components are still contained to the right-of-way exception area shown on the project Final Map that is filed in the Somerset County Clerk's office as instrument #2020044256.

(10) The Route 206 improvements, traffic signal upgrades, and Phase 2A portions of Village Drive shall be completed before any Certificates of Occupancy are issued, whether temporary or unconditional except for Building C/D which is already built and has a temporary CO.

(11) The phasing plan must show the Phase 1B line shifted to the west end of the parking lot. Also, the phasing line along Tamworth Drive overlaps Sharbell's Montgomery Crossing plans which show the phase line around the Village Shoppes westerly property lines. The Applicant needs to clarify the discrepancy and amend the plans as needed.

(12) The development plans are not consistent with the amended phasing. The phase 1 sheets still show the mixed use building (now in phase 2B) and the phase 2 sheets show buildings A and B (now in phase 1B). The plans shall be revised to reflect the phasing and intended construction sequence.

(13) The developer shall coordinate with the Township Engineer any change in building use that imposes greater demand on the sanitary sewer system than what was approved under Treatment Works Approval No. 19-0523. As requested by the Township Engineer, this may be determined at the time a new tenant applies for a zoning permit and shall be calculated in accordance with the DEP Flow Criteria specified in N.J.A.C. 7:14A-23.3. Any changes in use that create a daily sewage flow that exceeds said Treatment Works Approval may necessitate amendments to the existing sewer participation/capacity reservation agreement, payment of sewer capacity charges, necessary sewer system upgrades, amendments to outside agency approvals, and compliance with Chapter 12 of the Township Code.

(14) All conditions of the Prior Approvals shall remain in effect with the exception of those conditions specifically addressed herein.

(15) Changes necessary for the site plans in accordance with the requirements set forth herein shall be approved by the Planning Board Engineer.

(16) The testimony of Applicant's consultants and Board professionals shall be construed as part of the record especially to the extent such testimony amends the relief sought and modifies any memorandum.

ROLL CALL VOTE ON MOTION TO GRANT AMENDED PRELIMINARY AND FINAL SITE PLAN APPROVAL WITH VARIANCES, DESIGN AND SUBMISSION WAIVERS
(April 25, 2022)

Moved by: Mr. Glockler

Seconded by: Mr. Battle

Those in Favor: Battle, Blodgett, Campeas, Keenan, Mani, Matthews, Roberts, Todd and Glockler

Those Opposed: None

ROLL CALL VOTE ON MOTION TO APPROVE RESOLUTION OF MEMORIALIZATION (June 13, 2022)

Moved by: Mr. Mani

Seconded by: Ms. Roberts

Those in Favor: Battle, Blodgett, Campeas, Keenan, Mani, Roberts, Todd and Glockler

Those Opposed: None

LORI SAVRON
PLANNING BOARD SECRETARY
TOWNSHIP OF MONTGOMERY

SOMERSET COUNTY

DOCUMENT COVER SHEET

HON. STEVE PETER
SOMERSET COUNTY CLERK
PO BOX 3000
20 GROVE STREET
SOMERVILLE, NJ 08876

WWW.CO.SOMERSET.NJ.US

INSTRUMENT # 2020044908

BOOK: 7252 PAGE: 1901-1908

(Official Use Only)

Agt Deed

DATE OF DOCUMENT: 8/10/2020	TYPE OF DOCUMENT: DEED RESTRICTION
FIRST PARTY *(Grantor, Mortgagor, Seller or Assignor)*	SECOND PARTY *(Grantee, Mortgagee, Buyer, Assignee)*
Township of Montgomery, in the County of Somerset, a municipal corporation of the State of New Jersey	Village Shoppes at Montgomery, L.L.C., a New Jersey Limited Liability Company
ADDITIONAL PARTIES:	

THE FOLLOWING SECTION IS REQUIRED FOR DEEDS ONLY

MUNICIPALITY: Montgomery Township	MAILING ADDRESS OF GRANTEE:
BLOCK: 28005	
LOT: Part of 60.02, 66.01, 66.02, 68, 69**	SCHATZMAN BAKER 215-216 COMMONS WAY PRINCETON, NJ 08540
CONSIDERATION: $ 0.00	

**to be known as Lot 1, Block 28007

THE FOLLOWING SECTION IS FOR ORIGINAL MORTGAGE BOOKING & PAGING INFORMATION FOR ASSIGNMENTS, RELEASES, SATISFACTIONS, DISCHARGES & OTHER ORIGINAL MORTGAGE AGREEMENTS ONLY

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Prepared by: _____
Richard Schatzman, Esq.

Deed Restriction

DEED-RESTRICTED AFFORDABLE HOUSING PROPERTY WITH RESTRICTIONS ON RESALE AND REFINANCING

To Rental Property
With Covenants Restricting Rentals, Conveyance, and Improvements and Requiring Notice of Foreclosure and Bankruptcy

THIS DEED RESTRICTION, entered into as of this 10th day of August, 2020, by and between the Township of Montgomery, in the County of Somerset, a municipal corporation of the State of New Jersey, with offices at 2261 Van Horne Road (Route 206), Belle Mead, New Jersey 08502 (the "Municipality"), and Village Shoppes at Montgomery, L.L.C., a New Jersey Limited Liability Company, having offices at 219 Nassau Street, Princeton, New Jersey 08542, the developer/sponsor (the "Owner") of a residential very-low, low- and moderate-income rental project (the "Project"):

WITNESSETH:

Article 1. Consideration

In consideration of benefits and/or right to develop received by the Owner from the Municipality regarding this rental Project, the Owner hereby agrees to abide by the covenants, terms and conditions set forth in this Deed restriction, with respect to the land and improvements more specifically described in Article 2, hereof (the Property).

Article 2. Description of Property

The Property consists of a portion of the land, and a portion of the improvements thereon, that is located in the municipality of the Township of Montgomery, County of Somerset, State of New Jersey, and described more specifically as Block 28005, Lots 60.02, 66.01, 66.02, 68, 69 on the Municipality's Tax Map (rev. ed. 2017) having a current street address of 1330 and 1340 Van Horne Road (Route 206), Belle Mead, NJ 08502; after a subdivision map is filed it shall be known and designated as Lot 1, Block 28007, upon which the building containing the Project of low-, very low- and moderate-income units is situated.

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More specifically designated as: Eleven (11) affordable rental units (the "Units"), not age-restricted and listed in Exhibit A attached hereto and made a part hereof. Very low-income units will be affordable to households making 30 percent or less of median income in the housing region, as defined in the New Jersey Fair Housing Act.

Article 3. Affordable Housing Covenants

The following covenants (the "Covenants") shall run with the land for the period of time (the "Control Period"), determined separately with respect for each dwelling unit, commencing upon the date on which the first certified household occupies the unit, and shall expire as determined under the Uniform Controls, as defined below.

In accordance with N.J.A.C. 5:80-26.11, each restricted unit shall remain subject to the requirements of this subchapter, the "Control Period," until the municipality in which the unit is located elects to release the unit from such requirements. Prior to such a municipal election, a restricted unit must remain subject to the requirements of this subchapter for a period of at least 30 years.

A. Sale and use of the Property is governed by regulations known as the Uniform Housing Affordability Controls, which are found in New Jersey Administrative Code at Title 5, chapter 80, subchapter 26 (N.J.A.C. 5:80-26.1, *et seq.*, the "Uniform Controls").

B. The Property shall be used solely for the purpose of providing rental dwelling units for very-low, low- or moderate-income households, and no commitment for any such dwelling unit shall be given or implied, without exception, to any person who has not been certified for that unit in writing by the Administrative Agent. So long as any dwelling unit remains within its Control Period, sale of the Property must be expressly subject to these Deed Restrictions, deeds of conveyance must have these Deed Restrictions appended thereto, and no sale of the Property shall be lawful, unless approved in advance and in writing by the Municipality, which approval shall not be unreasonably withheld, conditioned or delayed.

C. No improvements may be made to the Property that would affect the bedroom configuration of any of its dwelling units, and any improvements to the Units must be approved in advance and in writing by the Municipality.

D. The Owner shall notify the Administrative Agent and the Municipality of any foreclosure actions filed with respect to the Property within five (5) business days of service upon Owner.

E. The Owner shall notify the Administrative Agent and the Municipality within three (3) business days of the filing of any petition for protection from creditors or reorganization filed by or on behalf of the Owner.

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Article 4. Remedies for Breach of Affordable Housing Covenants

A breach of the Covenants will cause irreparable harm to the Administrative Agent, to the Municipality and to the public, in light of the public policies set forth in the New Jersey Fair Housing Act, the Uniform Housing Affordability Control rules found at N.J.A.C. 5:80-26, and the obligation for the provision of very-low, low- and moderate-income housing.

A. In the event of a threatened breach of any of the Covenants by the Owner, or any successor in interest of the Property, the Administrative Agent and the Municipality shall have all remedies provided at law or equity, including the right to seek injunctive relief or specific performance.

B. Upon the occurrence of a breach of any Covenants by the Owner, or any successor in interest or other owner of the Property, the Administrative Agent and the Municipality shall have all remedies provided at law or equity including but not limited to forfeiture, foreclosure, acceleration of all sums due under any mortgage, recouping of any funds from a sale in violation of the Covenants, diverting of rent proceeds from illegal rentals, injunctive relief to prevent further violation of said Covenants, entry on the premises, those provided under Title 5, Chapter 80, Subchapter 26 of the New Jersey Administrative Code and specific performance.

IN WITNESS WHEREOF, the Municipality and the Owner have executed this Deed Restriction in triplicate as of the date first above written.

OWNER:

RICHARD SCHATZMAN

VILLAGE SHOPPES AT MONTGOMERY, L.L.C.

By: Vincent J. Pugliese
Managing Member

APPROVED BY MUNICIPALITY:

By: Donna Kukla, Clerk

TOWNSHIP OF MONTGOMERY

By: Sadaf Jaffer, Mayor

Exhibit A

Village Walk at Montgomery Affordable Units

Unit No.	Bedrooms	Income Level
203	1	Moderate
205	2	Very Low
206	3	Low
210	2	Low
223	2	Low
224	1	Very Low
225	3	Moderate
226	3	Low
305	2	Moderate
312	2	Moderate
323	2	Moderate

Unofficial Copy

STATE OF NEW JERSEY)

ss

COUNTY OF SOMERSET)

BE IT REMEMBERED, that on the 10th day of August, 2020, personally appeared **Vincent J. Pugliese** who is the managing member of **Village Shoppes at Montgomery, LLC, a New Jersey limited liability company,** who I am satisfied is the person who signed the within instrument, and who acknowledged that said person has been properly authorized to and did sign, seal and deliver the same as said person's voluntary act and deed and as the act and deed of the limited liability company.

Richard Schatzman, Esq.
An Attorney at Law of the
State of New Jersey

Unofficial Copy

STATE OF NEW JERSEY)
) SS:
COUNTY OF SOMERSET)

BE IT REMEMBERED that on this 10th day of August, 2020, before me the subscriber, personally appeared **DONNA KUKLA**, who, being by me duly sworn on her oath, does depose and make proof to my satisfaction that she is the Township Clerk of **THE TOWNSHIP OF MONTGOMERY**, in Somerset County, the municipal corporation named in this instrument; that she well knows the corporate seal of the said corporation; that the seal affixed to said instrument is the seal of said municipal corporation; that the seal was so affixed and the said instrument signed and delivered by **SADAF JAFFER** who was at the date thereof the Mayor of said Township, in the presence of this deponent, and said Mayor, at the same time acknowledged that she signed, sealed and delivered the same as her voluntary act and deed, and as ordinance the voluntary act and deed of said municipal corporation, authorized by proper resolution of the corporation's governing body, and that deponent, at the same time, subscribed her name to said Instrument as an attesting witness to the execution thereof.

Donna Kukla
DONNA KUKLA, Clerk

Sworn to and subscribed before me
this 10 day of August, 2020.

Notary Public

PATRICIA ANN GRAVATT
NOTARY PUBLIC OF NEW JERSEY
Commission # 50105792
My Commission Expires 6/5/2024

Digital Copy

Steve Peter
Somerset County Clerk
20 Grove Street
P.O. Box 3000
Somerville, NJ 08876

****

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23. Third Round: Allies Inc.

MONTGOMERY TOWNSHIP ZONING BOARD OF ADJUSTMENT

BURNT HILL ROAD GROUP HOME, INC.
148 BURNT HILL ROAD
BLOCK 26001, LOT 1.07

APPLICATION BA-01-24

RESOLUTION MEMORIALIZING GRANT OF VARIOUS "C" VARIANCES AND EXCEPTIONS TO ALLOW THE CONSTRUCTION OF A ONE-STORY GROUP HOME CONTAINING SIX BEDROOMS TO BE OCCUPIED BY LOW AND MODERATE INCOME DEVELOPMENTALLY DISABLED INDIVIDUALS

RESOLUTION NO. 2024-07

WHEREAS, Allies, Inc. (the "**owner**") is the owner of an irregularly shaped one (1) acre lot located at 148 Burnt Hill Road which is designated on the Montgomery Township (the "**Township**") tax map as Block 26001, Lot 1.07 (the "**property**"), which property is situated in the Public Parks and Education District (the "**PPE Zone**") and is developed with a two-story dwelling (the "**existing dwelling**"), driveway, concrete walks, a concrete wall and bollards;

WHEREAS, with the consent of the owner, Burnt Hill Road Group Home, Inc. (the "**applicant**") made application to the Montgomery Township Board of Adjustment (the "**Board**") seeking various "c" bulk variances and ordinance exceptions (all the requested relief together is referred to as the "**application**") to allow the demolition of the existing dwelling and construction of a new 5,185 square foot, one-story group home dwelling (the "**proposed dwelling**") containing six (6) bedrooms to be occupied by low and moderate income developmentally disabled individuals as well as associated site improvements (the "**proposed site improvements**") (the proposed dwelling and the proposed site improvements together are referred to as the "**proposed development**");

WHEREAS, single family detached dwellings are a principal permitted use in the PPE zone in accordance with ordinance section 16-4.10.a.4 and, as such, the PPE zone is a residential district and, is as much as N.J.S.A. 40:55D-66.1 provides that community residences for the developmentally disabled shall be a permitted use in all residential districts of a municipality and that the requirements for such development shall be the same as for single family dwellings, the proposed development is permitted on the property and is exempt from site plan review and approval because N.J.S.A. 40:55D-37a provides that "individual lot applications for detached one or two dwelling unit buildings shall be exempt from . . . site plan review and approval. . . .";

WHEREAS, in the absence of an application for site plan or subdivision approval, the request for the "c" variances confers exclusive subject matter jurisdiction over the application with the Board pursuant to N.J.S.A. 40:55D-20 by virtue of N.J.S.A. 40:55D-70c;

WHEREAS, a number of documents were submitted with regard to the application by the applicant, Board and Township experts and officials, all of which documents are on file with

the Board and are part of the record in this matter, and the following are the latest versions of the plans, drawings and documents for which Board approval is sought, which plans, drawings and documents have been on file and available for public inspection for at least 10 days prior to the hearing on the application in accordance with N.J.S.A. 40:55D-10b:

1. "Site Plan for Burnt Hill Road Group Home" prepared by James J. Chmielak, PE, of Kensho Resources, LLC, dated December 15, 2023, revised to June 14, 2024, consisting of 17 sheets (the "**site plans**"),

2. "Floor Plan and Exterior Elevations" prepared by Kyle P. Van Dyke, RA, of KVD Architecture, Inc., dated December 18, 2023, consisting of two (2) sheets (the "**architectural plans**"),

3. "Environmental Impact Statement" prepared by James J. Chmielak, PE, of Kensho Resources, LLC, dated June 14, 2024 (the "**EIS**"),

4. "Stormwater Management Report" prepared by James J. Chmielak, PE, of Kensho Resources, LLC, dated June 14, 2024 (the "**SWMR**"), and

5. "Flood Hazard Verification Plan" prepared by James J. Chmielak, PE, Kensho Resources, LLC, dated December 27, 2022, consisting of one (1) sheet (the "**FHVP**");

WHEREAS, the application was deemed to be complete;

WHEREAS, the Board considered the application at a duly noticed public hearing on July 23, 2024, with proof of service and publication of notices of the hearing being submitted to and being on file with the Board, thereby conferring procedural jurisdiction over the application with the Board, during which hearing the applicant was represented by Peter Flannery, Esq. (of Bisgaier Hoff, LLC) and the Board was represented by Jonathan E. Drill, Esq. (of Stickel, Koenig, Sullivan & Drill, LLC);

WHEREAS, the following individuals testified during the hearing on the application, were subject to cross examination, and the testimony is part of the record in this matter:
Sworn:

1. Kyle Van Dyke, RA (applicant's architectural expert),

2. James Chmielak, PP, PE (applicant's planning and engineering expert),

3. James Clavelli, PP, AICP (Board's planning expert),

4. Ryan McCarthy, PE (Board's engineering expert), and

5. Richard Bartolone, LLA (Board's landscaping expert);

WHEREAS, the following exhibits were submitted into evidence during the hearing, are on file with the Board, and are part of the record in this matter:

A-1 Architectural Presentation exhibit dated July 23, 2024, and

A-2 148 Burnt Hill Road Allies Inc. Presentation exhibit dated July 23, 2024;

WHEREAS, AFTER CONSIDERING THE APPLICATION, ALL DOCUMENTS SUBMITTED REGARDING THE APPLICATION, THE TESTIMONY OF THE WITNESSES, THE EXHIBITS ADMITTED INTO EVIDENCE, AND GIVING APPROPRIATE WEIGHT TO ALL OF SAME, AND BASED ON ITS UNDERSTANDING OF THE APPLICABLE LAW, THE BOARD MAKES THE FOLLOWING FACTUAL FINDINGS AND LEGAL CONCLUSIONS FOR THE PURPOSE OF MEMORIALIZING IN A WRITTEN RESOLUTION IN ACCORDANCE WITH N.J.S.A. 40:55D-10g(2) ITS ACTION IN GRANTING THE APPLICATION SUBJECT TO CONDITIONS AS SET FORTH BELOW:

A. FACTUAL FINDINGS AND LEGAL CONCLUSIONS

1. **The Property, Zoning and Proposed Development.** The property is a one acre irregularly shaped lot with frontage along Burnt Hill Road. While the site is mostly square, the front property line is curved and the side lot line to the north is longer than the side lot line to the south. The property is developed with the existing dwelling (a two-story dwelling), driveway, concrete walks, a concrete wall and bollards. There are several trees located on the property. There are 15% steep slopes located on various areas of the property, covering in total 1,567.09 square feet, including in the area of some of the proposed improvements. An unnamed tributary of Rock Brook is located to the west of the property and an associated Township stream corridor is located in the rear of the property near the western property line. Wetlands of intermediate value and a flood hazard area are located to the west of the property. While the Township Critical Areas Map indicates potential wetlands buffers on the property, the NJDEP has provided a letter of interpretation ("**LOI**") indicating that there are no wetlands buffers on the property. The property is situated in the PPE Zone where single-family detached dwellings are a permitted use in accordance with ordinance section 16-4.10.a.4. As such, the PPE Zone is a residential district and, as explained above, N.J.S.A. 40:55D-66.1 provides that community residences for the developmentally disabled shall be a permitted use in all residential districts of a municipality and that the requirements for such development shall be the same as for single family dwellings. Thus, the proposed development is subject to the same bulk standards as single-family detached dwellings, which standards are set forth in ordinance section 16-4.10.c. Development surrounding the property includes a dairy farm located to the east and on the other side of Burnt Hill Road. Otherwise the property is surrounded by green space in the form of fields, a park to the northwest and a cemetery to the south.

2. **The Proposed Development.** The proposed development includes the demolition of the existing dwelling and the construction of the proposed dwelling, which is a residential group home with six (6) units (the "**proposed housing units**"). The proposed dwelling will be 1-1/2 stories in height with a building footprint of 4,400 square feet and a floor area of 5,185

square feet. The proposed site improvements include a driveway, parking area with six (6) parking spaces, generator pad with an outdoor generator, HVAC equipment, concrete pad with a propane tank, trash enclosure, concrete walk, landscaping and lighting. The proposed development is identified in the Housing Plan element and Fair Share Plan element of the Township Master Plan (the "**HPFSP**"). In accordance with the HPFSP, the proposed housing units will contribute to the Township's satisfaction of its Third Round Mount Laurel affordable housing obligation.

3. **The Requested Relief.** As set forth above, the applicant has requested various "c" bulk variances as well as various exceptions from the Township land development ordinances in order to construct the proposed development. The specific relief sought is as follows:

a. A "c(1)" variance from ordinance section 16-4.10.c, which requires a minimum lot area of 10 acres, to allow the proposed development to be constructed on property having a lot area of 1 acre,

b. A "c(1)" variance from ordinance section 16-4.10.c, which requires a minimum lot frontage of 350 feet, to allow the proposed development to be constructed on property having a lot frontage of 188.4 feet,

c. A "c(1)" variance from ordinance section 16-4.10.c, which requires a minimum lot width of 350 feet, to allow the proposed development to be constructed on property having a lot width of 180 feet,

d. A "c(1)" variance from ordinance section 16-4.10.c, which requires a minimum lot depth of 750 feet, to allow the proposed development to be constructed on property having a lot depth of 247.4 feet,

e. A "c(1)" variance from ordinance section 16-6.4e.1, which does not allow the disturbance of steep slopes, to allow the steep slopes to be disturbed in order to construct the proposed development,

f. A "c(1)" variance from ordinance section 16-4.10e.4, which requires a 10-foot setback for parking areas and driveways from all property lines, to allow the parking area to be setback 5 feet from the property line with lot 1.03,

g. A "c(2)" variance from ordinance section 16-4.10.c, which requires a minimum front yard setback of 100 feet, to allow a front yard setback of 41 feet,

h. A "c(2)" variance from ordinance section 16-4.10.c, which requires a minimum rear yard setback of 100 feet, to allow a rear yard setback of 86.1 feet,

i. A "c(2)" variance from ordinance section 16-4.10.c, which requires a minimum side yard setback of 100 feet, to allow a side yard setback to the north of the proposed dwelling of 49.7 feet,

j. A "c(2)" variance from ordinance section 16-4.10.c, which requires a minimum side yard setback of 100 feet, to allow a side yard setback to the south of the proposed dwelling of 93.8 feet,

k. A "c(2)" variance from ordinance section 16-4.10.c, which requires a maximum building coverage of 7%, to allow a building coverage of 11.9%,

l. A "c(2)" variance from ordinance section 16-4.10.c, which requires a maximum lot coverage of 10%, to allow a lot coverage of 23.9%,

m. An exception from ordinance section 16-5.6d.3 to allow the tree replacement requirement to be calculated based on the area of disturbance rather than the lot size,

n. An exception from ordinance section 16-5.6d.3, which requires the replacement trees to be five-inch caliper trees, to allow 2.5 inch caliper trees, and

o. An exception from ordinance section 16-5.14c.1(d), which requires sidewalks to be provided along all existing streets upon which all residential development abuts, to allow the applicant to forgo the construction of a sidewalk along Burnt Hill Road.

4. **Standards for Consideration of the "C" Variances.** The Board has the power to grant "c" variances under two sets of criteria: the "c(1)" or so-called "hardship" criteria and/or "c(2)" or so-called "benefits v. burdens" criteria. The Board's conclusions as to the standards it must employ to consider the "c(1)" and "c(2)" variances are as follows:

a. **Standards for Consideration of "C(1)" Variances.** The Board has the power to grant "c(1)" variances from zoning ordinance regulations pursuant to N.J.S.A. 40:55D-70c(1) where: (1) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, (2) or by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (3) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structure lawfully existing thereon, "the strict application of any regulations...would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property." This is the so-called "positive criteria of a "c(1)" variance. Significantly, the hardship that the applicant must prove is not inutility – that without the variance the property would be zoned into inutility. While inutility caused by a zoning regulation would require a variance to avoid an unconstitutional taking of the property, the Board may (but is not required to) grant a variance where the hardship at issue may inhibit "the extent" to which the property can be used. Lang v. North Caldwell Board of Adjustment, 160 N.J. 41, 54-55 (1999). A hardship variance is not available for intentionally created situations as constituting "self-created" hardship. Commons v. Westwood Board of Adj., 81 N.J. 597, 606 (1980); Chirichello v. Monmouth Park Board of Adj., 78 N.J. 544, 553 (1979). Neither is a hardship variance available to accommodate mistakes. Deer-Glen Estates v. Borough of Fort Lee, 39 N.J. Super. 380, 386 (App. Div. 1956). Neither is a hardship variance available to relieve "personal hardship" of the owner, financial or otherwise. Jock v. Wall Township Zoning Board of Adj., 184 N.J. 562, 590 (2005). Finally, the Board may not exercise its power to grant a "c(1)" variance otherwise warranted, however, unless the so-

called "negative criteria" has been satisfied. Pursuant to the last unlettered paragraph of N.J.S.A. 40:55D-70: "No variance or other relief may be granted ... without a showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance." The phrase "zone plan" as used in N.J.S.A. 40:55D-70 means the master plan. Medici v. BPR Co., 107 N.J. 1, 4, 21 (1987).

b. **Standards for Consideration of "C(2) Variances.** The Board has the power to grant "c(2)" variances from zoning ordinance regulations pursuant to N.J.S.A. 40:55D-70c(2) where "in an application or appeal relating to a specific piece of property the purposes of [the MLUL] would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation from the zoning ordinance requirements would substantially outweigh any detriment." This is the so-called "positive" criteria of a "c(2)" variance. The zoning benefits resulting from permitting the deviation(s) must be for the community ("improved zoning and planning that will benefit the community") and not merely for the private purposes of the owner. Kaufmann v. Warren Township Planning Board, 110 N.J. 551, 563 (1988). The Appellate Division has held that the zoning benefits resulting from permitting the deviation(s) are not restricted to those directly obtained from permitting the deviation(s) at issue; the benefits of permitting the deviation can be considered in light of benefits resulting from the entire development proposed. Pullen v. South Plainfield Planning Board, 291 N.J. Super. 1,9 (App. Div. 1996). However, the Supreme Court has cautioned boards to consider only those purposes of zoning that are actually implicated by the variance relief sought. Ten Stary Dom v. Mauro, 216 N.J. 16, 32-33 (2013). Finally, the Board may not exercise its power to grant a "c(2)" variance otherwise warranted, however, unless the so-called "negative criteria" has been satisfied. Pursuant to the last unlettered paragraph of N.J.S.A. 40:55D-70: "No variance or other relief may be granted ... without a showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance." Again, the phrase "zone plan" as used in N.J.S.A. 40:55D-70 means the master plan. Medici v. BPR Co., 107 N.J. 1,4,21 (1987).

5. **Findings and Conclusions as to the "C(1)" Pre-Existing Condition Variances.** As set forth above, the applicant has requested "c(1)" variances from ordinance section 16-4.10.c to allow a lot area of 1 acre where the minimum lot acre required is 10 acres, to allow a lot frontage of 188.4 feet where the minimum lot frontage required is 350 feet, to allow a lot width of 180 feet where the minimum lot width required is 350 feet, and to allow a lot depth of 247.4 feet where the minimum lot depth required is 750 feet. The Board finds that each of these conditions are lawfully created pre-existing nonconforming conditions on the property so that the existing dwelling is "grandfathered" in accordance with N.J.S.A. 40:55D-68 and is entitled to remain. That said, the applicant proposes to demolish the existing dwelling and construct the proposed dwelling which will result in the elimination of the "grandfathering" by reason of the total destruction of the existing dwelling. Further, in accordance with the Time of Application Law, N.J.S.A. 40:55D-10.5, the land development regulations "which are in effect on the date of submission of an application for development shall govern the review of that application for development and any decision made with regard to that application...." As such, the applicant requires "c" variances for all of the pre-existing deviations related to the property. The applicant has requested "c(1) variances to allow these deviations to remain. The Board's findings and

conclusions as to the positive and negative criteria of the requested "c(1)" pre-existing condition variances are as follows:

a. **Positive Criteria of the Pre-Existing Conditions Variances.** The Board's findings and conclusions as to the positive criteria of the "c(1)" pre-existing conditions variances are as follows. First, the Board stresses that the lot area, lot frontage, lot width and lot depth deviations are lawfully created pre-existing conditions and that it is not practical or possible to seek more area, frontage, width or depth than currently exists on the property. In fact, based on the memo to the Board from Lauren A. Wasilauski, Open Space & Stewardship Director, dated June 27, 2024, when Lot 1.07 was created by PB-02-10, the lot size was deliberately kept small in order to maximize the amount of space dedicated as parkland around the property. Second, the Board finds that the area of the property, the limited frontage, the width and the shallowness of the property are unique characteristics of this specific property and that the strict application of the Township ordinances regarding area, frontage, width and depth would result in exceptional and undue hardship upon the applicant as the applicant would not be able to develop the property for any use which would constitute a taking of the property. For the foregoing reasons, the Board finds and concludes that the "c(1)" pre-existing conditions variances are warranted to relieve such hardship and that the applicant has proven the positive criteria of the requested "c(1)" pre-existing conditions variances.

b. **Negative Criteria of the Pre-Existing Conditions Variances.** The Board's findings and conclusions as to the negative criteria of the "c(1)" pre-existing conditions variances are as follows. First, the Board finds that granting "c(1)" variances for the pre-existing lot area, lot frontage, lot width and lot depth deviations will not result in substantial detriment to the public good provided that the conditions set forth below are imposed and complied with. The Board specifically finds that the site plans and the architectural plans show that the proposed dwelling will comply with the Township building code and that the proposed use does not violate any traditional zoning purposes such as light, air and open space. In particular, a condition must be imposed requiring that the dwelling be constructed substantially similar to that reflected in the site plans and the architectural plans to ensure that the resulting dwelling is aesthetically pleasing and will blend nicely into the neighborhood. Provided that the conditions set forth below are imposed and complied with, the Board further finds that the requested "c(1)" pre-existing conditions variances can be granted without substantially impairing the intent and purpose of the master plan and zoning ordinance. To repeat from above, the Board specifically finds that the site plans and the architectural plans show that the proposed dwelling will comply with the Township building code and that the proposed use does not violate any traditional zoning purposes such as light, air and open space. For the foregoing reasons, the Board finds that the applicant has proven the negative criteria of the requested "c(1)" pre-existing conditions variances.

6. **Findings and Conclusions as to the "C(1)" Steep Slopes Variance.** As set forth above, the applicant has requested a "c(1)" variance from ordinance section 16-6.4e.1 to allow the disturbance of steep slopes where the disturbance of steep slopes is not permitted. The Board's findings as to the positive and negative criteria of the requested "c(1)" steep slopes variance are as follows:

a. **Positive Criteria of the Steep Slopes Variance.** The Board's findings and conclusions as to the positive criteria of the "c(1)" steep slopes variance are as follows. First, based on the testimony of James Chmielak, the applicant's planning and engineering expert, the Board finds that the steep slopes on the property are manmade, as the result of grading associated with prior development on the property. Second, the Board finds that the existence of these man-made steep slopes on the property are a unique situation that creates a hardship for the applicant because the only way that the property can be redeveloped is if the steep slopes are disturbed. Third, the Board finds that the applicant has satisfied the performance standards for granting a steep slope variance as set forth in ordinance section 16-6.4e.3(a)-(g) which contains guidelines to be considered by the Board in considering a steep slope variance. The Board has considered each of these guidelines and finds that the applicant has satisfied the standards set forth in the ordinance. Most significantly, the Board finds that the applicant has demonstrated that the disturbance of the steep slope area is necessary for the proposed development of the property. The Board further finds that the strict application of the steep slopes regulations would result in exceptional and undue hardship to the applicant because no use whatsoever could be made of the property which would result in the property being zoned into inutility. As such, the Board finds that the grant of the requested "c(1)" steep slopes variance is needed to relieve this hardship so as to avoid a taking of the property. For all of the foregoing reasons, the Board finds that the applicant has proved the positive criteria of the requested "c(1)" steep slopes variance.

b. **Negative Criteria of the Steep Slopes Variance.** The Board's findings and conclusions as to the negative criteria of the "c(1)" steep slopes variance are as follows. First, the Board finds that the requested variance can be granted without substantial detriment to the public good provided that the conditions set forth below are imposed and complied with. Second, the Board finds that the requested variance can be granted without substantially impairing the intent and purpose of the master plan and zoning ordinance, provided that the conditions set forth below are imposed and complied with. For the foregoing reasons, the Board finds and concludes that the applicant has proved the negative criteria of the "c(1)" steep slopes variance.

7. **Findings and Conclusions as to the "C(1)" Parking Area Setback Variance.** As set forth above, the applicant has requested a "c(1)" variance from ordinance section 16-4.10e.4 to allow the parking area to be setback 5 feet from the property line with lot 1.03 where a 10 foot setback for parking areas and driveways from all property lines is required. The Board's findings and conclusions as to the positive and negative criteria of the requested "c(1)" parking area setback variance are as follows:

a. **Positive Criteria of the Parking Area Setback Variance.** The Board's findings and conclusions as to the "c(1)" parking area setback variance are as follows. First, having found that the size and shape of the property are lawfully created pre-existing conditions, the Board finds that it would be virtually impossible for the applicant to develop the property without deviating from the parking area setback regulations. Second, the Board finds that the shape and size of the property, which leave limited area in which to construct a parking area, are unique characteristics of this specific property and that the strict application of the Township ordinances regarding parking area setback would result in exceptional and undue hardship upon the applicant as the applicant would not be able to develop any property that demands even a

relatively small parking area. For the foregoing reasons, the Board finds that the "c(1)" parking area setback variance is warranted to relieve such hardship and that the applicant has proven the positive criteria of the requested "c(1)" parking area setback variance.

b. **Negative Criteria of the Parking Area Setback Variance.** The Board's findings and conclusions as to the negative criteria are as follows. First, the Board finds that granting the parking area setback variance will not result in substantial detriment to the public good provided that the conditions set forth below are imposed and complied with. Second, the Board finds that the requested "c(1)" parking area setback variance can be granted without substantially impairing the intent and purpose of the master plan and zoning ordinance provided that the conditions set forth below are imposed and complied with. For the foregoing reasons, the Board finds that the applicant has proven the negative criteria of the requested "c(1)" parking area setback variance.

8. **Findings and Conclusions as to the "C(2)" Bulk Variances.** As set forth above, the applicant has requested the following six (6) "c(2)" variances from the bulk standards set forth in ordinance section 16-4.10.c: (1) a "c(2)" variance to allow a front yard setback of 41 feet where the minimum front yard setback is 100 feet, (2) a "c(2)" variance to allow a rear yard setback of 86.1 feet where the minimum rear yard setback is 100 feet, (3) a "c(2)" variance to allow a side yard setback to the north of the proposed dwelling of 49.7 feet where the minimum side yard setback is 100 feet, (4) a "c(2)" variance to allow a side yard setback to the south of the proposed dwelling of 93.8 feet where the minimum side yard setback is 100 feet, (5) a "c(2)" variance to allow a building coverage of 11.9% where the maximum building coverage permitted is 7%, and (6) a "c(2)" variance to allow a lot coverage of 23.9% where the maximum lot coverage permitted is 10%. As a preliminary matter, the Board finds that the applicant was correct in applying for "c(2)" – and not "c(1)" – variances with respect to these bulk requirements because there is no "hardship" that prevents or inhibits compliance with the relevant ordinance requirements. In fact, the Board finds that many of these variances could be eliminated, if not greatly reduced in scope, if the proposed dwelling was constructed as a 2-story building rather than a 1.5-story building. That said, the Board finds and concludes that "c(2)" bulk variances are warranted. The Board's findings and conclusions as to the positive and negative criteria of the requested "c(2)" bulk variances are as follows:

a. **Positive Criteria of the "C(2)" Bulk Variances.** The Board's findings and conclusions as to the positive criteria of the "c(2)" bulk variances are as follows. First, the Board finds that each of the deviations with respect to the bulk variances is directly related to the proposed group home use, which, as explained above, is a permitted use in every residential district pursuant to N.J.S.A. 40:55D-66.1. Specifically, the proposed dwelling will be occupied by six (6) severely disabled individuals (the "**proposed residents**"). Second, the Board finds and notes based on the testimony of the applicant's architectural expert, Kyle Van Dyke, that the proposed dwelling is designed specifically to accommodate the special needs of the proposed residents. As such, the proposed dwelling is 1.5 stories high rather than 2 stories. The Board finds that the 1.5 story design is a better alternative in terms of the staffing of the group home than 2-stories because all of the proposed residents can reside on the same floor and a second floor would require an elevator to provide access for residents who depend on the use of a wheelchair. Quite simply, the 1.5 story design occupies a larger footprint than a 2-story design

and results in the proposed setback deviations at issue. Third, the proposed building coverage is enlarged due to the need for wide hallways, large bathrooms and large common areas to accommodate wheelchair use as well as the use of the hallways and common areas by a number of staff and residents at the same time. Based on the foregoing facts, the Board further finds as well as concludes that granting the requested "c(2)" bulk variances which will allow the applicant to construct the proposed dwelling will promote the general welfare purposes of the MLUL as enunciated in N.J.S.A. 40:55D-2a by providing affordable housing to six (6) disabled individuals. In this regard, the Board finds and notes that the proposed development is included in the Housing Element and Fair Share Plan element of the Township Master Plan and will contribute towards the Township's compliance with its Third Round Mount Laurel affordable housing obligations. Further, the Board finds that these zoning benefits are community wide public benefits and not simply a private benefit to the applicant. Finally, provided that the conditions set forth below are imposed and complied with, the Board finds that the aforesaid zoning benefits will substantially outweigh any detriments. For all of the foregoing reasons, the Board finds that the applicant has proven the positive criteria of the requested "c(2)" bulk variances.

b. **Negative Criteria of the "C(2)" Bulk Variances.** The Board's findings and conclusions as to the negative criteria of the "c(2)" bulk variances are as follows. First, the Board finds that the requested "c(2)" variances can be granted without substantial detriment to the public good provided that the conditions set forth below are imposed and complied with because the proposed development will not have a negative impact on the surrounding lots. Second, the Board finds that the requested "c(2)" variances can be granted without substantially impairing the intent and purpose of the master plan and zoning ordinance provided that the conditions set forth are imposed and complied with in light of the fact that the proposed development is included in the Housing Element and Fair Share Plan element of the Township Master Plan and will contribute towards the Township's compliance with its Third Round Mount Laurel affordable housing obligations. The Board finds that the applicant has proven the negative criteria of the requested "c(2)" bulk variances.

9. **Conclusion to Grant the "C" Variances.** For all of the forgoing reasons, the Board finds that the requested "c" variances can and should be granted subject to the conditions below being imposed and complied with.

10. **Standards for Considering the Exceptions.** N.J.S.A. 40:55D-51b provides that the Board, "shall have the power to grant such exceptions from the requirements [of certain ordinance provisions] as may be reasonable and within the general purpose and intent of the [ordinance provisions at issue] . . . if the literal enforcement of one or more provisions of the ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question." While neither "impracticable" nor "hardship" is defined in the MLUL, "hardship" has been defined in numerous land use and zoning cases in New Jersey. As established in New Jersey case law, the "hardship" necessary to warrant the grant of a "c(1)" variance does not have to rise to the level of confiscation. If the ordinance provisions at issue "inhibit . . . the extent" to which the property can be used, our courts have held that "hardship" to warrant a "c(1)" variance exists. Lang v. North Caldwell Board of Adjustment, 160 N.J. 41, 54-55 (1999). The Board thus concludes that the hardship necessary to warrant the grant of an

exception does not have to rise to the level of confiscation. If the ordinance provisions at issue "inhibit . . . the extent" to which the property can be used, such "hardship" is sufficient to warrant the grant of an exception. Unlike "hardship," however, "impracticable" has not been defined in any land use or zoning case of which the Board is aware. Following the basic rule of construction that legislative language should be given its plain and ordinary meaning, Pennsauken v. Schad, 160 N.J. 156, 170 (1999); DiProspero v. Penn, 183 N.J. 477, 492 (2005), the Board concludes that "impracticability" is derived from the root word "impractical," which is defined as "not wise to put into or keep in practice or effect"; an inability to deal "sensibly or prudently with practical matters." See, Merriam-Webster's Collegiate Dictionary (11th Ed. 2004). The Board thus concludes that impracticability to warrant the grant of an exception includes situations where requiring literal enforcement of the ordinance requirements at issue would be imprudent and/or not sensible.

11. **Findings as to the Exceptions From Site Plan Ordinance Requirements Regarding Tree Replacement.** As set forth above, the applicant has requested two (2) exceptions from ordinance section 16-5.6d.3 as follows: (1) an exception to allow the tree replacement requirement to be calculated based on the area of disturbance rather than the lot size as is required by the ordinance, and (2) an exception to allow the replacement trees to be 2.5 caliper trees where 5 caliper trees are required. The Board's findings as to the requested exceptions from the tree replacement requirements are as follows. First, as to the number of trees to be planted, the Board is aware that the unique size of the property combined with the building coverage and lot coverage that the Board has approved for the reasons stated above, make it impractical for the applicant to provide the required 14 trees per acre (1 acre x 14 trees) or 14 trees. Further, the Board understands that the area of disturbance is 20,909 square feet or just under 0.5 acres. The Board finds that the applicant's proposal to plant 7 trees, which corresponds to the area of disturbance (0.5 acres x 14 trees = 7 trees), is reasonable as that is the number of existing trees which are proposed to be removed to accommodate the proposed development. The Board further finds that granting the exception is within the intent and purpose of the tree planting requirement for the same reason, i.e., planting 7 trees will replace the 7 trees which will be removed. Second, as to the size of the trees to be planted, the Board is persuaded by the testimony of Richard Bartolone, the Board's landscaping expert, who opined that 2.5 caliper trees are a better alternative for this development. For all of the forgoing reasons, the Board finds that granting the two exceptions regarding tree replacement is reasonable and within the intent and purpose of the tree replacement requirement.

12. **Findings as to the Sidewalk Exception.** As set forth above, the applicant requests an exception from ordinance section 16-5.14c.1(d) to allow the construction of no sidewalks where sidewalks are required along all existing streets upon which all residential and nonresidential developments abut. The Board's findings as to the requested sidewalk exception are as follows. First, the Board understands that visits to the property will be vehicular as it is not a pedestrian destination and there is no public bus station nearby from which visitors or employees might arrive. Second, the topography of the property is such that it slopes down to Burnt Hill Road. As such, constructing a sidewalk along the frontage of the property would entail cutting the entire front slope back and the additional disturbance of a large portion of the property. In fact, this additional disturbance would bring the limit of disturbance, which is proposed to be 0.49 acres, to a number greater than 0.5 acres and would cause the project to meet

the requirements of a "major development" as defined by ordinance section 16-5.2, thus triggering full stormwater management measures. Third, Burnt Hill Road has no existing sidewalk on the neighboring lots to which a sidewalk could connect. The Board finds that given that the property will not promote pedestrian traffic, it is imprudent to disturb additional land to construct an unnecessary sidewalk that will lead to nowhere. The Board finds that the circumstances of this application do not necessitate the installation of sidewalks. The Board further finds the literal enforcement of the sidewalk requirement ordinance to be impractical in this particular application and that enforcing the ordinance solely for the sake of compliance makes no practical sense.

13. **Conclusions to Grant the Exceptions.** As set forth above, the Board found that it is reasonable and within the intent and purpose of the ordinance provisions at issue to grant the exceptions from the ordinance requirements at issue, subject to the conditions set forth below being imposed and complied with. As also set forth above, the Board found that it is impracticable to literally enforce the site plan ordinance requirements at issue for no reason other than ordinance compliance. As such, the Board concludes that it can and should grant the exceptions at issue subject to the conditions set forth below.

14. **Imposition of Conditions.** Boards have inherent authority to impose conditions on any approval they grant. North Plainfield v. Perone, 54 N.J. Super. 1, 8-9 (App. Div. 1959), certif. denied, 29 N.J. 507 (1959). Further, conditions may be imposed where they are required in order for a board to find that the requirements necessary for approval of the application have been met. See, Alperin v. Mayor and Tp. Committee of Middletown Tp., 91 N.J. Super. 190 (Ch. Div. 1966) (holding that a board is required to impose conditions to ensure that the positive criteria is satisfied); Eagle Group v. Zoning Board, 274 N.J. Super. 551, 564-565 (App. Div. 1994) (holding that a board is required to impose conditions to ensure that the negative criteria is satisfied). See also, Urban v. Manasquan Planning Board, 124 N.J. 651, 661 (1991) (explaining that "aesthetics, access, landscaping or safety improvements might all be appropriate conditions for approval of a subdivision with variances" and citing with approval Orloski v. Ship Bottom Planning Board, 226 N.J. Super. 666 (Law Div. 1988), aff'd o.b., 234 N.J. Super. 1 (App. Div. 1989) as to the validity of such conditions.); Stop & Shop Supermarket Co. v. Springfield Board of Adj., 162 N.J 418, 438-439 (2000) (explaining that site plan review "typically encompasses such issues as location of structures, vehicular and pedestrian circulation, parking, loading and unloading, lighting, screening and landscaping" and that a board may impose appropriate conditions and restrictions based on those issues to minimize possible intrusions or inconvenience to the continued use and enjoyment of the neighboring residential properties). Moreover, N.J.S.A. 40:55D-49a authorizes a board to impose conditions on a preliminary approval, even where the proposed development fully conforms to all ordinance requirements, and such conditions may include but are not limited to issues such as use, layout and design standards for streets, sidewalks and curbs, lot size, yard dimensions, off-tract improvements, and public health and safety. Pizzo Mantin Group v. Township of Randolph, 137 N.J. 216, 232-233 (1994). Further, municipal ordinances and Board rules also provide a source of authority for a board to impose conditions upon a developmental approval. See, Cox and Koenig, New Jersey Zoning and Land Use Administration (Gann 2024), sections 28-2.2 and 28-2.3 (discussing conditions limiting the life of a variance being imposed on the basis of the Board's implicit authority versus by virtue of Board rule or municipal ordinance). Finally, boards have authority

to condition site plan and subdivision approval on review and approval of changes to the plans by Board's experts so long as the delegation of authority for review and approval is not a grant of unbridled power to the expert to approve or deny approval. Lionel Appliance Center, Inc. v. Citta, 156 N.J. Super. 257, 270 (Law Div. 1978). As held by the court in Shakoor Supermarkets, Inc. v. Old Bridge Tp. Planning Board, 420 N.J. Super. 193, 205-206 (App. Div. 2011): "The MLUL contemplates that a land use board will retain professional consultants to assist in reviewing and evaluating development applications" and using such professional consultants to review and evaluate revised plans "was well within the scope of service anticipated by the applicable statutes. It was the Board, and not any consultant, that exercised the authority to approve the application." The conditions set forth below have been imposed on all of the above bases.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD BY MOTION DULY MADE AND SECONDED ON JULY 23, 2024 THAT THE FOLLOWING RELIEF IS GRANTED SUBJECT TO THE CONDITIONS SET FORTH BELOW:

B. RELIEF GRANTED

1. **Grant of "C(1)" Lot Area Variance.** Subject to the conditions set forth below, a "c(1)" variance is hereby granted from ordinance section 16-4.10.c to allow the lot area to be 1 acre where 10 acres is required.

2. **Grant of "C(1)" Lot Frontage Variance.** Subject to the conditions set forth below, a "c(1)" variance is granted from ordinance section 16-4.10.c to allow the lot frontage to be 188.4 feet where 350 feet is required.

3. **Grant of "C(1)" Lot Width Variance.** Subject to the conditions set forth below, a "c(1)" variance is granted from ordinance section 16-4.10.c to allow the lot width to be 180 feet where 350 feet is required.

4. **Grant of "C(1)" Lot Depth Variance.** Subject to the conditions set forth below, a "c(1)" variance is granted from ordinance section 16-4.10.c to allow the lot depth to be 247.4 feet where 750 feet is required.

5. **Grant of "C(1)" Steep Slopes Variance.** Subject to the conditions set forth below, a "c(1)" variance is granted from ordinance section 16-6.4e.1 to allow the disturbance of steep slopes where the disturbance of steep slopes is not allowed.

6. **Grant of "C(1)" Parking Area Setback Variance.** Subject to the conditions set forth below, a "c(1)" variance is granted from ordinance section 16-4.10e.4 to allow the parking area to be setback 5 feet from the property line with lot 1.03 where a 10 foot setback for parking areas and driveways from all property lines is required.

7. **Grant of "C(2)" Front Yard Setback Variance.** Subject to the conditions set forth below, a "c(2)" variance is hereby granted from ordinance section 16-4.10.c to allow a front yard setback of 41 feet where 100 feet is required.

8. **Grant of "C(2)" Rear Yard Setback Variance.** Subject to the conditions set forth below, a "c(2)" variance is hereby granted from ordinance section 16-4.10.c to allow a rear yard setback of 86.1 feet where 100 feet is required.

9. **Grant of "C(2)" Northerly Side Yard Setback Variance.** Subject to the conditions set forth below, a "c(2)" variance is hereby granted from ordinance section 16-4.10.c to allow a setback from the northerly property line of 49.7 feet where 100 feet is required.

10. **Grant of "C(2)" Southerly Side Yard Setback Variance.** Subject to the conditions set forth below, a "c(2)" variance is hereby granted from ordinance section 16-4.10.c to allow a setback from the southerly property line of 93.8 feet where 100 feet is required.

11. **Grant the "C(2)" Building Coverage Variance.** Subject to the conditions set forth below, a "c(2)" variance is hereby granted from ordinance section 16-4.10.c to allow a building coverage of 11.9% where the maximum permitted building coverage is 7%.

12. **Grant the "C(2)" Lot Coverage Variance.** Subject to the conditions set forth below, a "c(2)" variance is hereby granted from ordinance section 16-4.10.c to allow a lot coverage of 23.9% where the maximum permitted lot coverage is 10%.

13. **Exception from Ordinance Tree Replacement Requirement.** Subject to the conditions set forth below, an exception from ordinance section 16-5.6d.3 which requires planting a minimum of 14 trees per acre of gross tract area throughout sites involving nonresidential development is hereby granted to allow the calculation of the acreage to be limited to the area of disturbance (0.5 acres x 14 trees = 7 trees).

14. **Exception from Ordinance Tree Replacement Requirement.** Subject to the conditions set forth below, an exception from ordinance section 16-5.6d.3 which requires the replacement trees to be five inch caliper trees is hereby granted to allow 2.5 inch caliper trees.

15. **Exception from Ordinance Sidewalk Requirement.** Subject to the conditions set forth below, an exception from ordinance section 16-5.14c.1(d) is hereby granted to allow the construction of no sidewalks where sidewalks are required along all existing streets upon which all residential and nonresidential developments abut.

C. CONDITIONS

1. **Revisions to Plans.** The applicant shall revise the site plans and architectural plans referenced above in accordance with Board's experts' reports and the comments from Board members made during the hearing to the satisfaction of the Township Engineer and Township Planner in accordance with the comments set forth below. The revisions shall be made, and the site plans and architectural plans shall be signed off on by the Township Engineer evidencing that the revisions have been made no later than January 27, 2025 (which is six (6) months from the adoption of the within resolution). In the event that the applicant fails to revise the site plans and architectural plans as required and/or fails to obtain signatures on the site plans

and architectural plans as required, all within said time period, or extension thereof as granted by the Board, the approvals shall expire and become automatically null and void. (The Board notes that, in the absence of the within time limitation condition, it would decline to grant conditional approvals and, instead, would continue the hearing on an application for no more than a six month period to provide the applicant with the opportunity to revise the plat, plans and documents and, failure by the applicant to resubmit same to the Board within that period or submission within that period but failure of the applicant to make all the required revisions, would result in denial of the application.) The required revisions are as follows:

a. **Comments Emanating in the Review Letter to the Board from Board Planning Expert James Clavelli, PP, AICP dated July 18, 2024:** (only those numbered items that require revisions to the plans are set forth below):

3.0 Variance Plan Comments

3.5 Proposed Lighting: The site plans shall be revised to incorporate the following:

3.5.1 Bollard Light: The proposed bollard light is a high pressure sodium light. This light shall be replaced with an LED light.

3.5.2 Color Temperature: The other three lighting types are LED lights. Some of the details provided indicate that there are options for 2700k color temperature lights, while others do not list that as an option. All lights shall be 2700k to 3000l color temperature, which provides a warmer and more yellow light color.

3.6 Proposed Wall: A garden wall is proposed around the southern side, rear (western), and northern side of the proposed building. Pursuant to ordinance section 16-5.3.b, walls shall not be greater than four feet in height. The plan states that the proposed garden wall is less than four feet, however, no detail is provided. A detail of the wall shall be provided by the applicant and the exact height of the wall shall be provided by grades on the grading plan since the height varies.

b. **Comments Emanating in the Review Letter to the Board from Board Engineering Expert Rakesh R. Darji, PE, CME dated July 19, 2024:** (only those numbered items that require revisions to the plans are set forth below):

General Comments

11. General Notes #9, Sheet C1 states "Additional signage beyond a standard residential street number placard is proposed at this time." Revise the note to indicate signage is NOT proposed or provide sign details.

12. The ordinance section referenced under "other variances required" shall be updated to reflect the correct ordinance section for natural features.

13. The impervious coverage summary shall be reviewed. The chart indicates that the existing driveway/parking is 4,446SF where the motor vehicle surface shows this area as 3,719SF. Revise the chart as appropriate for consistency.

14. Per the definition of parking space, a space shall be no less than 9 FT wide by 20 FT in length (12 FT wide and 20 FT in length for a handicapped space), except that the length of the space may be reduced to 18 FT in length where a 2 FT overhang exists behind a curb and the overhang does not interfere with any proposed or required landscaping. It is noted that the applicant is proposing 9FTx18FT spaces with wheel stops; an accessible space is provided at 8 FT wide with an 8 FT loading area. The parking area is uncurbed, so wheel stops shall be provided to prevent encroachment onto non-pavement area. The accessible space shall be striped to 11 FT wide with a 5 FT landing area to accommodate van parking.

15. Trash enclosure.

b. It is noted that the door to the enclosure is located at the ramp to the sidewalk for the parking area. Should the door not close properly, this will limit access to anyone requiring the use of the ramp. The trash enclosure shall be relocated.

c. (Intentionally omitted based on the testimony that trash pickup will be at the curb. As such, no truck turning template need be provided as no trash trucks will be entering the site.)

Site Plan

17. Dimensions shall be provided for the following:

a. Sidewalks.

b. Stone Trenches.

18. Hatching shall be used to delineate the extents of the asphalt apron.

19. A road opening permit will be required for the connection to the sanitary sewer and any improvements at the driveway. Note, Township details are found following section of the Township Ordinance §16-5.20.

20. The following comments are offered regarding the parking spaces:

a. RSIS (§5:21-4.14f) indicates that a length of 23 FT per on-street parking space shall be used. While the applicant does not propose on-street parking, parallel parking is proposed with a length of 20 FT. This is insufficient space for vehicles to park. Without curbing, encroachment off of the pavement is likely. The plan shall be revised to provide 22 FT minimum length.

b. The parking spaces including the accessible space provide 3 spaces, not 4 as shown in the callout. The plans shall identify where this 4th parking space is located.

c. Striping shall be identified.

21. Areas at the main entrance:

a. There is an 8FT x 18FT striped area, if this is a drop off area, it shall be labeled.

b. Revise the plans to indicate if signage will be provided to prohibit parking along the front.

23. (Intentionally omitted as ordinance section 16-5.8c3 does not apply because the proposed dwelling is a single-family dwelling so the access driveway is a single family residential drive.)

24. Radii shall be provided throughout the site.

Grading and Drainage

25. The limit of disturbance shall be staked out by a surveyor. The proposed headwall and riprap apron appear to be located on the 100FT Montgomery Township Stream Corridor line.

26. All cleanouts (both storm and sanitary) shall be labeled on the plan. Include both the grade and the invert of each cleanout.

27. A cleanout shall be provided at all changes in pipe direction.

28. An invert for the ADS-drain shall be provided.

29. All proposed spot elevations shall show the location of the proposed elevation. Numerous boxes are not directed toward any spot on the plan.

30. Spot grades shall be provided in the accessible space to demonstrate compliance with ADA requirements.

31. The 88.75FS spot grade located at the NE corner of the sidewalk is between the 86 and 87 contour. This shall be reviewed, and the plan revised accordingly.

33. Grading is to the property line. (new 86 and 87 contours). No activity shall take place on the adjoining parcel without a temporary construction easement.

34. The proposed stone trenches shall show an invert to show the depth of the trench. Details shall be provided to show the invert of the pipe.

Stormwater Management

35. The project proposes to disturb less than 0.5 acres of land, does not create greater than an additional 5,000 SF of regulated impervious surface, and reduces the regulated motor vehicle surface and thus does not meet the requirements for a "major development" for the purposes of stormwater management as defined by the Township of Montgomery Ordinance §16-5.2. This project, however, meets the requirements of the "minor development" in the ordinance as this project requires a variance for exceeding the maximum lot coverage within the zoning district. Thus, stormwater quality standards are applicable.

a. The plans depict the limit of disturbance is 0.49 acres. This area shall be staked out prior to any construction activities and inspected by the Township Engineer's office. Should the limit of disturbance exceed 0.5 acres, full stormwater management measures, including quantity and recharge will be required.

b. The stormwater management report provided calculations to demonstrate that the quantity requirements of the 2-year, 10-year and 100-year storms by reducing peak runoff from the project area by 50%, 25% and 20% respectively.

36. The applicant is proposing a pervious pavement patio and parking area. An underground detention basin will provide water quantity controls to address the peak runoff rates for the 2-year, 10-year and 100-year storms. Chapter 9.6 of the NJ BMP manual discusses the requirements for a pervious pavement system:

a. Roof runoff can bypass the surface course and connect directly to the storage bed. However, if it does bypass the surface course, runoff must be pretreated by leaf screens, first flush diverters or roof washers. The applicant should discuss if any pretreatment measures are proposed.

b. Filter fabric is required along the sides and bottom of the system with underdrains.

c. Provide the seasonal high-water table on the detail; if there was none observed, it shall be noted as such.

d. Provide inspection ports at the upstream and downstream ends of the perforated section of pipes. These shall be labeled on the plan with the grade and invert and a detail provided.

e. Post construction testing of both the pervious pavement parking area and the porous paver patio area is required.

37. Regular and effective maintenance is crucial to ensure effected performance of the stormwater management measures. The applicant has submitted a stormwater maintenance report for review and approval. Our office offers the following general comments:

a. The stormwater management maintenance plan and any future revisions shall be recorded upon the deed of record for the property. This deed restriction shall be prepared and forwarded to the Township Engineer for review and approval and shall require the owner to maintain stormwater facilities in a manner satisfactory to the Township. A note indicating this shall be placed on the plan. Further information on the deed records and dedications are found at §16-5.2u. The following restrictions shall be incorporated.

i. The lot shall be "deed restricted" to require the perpetual maintenance of the stormwater management system in accordance with the approved Stormwater Management Maintenance Plan. The restriction shall reference the maintenance manual by title, preparer, and most recent revision date.

ii. The deed restriction shall provide that in the event that the responsible party fails in its maintenance obligation, the Township has the right, but not the obligation, to enter upon the property to perform the necessary maintenance at the responsible party's expense.

iii. The deed restriction shall provide that maintenance is required and must be documented. Completed checklists must be sent to the Township by December 31 annually, but if an item or items is/are identified as "urgent", the checklist must be shared with the Township immediately.

b. The Maintenance Manual has been provided as an Appendix to the Stormwater Management Report. This document shall be a stand-alone document. The following is noted, and the manual shall be updated to reflect the requirements of Chapter 8 of the NJ BMP Manual. The following is noted.

i. The Manual shall contain checklists and logs for required inspections/tasks. These shall be maintained and made available to the public entity upon request.

ii. A list of maintenance equipment, tools, and supplies necessary to perform the various preventative and corrective maintenance tasks.

iii. Recommended corrective responses to various emergency conditions shall be provided.

iv. Both the pervious pavers and the stone trenches are integral parts of stormwater management. Maintenance, inspection and corrective measures shall be provided in the Operations and Maintenance manual to ensure that these components are functioning properly.

Details

38. The sidewalk detail shows a 4 FT wide sidewalk. The architecture plans show a 5 FT wide sidewalk. The site plans shall be labeled for the width of sidewalk and the detail updated to reflect what is proposed.

39. The location of the reinforced concrete pad shall be depicted on the site plan (or labeled in the legend) or the detail removed. The trash enclosure shall have a reinforced concrete pad.

40. The cleanout detail must specify round castings for sanitary sewers and square castings for drainage systems. The lids shall read "sewer" or "storm," as applicable.

41. A detail for the ADS drain shall be provided.

42. Provide a detail/profile of the proposed pervious pavers at the patio.

43. Provided a detail for the perforated pipe in the stone trench.

c. **Comments Emanating in the Review Letter to the Board from Lauren A. Wasilauski, Open Space & Stewardship Director dated June 27, 2024:** (only those numbered items that require revisions to the plans are set forth below):

C. Tree Planting and Landscaping

4. Street trees are required along all streets at 50' intervals (ordinance section 16- 5.6.d.15). Based upon the lot frontage of 188.4', four (4) street trees are required. Future plan sets shall be revised to include these trees.

7. All plant materials must include a two (2) year guarantee as required by ordinance section 16-5.6.d.10. Landscape Note #5 on sheet C9 shall be revised to incorporate this requirement.

8. The Applicant shall add deer protection to the tree and shrub protection details on sheet C-706. The Open Space Committee and Shade Tree Committee have the best outcomes when using 4' high weld wire fencing and wooden stakes around each plant.

F. Lighting

1. Any exterior lighting shall be minimized. It shall be directed downward and shielded to the greatest extent possible to minimize spillover into surrounding areas.

2. The notes indicate that the light fixtures are dark sky fixtures, which is appreciated by this office. Any exterior lighting shall use a color temperature no greater than 3000K, but preferably no greater than 2700K.

G. Amenities

1. The Applicant shall add a bench or picnic table outside for residents, visitors and staff to be able to use.

d. **Comments Emanating in the Review Letter to the Board from the Shade Tree Committee dated July 18, 2024:**

The applicant appears to be replacing the 7 shade trees it is cutting down with 7 ornamental trees. While the Shade Tree Committee appreciates that the proposed ornamental trees are natives, the 7 cut-down shade trees shall be replaced with 7 native shade trees, such as white oaks, maples, American lindens, disease-resistant American elms, etc. Some of the ornamental trees shall be kept as part of the plan, in additional to the 7 shade trees.

The non-native Alleghany Viburnum and the cherry laurel (both of which are mislabeled as being natives) shall be replaced with natives such as blackhaw, nannyberry, or arrowwood viburnums. For the cherry laurels, possible replacements could include clethra, fragrant sumac, fothergilla, oakleaf hydrangea, and ninebark.

e. **Comments Emanating in the Review Letter to the Board from the Montgomery Environmental Commission dated July 22, 2024:** (only those numbered items that require revisions to the plans are set forth below):

B. Energy:

1. The dwelling shall meet or exceed the energy code.

C. Landscaping

3. The applicant shall plant replacement shade trees as provided by Montgomery's Tree Replacement Ordinance.

a. Due to the adjacent open space and stream corridors, these trees and other landscaping shall be native plants, to prevent any non-native plants spreading to these areas.

b. Native white oak trees such as swamp white oak or white oak, river birch, sugar maple or red maple, basswood, or disease-resistant American elm shall be utilized. These trees are all suitable shade trees that should be available in the right size for planting, and they also support a large number of native moths and butterflies, whose caterpillars are food for baby birds.

5. As to the shrubs, the hybrid "Allegheny" viburnum is a cross between two Eurasian viburnums, and has no claim to local nativity, other than its misleading name. Ilex

glabra and Cornus sericea are both native shrubs, but Prunus laurocerasus is not native to North America at all.

a. The native shrubs ninebark; blackhaw, arrowwood, or nannyberry viburnum; Itea virginica; Forthergilla gardenii; fragrant sumac; and Sambucus racemose shall be utilized.

D. Recreation

1. The applicant shall provide park benches and picnic tables for the residents, staff, and visitors to enjoy the outdoors.

E. Lighting

1. The proposed lights shall be pointed downwards, shielded from the sides, and as low in elevation and intensity as possible, in keeping with Montgomery's Dark Skies policy.

a. Please be aware that overly bright lights can cause glare and temporarily blind people, reducing visibility; and any lighting at all may interfere with nocturnal pollinators, fireflies, bats, and migrating birds. In fact, all life on earth, including people, are adapted to dark nights.

b. Yellow light bulbs, which are the least disorienting to wildlife, shall be used.

c. The lights shall be turned off as early as possible in the evening, they could be set on a motion detector, and the applicant might consider special protocols, such as early closing, or brief shut-offs during spring and fall migration.

2. There is a Model Lighting Ordinance jointly developed by the Illuminating Engineering Society and the International Dark Sky Association that provides guidance on developing a lighting plan that will meet the applicant's needs and protect the wildlife that provides us with so many vital ecosystem services, including pollination and pest control. The design shall follow those guidelines. The International Dark Sky Association provides a lot of information on the least harmful yellow lights and on other issues in their website.

f. **Comments Emanating in the Review Letter to the Board from Joseph A. Fishinger, Jr., PE, PP, PTOE dated June 28, 2024:** (only those numbered items that require revisions to the plans are set forth below):

Site Plan

2. Sight triangles shall be provided on the plan showing the available sight distance exiting the site onto Burnt Hill Road. Based on a posted speed limit of 35 mph (40 mph

design speed), an intersection sight distance of 445 feet is required based on table 9.7 from the 2018 AASHTO "A Policy on Geometric Design of Highways and Streets". Based on the information provided, it appears regrading in the southeast corner of the site may be required to meet the required sight triangles. If providing the required sight triangle for the left turn out of the site requires re-grading beyond the site frontage, prohibiting the left turn out of the site can be implemented as an alternative.

g. **Comments Emanating from Board Members During the Course of the Hearing.**

1. All emergency doors to the outside shall be alarmed.

2. The vinyl siding shall be a light/natural color.

3. The roof shall be a light color that complements the siding.

4. The two (2) on-site parallel parking spaces shall be increased in size to 22 feet long.

2. **Design, Construction and location of Improvements.** The applicant shall be required to design, construct and locate the proposed development in substantial conformity with the site plans and architectural plans that are approved and signed off on by the appropriate municipal officials, and in accordance with the conditions set forth in the within resolution.

3. **Sanitary Sewer Easement.** There is a sanitary sewer easement located in both the NE and SE corner of the parcel. With the proposed improvements, it does not appear that an easement would be necessary. This easement shall be extinguished if the Township Engineer determines it is not necessary.

4. **Deed Restriction to be Amended.** The applicant must obtain approval from the Township to amend the deed restriction contained in the deed dated July 23, 2013, and then record an amended deed restriction, to remove the requirement that the applicant "renovate the existing dwelling" and require that the applicant construct the proposed dwelling approved by the Board and operate in that building as "supportive and special needs housing for income-qualified low and moderate income individuals with developmental disabilities, consistent with the regulations and/or licensing requirements of the State of New Jersey and its departments and agencies."

5. **Lighting.** The parking lot lights shall be turned off by 11pm. However, the soffit lights shall remain on all night for safety and security purposes.

6. **Surveyor to Stake Prior to Construction.** The area of disturbance shall be staked out prior to the commencement of construction to be reviewed and approved by the township engineer prior to issuing of construction permits and construction of site work in order to ensure that the limit of disturbance does not exceed .5 acres. Should the limit of disturbance

exceed 0.5 acres, full stormwater management measures, including quantity and recharge, shall be required.

7. **As-Built Survey.** An as-built survey reflecting the proposed development as approved by the Board, and including the area of disturbance, shall be submitted to the Township Engineer for review and approval as a condition precedent to the issuance of a temporary and permanent certificate of occupancy.

8. **As-Built Grading Plan.** The applicant shall submit an as-built grading plan prepared by a licensed surveyor to the Township that also bears an engineer's certifications that the as-building conditions, including grading, comply with the final design and soil erosion plans.

9. **Escrow Fees.** Any and all outstanding escrow fees shall be paid in full and the escrow account replenished to the level required by ordinance by September 27, 2024 (within 30 days of the adoption the within resolution), within 30 days of written notice that a deficiency exists in the escrow account, prior to signing the site plans, prior to the issuance of a zoning permit, prior to the issuance of construction permits, and prior to the issuance of a temporary and/or permanent certificate of occupancy, completion or compliance (whichever is applicable). Failure to abide by this condition shall result in the relief granted, as well as any and all underlying relief for the property, automatically terminating and becoming null and void. The applicant shall also post inspection escrow to cover inspections performed by the Township Engineering Department.

10. **Time to Obtain Zoning and Construction Permits, Commence and Complete Construction, and Obtain Permanent Certificate of Occupancy.** The applicant shall apply for and obtain a zoning permit and all construction permits by August 27, 2025 (which is within one (1) year of the adoption of the within resolution). If during said one (1) year period, or extension thereof as granted by the Board, the applicant fails to obtain a zoning permit and all construction permits, the within approvals shall automatically expire and become null and void. The applicant shall also have one (1) year from the date of issuance of the first construction permit to commence and complete construction and obtain a permanent certificate of occupancy for the proposed apartments. If during said one (1) year period, or extension thereof as granted by the Board, work is not commenced and completed and permanent certificate of occupancy is not obtained, the within approvals shall automatically expire and become null and void. Any and all extension requests made in accordance with the within condition must be made prior to the expiration of the approvals.

11. **Specific Approvals and Permits.** The within approvals shall be conditioned upon the applicant obtaining permits and/or approvals from all applicable agencies and/or departments including (if applicable) but not necessarily limited to the following municipal, county and/or state agencies and/or departments:

a. Township Board of Health approval of any aspect of the development within its jurisdiction,

b. Somerset County Planning Board approval of any aspect of the development within its jurisdiction,

c. Somerset - Union County Soil Conservation District certification of the site plan,

d. Delaware and Raritan Canal Commission approval of any aspect of the proposed development within its jurisdiction,

e. NJDOT highway access permit if the proposed development is on a road within NJDOT's jurisdiction and, if not, a letter of no interest confirming that no new access permit is required, and

f. NJDEP approval of any aspect of the proposed development within its jurisdiction.

12. **Subject to Other Laws and Approvals.** The within approval and the use of all property subject to the within approval are conditioned upon and made subject to any and all laws, ordinances, requirements, and/or regulations of and/or by any and all municipal, county, state and/or federal governments and their agencies and/or departments having jurisdiction over any aspect of the property and/or use of the property. The within approval and the use of all property subject to the within approval are also conditioned upon and made subject to any and all approvals by and/or required by any and all municipal, county, state and/or federal governments and their agencies and/or departments having jurisdiction over any aspect of the property and/or the use of the property. In the event of any inconsistency(ies) between the terms and/or conditions of the within approval and any approval(s) required by the above, the terms and conditions of the within approval shall prevail unless and until changed by the Board upon proper application.

****

VOTE ON MOTION DULY MADE AND SECONDED ON JULY 23, 2024:

THOSE IN FAVOR: BRUNS, BLAZOVSKY, ROSENTHAL, WALLMARK, WOOD, BLODGETT & URBANSKI.

THOSE OPPOSED: NONE.

****

The above resolution was adopted on August 27, 2024 by the following vote of members who would have been eligible to vote in favor or denial of the application:

Member	Yes	No	Abstain	Absent
BLAZOVSKY	X			
BLODGETT	X			
WALLMARK	X			
WOOD	X			

ROSENTHAL	**X**
URBANSKI	**X**
BRUNS	**X**

I, Lori Savron, do hereby certify the above to be a true correct copy of a Resolution regularly and duly adopted by the Montgomery Township Zoning Board of Adjustment at a duly called meeting of the Zoning Board held on August 27, 2024.

Lori Savron
Planning Director

App 63 CK QB
Agt Deed

Unofficial Document

Declaration of Covenants, Conditions and Restrictions Implementing Affordable Housing Controls on Deed-Restricted Affordable Housing Unit with Restrictions on Resale and Refinances

THIS DECLARATION is made and dated this 29 day of Jan, 2014, by **Allies, Inc., a non-profit corporation of the State of New Jersey,** having its primary business address at 1262 Whitehorse-Hamilton Square Road, Building A, Suite 101, Hamilton Square, New Jersey 08690 (the "Developer" or the "Owner").

WHEREAS, the Developer is the owner of certain real property designated as **Lot 1.07 in Block 26001** on the Montgomery Township Tax Assessment Maps (rev. 2012), more fully described in **Schedule A** attached hereto and made a part hereof, on which is situated a home known as "Pine Knoll," a group home to be renovated and operated by the Developer for low and moderate income qualified individuals with developmental disabilities, said group home consisting of six (6) bedroom units, located in the Township of Montgomery, County of Somerset, State of New Jersey (collectively, the "Affordable Housing Unit" or the "Property"); and,

WHEREAS, municipalities within the State of New Jersey are required by the Fair Housing Act (P.L. 1985, c. 222) (the "Act") to provide for their fair share of housing that is affordable to households with low or moderate incomes in accordance with the provisions of the Act; and,

WHEREAS, the Act requires that municipalities ensure that such designated housing remains affordable to low and moderate income households; and,

WHEREAS, pursuant to the Act, the Affordable Housing Unit described in this Declaration has been designated as low and moderate income housing as defined by the Act; and,

WHEREAS, the Developer and the Township of Montgomery (the "Township") have entered into an agreement dated January 25, 2010 (the "Agreement") pursuant to which the Township will convey the Property to the Developer to be renovated and operated by the Developer as a group home for low and moderate income individuals with developmental disabilities, by deed restricting the Property for such purposes; and,

WHEREAS, the Agreement provides that the Developer will execute this Declaration, to be recorded simultaneously with the deed of conveyance vesting title to the Property in the Developer; and,

BRETT A. RADI COUNTY CLERK
SOMERSET COUNTY NJ
2014 MAR 31 02:37:08 PM
BK:8708 PG:1370-1375
INSTRUMENT # 2014011239

2014011239

WHEREAS, the purpose of this Declaration is to ensure that the Affordable Housing Unit remains affordable to low and moderate income eligible individuals with developmental disabilities for that period of time described in this Declaration.

NOW, THEREFORE, it is the intent of this Declaration to ensure that the affordability controls on the Affordable Housing Unit are recorded so as to bind the Owner of the Affordable Housing Unit to comply with the covenants, conditions and restrictions contained herein, of which the Owner shall be required to notify all future purchasers of the Affordable Housing Unit.

Article 1. Affordable Housing Covenants

The sale and use of the Affordable Housing Unit subject to this Declaration is governed by regulations governing controls on affordability, which are found in the New Jersey Administrative Code, Title 5, Chapter 93, Subchapter 9 (N.J.A.C. 5:93-9.1, *et seq*), and Chapter 80, Subchapter 26 (N.J.A.C. 5:80-26.1, *et seq*) (collectively, the "Regulations"). Consistent with the Regulations, the following covenants and restrictions shall run with the land, for the Affordable Housing Unit, for a period of thirty (30) years commencing on the date the deed conveying the Property to the Developer (the "Deed") is recorded with the Somerset County Clerk; and, pursuant to the Deed, at the option of the Township, said covenants and restrictions may be extended for additional periods of at least thirty (30) years each, by the Township filing a notice in the Office of the Somerset County Clerk referencing the Deed and the extension of the covenants and restrictions.

A. The Developer shall renovate and operate the Affordable Housing Unit as a six (6) bedroom group home for low and moderate income qualified individuals with developmental disabilities. The Developer will operate the Affordable Housing Unit as a group home in accordance with N.J.A.C. 5:97-6.10 and all other applicable governmental rules and regulations applicable to group homes. The Developer will provide information requested by the Township or its designated administrative agent (the "Administrtive Agent") regarding the qualifications of the individuals to occupy the Affordable Housing Unit.

B. The Affordable Housing Unit shall not be occupied until all applicable governmental certifications have been issued.

C. No refinancing, equity loan, secured letter of credit, or any other mortgage obligation or other debt (collectively, "Debt") secured by the Affordable Housing Unit, may be incurred except as approved in advance and in writing by the Township or its designated Administrative Agent.

D. The Affordable Housing Unit is a six (6) bedroom group home which the Owner shall lease to and maintain occupancy by income qualified individuals with developmental disabilities approved in writing by the Administrative Agent. The Owner shall charge rent no greater than the maximum permitted rent as determined by the Township or its designated Administrative Agent, and if requested by the Township or its designated Administrative Agent, shall submit for written approval of the Township or its designated

UNOFFICIAL DOCUMENT

Administrative Agent copies of all proposed leases prior to having them signed by any proposed tenant.

E. No improvements may be made to the Affordable Housing Unit that would affect its bedroom configuration.

F. The affordable housing covenants, declarations and restrictions implemented by this Declaration and by incorporation, N.J.A.C. 5:80-26.1 *et seq*. and N.J.A.C. 5:93-9.1, *et seq.* shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to the Affordable Housing Unit so long as the Affordable Housing Unit remains subject to the affordability controls being implemented by this Declaration.

G. In accordance with N.J.A.C. 5:80-26.5, the Affordable Housing Unit shall remain subject to the requirements of this subchapter, the "Control Period," until the municipality in which the unit is located elects to release the Affordable Housing Unit from such requirements. Prior to such a municipal election, the Affordable Housing Unit must remain subject to the requirements of this subchapter for a period of at least thirty (30) years.

Article 2. Remedies for Breach of Affordable Housing Covenants

A breach of the covenants contained in this Declaration will cause irreparable harm to the Township and to the public, in light of the public policies set forth in the Act and the Regulations, and the Township's obligation for the provision of low and moderate income housing. Accordingly, and as set forth in N.J.A.C. 5:80-26.10A(b):

A. In the event of a threatened breach of any covenant contained in this Declaration by the Developer, or any successor in interest or other owner of the Affordable Housing Unit, the Township or its designated Administrative Agent shall have all remedies provided at law or in equity, including the right to seek injunctive relief or specific performance.

B. Upon the occurrence of a breach of any covenant contained in this Declaration by the Developer, or any successor in interest or other owner of the Affordable Housing Unit, the Township or its designated Administrative Agent shall have all remedies provided at law or in equity including but not limited to forfeiture, foreclosure, acceleration of all sums due under any mortgage, recouping of any funds from a sale in violation of this Declaration, diverting of rent proceeds from illegal rentals, injunctive relief to prevent further violation of said Declaration, entry on the premises, those provided under N.J.A.C. 5:80-26.1 *et seq*. and N.J.A.C. 5:93-9.1, *et seq.*, and specific performance.

The covenants, conditions and restrictions contained in this Declaration run with the land and bind the Developer, and Developer's successors, heirs and assigns.

Unsigned Document

IN WITNESS WHEREOF, the Developer has caused this Declaration to be executed by its duly authorized representatives this 29 day of January 2014.

ATTEST:

Allies, Inc., a non-profit corporation of the State of

By:

STATE OF NEW JERSEY)
COUNTY OF) SS.

I CERTIFY that on January 29 2014, , Elise Tretola, personally came before me, and this person acknowledged under oath, to my satisfaction, that:

(a) this person is the President/CEO of Allies, Inc., the corporation named in this document;

(b) this person was authorized to execute this document on behalf of the corporation; and,

(c) this person executed this document as the voluntary act of the corporation.

Notary Public

Jeanette Frauto
Notary Public
New Jersey
My Commission Expires October 3, 2018

Record & ~~Return to:~~
Mason, Griffin & Pierson, P.C.
101 Poor Farm Road
Princeton, NJ 08540

LTRIDENT ABSTRACT TITLE AGENCY LLC
1340-A CAMPUS PARKWAY
WALL NJ 07753

Unofficial Document

Unofficial Document

BRETT A. RADI
SOMERSET COUNTY CLERK
20 GROVE STREET
P.O. BOX 3000
SOMERVILLE, NJ 08876-1262

Recorded: 03/31/2014 02:37:06 PM
Book: OPR 6708 Page: 1370-1374
Instrument No.: 2014011239
AGTDEED 5 PGS $63.00

Recorder: LEONARDI

DO NOT DISCARD

2014011239

PHILIP D. MURPHY
GOVERNOR

SHEILA Y. OLIVER
LT. GOVERNOR

STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES
PO BOX 726
TRENTON, NJ 08625-0726
609.633.1482
www.nj.gov/humanservices/ddd

CAROLE JOHNSON
COMMISSIONER

JONATHAN S. SEIFRIED
ASST. COMMISSIONER

March 4, 2020

Ms. Elise M. Tretola
President/CEO
Allies, Inc.
1262 Whitehouse-Hamilton Sq. Rd.
Building A, Suite 101
Hamilton, NJ 08690

Re: Allies, Inc. 148 Burnt Hill Road, Montgomery Township, NJ 08558

Dear Ms. Tretola,

This letter serves as commitment by the New Jersey Department of Human Services (DHS) to support the development of 148 Burnt Hill Road in Montgomery Township, New Jersey. The developer for this project is Monarch Housing Associates. This project will provide one home with six single bedroom units for individuals with medical needs. Individuals eligible to reside in this setting will be those who are approved through the Division of Developmental Disabilities and who select to be served in the location. The home will be licensed in accordance with N.J.A.C. 10:44A and all requirements therein must be met prior to all moves.

If approved by HUD, individuals who select the property will receive rental subsidies administered through the HUD Section 811 Project Rental Assistance Program. Additional funding sources for this development may also include County HOME and FHLBNY AHP Funds. Any operating dollars would be supported through individual budgets and will be based upon rates established by DHS. Fire alarm and sprinkler system installation will be funded by DHS up to the amount of $30,000.

Please note that the annual level of funding provided by DHS is subject only to the availability of funds appropriated yearly by the Legislature of the State of New Jersey.

If you have any questions, I can be reached at (609) 633-7548 or at Amy.Scartocci@dhs.nj.gov.

Sincerely,

Amy Scartocci

Amy Scartocci
Director of Housing
Division of Developmental Disabilities

Cc: Sheri Fine, Housing Supervisor
Miracle Drakeford, Program Developer
Asish Patel, Monarch Housing Associates, Developer

AGREEMENT
TO PROVIDE AFFORDABLE HOUSING FUNDING ASSISTANCE FOR SUPPORTIVE / SPECIAL NEEDS HOUSING
Allies, Inc.

THIS AGREEMENT is made this 16th day of July, 2012, by and between:

ALLIES, INC., a non-profit corporation of the State of New Jersey, having an address of 1262 Whitehorse-Hamilton Square Road, Building A, Suite 101, Hamilton Square, New Jersey 08690 ("**Allies**"), and

THE TOWNSHIP OF MONTGOMERY, a municipal corporation of the State of New Jersey, having an address of 2261 Van Horne Road, Belle Mead, New Jersey 08502 ("**Township**").

WITNESSETH

WHEREAS, Allies is a non-profit organization dedicated to providing a variety of services, including residential services, to individuals with disabilities; and

WHEREAS, on January 25, 2010, Allies and the Township entered into an agreement to provide for the creation of a supportive and special needs group home for income-qualified individuals with disabilities in accordance with COAH's rules, to be located on a portion of the former "Skillman Village" site, designated as Lot 1.07 in Block 26001 on the Montgomery Township Tax Map; and

WHEREAS, pursuant to the terms and conditions of the January 25, 2010 agreement, Allies is renovating an unused, former residence that exists on the property, commonly known as "Pine Knoll", into a supportive and special needs group home that will include a total of six COAH-qualified and credited, deed-restricted bedroom units; and

WHEREAS, the condition of the existing structure, current economic conditions and constraints on the availability of funding have delayed progress on the project, giving rise to discussions between the parties regarding the potential for additional financial assistance from the Township to enable Allies to make the structure habitable and enable Allies to move forward with the renovations; and

WHEREAS, by Agreement dated June 25, 2012, the Township agreed to provide funding in an amount up to $10,200.00, from the Township's affordable housing infrastructure funding program, for connection fees or capacity charges associated with Pine Knoll's connection to the Montgomery Township sanitary sewer utility by Allies; and

WHEREAS, to further facilitate the Pine Knoll project, Allies has also requested additional funding assistance to remove the existing HVAC system and replace it with a new high efficiency system for the house, and to replace the copper piping that was stolen from the structure when it was unoccupied and unused; and

WHEREAS, estimates for the replacement of the HVAC system are anticipated to cost up to $43,400.00; and

WHEREAS, estimates for the replacement and installation of the stolen copper piping is anticipated to cost up to $2,295.64; and

WHEREAS, the Township has affordable housing funds available that it can and does wish to commit to the Allies' Pine Knoll project, thereby fostering the very purposes for which the funds were collected; and

WHEREAS, N.J.A.C. 5:97-8.7(a) specifies that a municipality may use its affordable housing trust funds for the maintenance and repair of affordable housing units and development costs related to the construction of new affordable housing units; and

WHEREAS, the Township has filed an updated spending plan with COAH, dated April 5, 2012, that includes funding for the Allies' Pine Knoll project that will result in the development of new affordable housing opportunities contained in the Township's Housing Element and Fair Share Plan; and

WHEREAS, using affordable housing funds to pay for an HVAC system and plumbing work for the affordable housing units identified in the Township's submitted Housing Element and Fair Share Plan and included in the Township's companion spending plan are permissible and appropriate uses under COAH's rules.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the mutual receipt and sufficiency of which are hereby acknowledged, Allies and the Township agree as follows:

1. **Funding Assistance For Structural Systems.** The Township shall reimburse Allies for the actual costs incurred by Allies for the replacement of Pine Knoll's HVAC system and stolen copper piping, subject to the following:

a. The maximum amount of reimbursement to Allies shall not exceed the sum of $43,400.00 for the replacement and installation of the HVAC system, and $2,295.64 for the replacement and installation of the copper piping. Any and all additional costs incurred by Allies in connection with the HVAC system and piping exceeding these amounts shall be the sole responsibility of Allies.

b. Upon completion of the work for the HVAC system and/or piping replacement, Allies shall submit a written request for payment to the Township Administrator and submit a copy of the contractor invoice(s) and certification by Allies that the work was satisfactorily completed ("Request for Payment").

c. Payment shall be made by the Township to Allies, by Township check, within 60 days of the Township's receipt of the Request for Payment.

2. **Successors and Assigns Bound.** The provisions of this Agreement shall inure to the benefit of and be obligatory upon the respective parties hereto and their successors and assigns.

3. **Waiver.** The waiver of any provision of this Agreement shall only be effective if made in writing.

4. **Construction of Agreement.** This Agreement was prepared jointly and shall be construed on parity between the parties.

5. **Notice of Third Party Actions.** The parties agree to provide each other with immediate notice of any lawsuits, action or governmental declaration, threatened or pending of which they are actually aware which may affect the provisions of this Agreement or implementation thereof.

6. **Authority.** Each party represents that it has the authority from its governing body, board or member, as the case may be, to enter into this Agreement.

7. **Invalidity.** If any provision of this Agreement is determined by a court, COAH, the New Jersey Department of Community Affairs Division of Local Planning Services and/or any successor agency to be invalid, void or unenforceable, either party may, by written notice to the other party, terminate this Agreement, in which event, neither party shall have any further responsibility to the other with respect to the terms and conditions of this Agreement.

8. **Notices.** All notices required under this Agreement shall be in writing and shall be served upon the respective parties by certified mail, return receipt requested, or by recognized overnight or personal carrier. In addition, where feasible (for example, transmittals of less than

fifty pages), copies shall be served by facsimile or e-mail. All notices shall be received upon the date of delivery. In addition, copies of any notice shall be sent to each Party's respective counsel and other officials, addressed as follows:

a. Copies of notices to the Township shall be sent to the Township Clerk, Planning Director and Township Attorney serving in such capacity as of the date of such notice. As of the date of this Agreement and effective until changed, such notices shall be sent to: Donna Kukla, Township Clerk, Montgomery Township Municipal Building, 2261 Van Horne Road, Belle Mead, New Jersey 08502, fax 908-359-3051, e-mail: dkukla@twp.montgomery.nj.us; Lori Savron, Planning Director, Montgomery Township Municipal Building, 2261 Van Horne Road, Belle Mead, New Jersey 08502, fax 908-359-2006, e-mail: lsavron@twp.montgomery.nj.us; and Kristina P. Hadinger, Township Attorney, Mason, Griffin & Pierson, PC, 101 Poor Farm Road Princeton, New Jersey 08540, fax 609-683-7978, e-mail k.hadinger@mgplaw.com.

b. Copies of notices to Allies shall be sent to Doug Conkling, Allies, Inc., 1262 Whitehorse-Hamilton Square Road, Building A, Suite 101, Hamilton Square, New Jersey 08690, and David A. Schweizer, Esq., Maniaci, Ciccotta & Schweizer, 6720 Frankford Avenue, Philadelphia, Pennsylvania 19135.

9. **Affordable Housing Agreement.** This Agreement supplements the Agreements entered into between the parties on January 25, 2010 and June 25, 2012.

10. **Captions.** The captions in this Agreement are inserted for convenience of reference only, and are not to be construed as defining, limiting or modifying the scope and intent of the various provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year set forth above.

ATTEST:

Don Tretola

Don Tretola, VP of Public Affairs

ALLIES, INC.

By: _____

Elise Tretola, President / CEO

TOWNSHIP OF MONTGOMERY

Donna Kukla

Donna Kukla, Clerk

By: Edward P. Trzaska

Edward Trzaska, Mayor

AGREEMENT TO PROVIDE AFFORDABLE HOUSING INFRASTRUCTURE ASSISTANCE IN AN AMOUNT UP TO $10,200.00

Allies, Inc.

THIS AGREEMENT TO PROVIDE AFFORDABLE HOUSING INFRASTRUCTURE ASSISTANCE IN AN AMOUNT UP TO $10,200.00 ("**Agreement**") is made this 25 day of June, 2012, by and between Allies, Inc., a non-profit corporation of the State of New Jersey, having an address of 1262 Whitehorse-Hamilton Square Road, Building A, Suite 101, Hamilton Square, New Jersey 08690 ("**Affordable Housing Developer**") and the Township of Montgomery, in Somerset County, a municipal corporation of the State of New Jersey, having an address of Municipal Building, 2261 Van Horne Road, Belle Mead, New Jersey 08502 ("**Township**").

WHEREAS, the Township of Montgomery was granted second round substantive certification by the Council on Affordable Housing ("**COAH**") on March 5, 1997, and an extension of substantive certification was granted by COAH on February 9, 2005;

WHEREAS, the Township received approval from COAH for its development fee ordinance on March 5, 1997, which was adopted by the Township Committee on April 17, 1997;

WHEREAS, an updated development fee ordinance ("**Development Fee Ordinance**") creating a dedicated revenue source for affordable housing was approved more recently by COAH on December 5, 2008 and adopted by the Township Committee on December 18, 2008;

WHEREAS, the development fee ordinance establishes an affordable housing trust fund that addresses, among other matters, development fees, payments from developers in lieu of constructing affordable units on-site, barrier free escrow funds, rental income, repayments from affordable housing program loans, recapture funds, proceeds from the sale of affordable units, and/or affordable housing enforcement fines and application fees;

WHEREAS, the Township Committee of the Township of Montgomery, Somerset County, petitioned COAH for third round substantive certification on December 30, 2008;

WHEREAS, on October 8, 2010, the Appellate Division in its decision in *In re Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, et al.*, 416 *N.J.Super.* 462 (App. Div. 2010), invalidated portions of COAH's revised Third Round Rules, including those portions of the rules that utilized a growth share methodology in determining prospective need for affordable housing, thereby precluding the ability of COAH to act upon and approve third round petitions until such time as new rules could again be promulgated to enable municipalities to determine their third round fair share obligation;

WHEREAS, in light of the Appellate Division's invalidation of COAH's third round growth share methodology, on December 9, 2010, COAH granted the Township a stay of further COAH proceedings involving its third round prospective obligation based upon its finding that the Township had not only already fully satisfied its entire first and second round obligations, but also has additional credits for the third round;

WHEREAS, notwithstanding the December 9, 2010 stay of further COAH proceedings, the Township has continued to move forward with implementation of its third round plan in order to create and foster the production of new affordable housing opportunities in the Township;

WHEREAS, as recognized by the New Jersey Legislature and set forth in the express language of the Economic Stimulus Act of 2009, *P.L.* 2009, c. 90, which amended certain development fee provisions of the FHA, the "State of New Jersey is confronting a fiscal and economic crisis more severe than any experienced since the Great Depression . . . [which] compels bold and timely action" such as the "use of tax increment financing, tax credits, development fee suspensions, and dedicated economic development revenues . . . to restore [the] economy to economic health and create good-paying jobs for its residents [and] assist the private development of affordable housing," *P.L.* 2009, c. 90, Section 1;

WHEREAS, the Township has been approached by developers of affordable housing projects requesting financial assistance to help reduce infrastructure costs associated with their proposed affordable

housing projects, such as sewer infrastructure costs and/or connection fees, in order to enable them to move forward and produce new affordable housing opportunities in the Township;

WHEREAS, the Township has affordable housing funds available that it can and does wish to commit to such projects, thereby fostering the very purposes for which the funds were collected and furthering the aims of the Economic Stimulus Act by making those funds available to developers of affordable housing in order to stimulate the economy, create jobs and develop affordable housing opportunities in the Township;

WHEREAS, N.J.A.C. 5:97-8.7(a) specifies that a municipality may use affordable housing trust funds for the new construction of affordable housing units and related development costs and for infrastructure directly serving affordable housing developments;

WHEREAS, the Township has filed an updated spending plan with the Department of Community Affairs - Local Planning Services / COAH, dated April 5, 2012, that includes payment of sewer capacity hook-up fees for the development of new affordable housing opportunities contained in in the Township's Housing Element and Fair Share Plan as an anticipated use of its affordable housing funds;

WHEREAS, using affordable housing funds to pay the sewer capacity hook-up fees for affordable housing units identified in the Township's submitted Housing Element and Fair Share Plan ("**Fair Share Plan**") and included in the Township's companion spending plan are permissible and appropriate uses under COAH's rules;

WHEREAS, Affordable Housing Developer is renovating an existing building on property to be conveyed by the Township under the terms of an agreement dated January 25, 2010 to Affordable Housing Developer, known as Block 26001, Lot 1.07, a portion of the former "Skillman Village," and to be used as supportive and special needs housing as identified in the Township's Fair Share Plan ("**Affordable Housing Project**"), said affordable housing project to include a total of six COAH-qualified and credited

deed-restricted bedrooms, and has requested financial assistance towards the reduction of development and infrastructure costs;

WHEREAS, sanitary sewer service in Affordable Housing Developer's project will be provided by the Montgomery Township sanitary sewer utility ("Utility");

WHEREAS, any new connection to the Utility's sanitary sewer system is subject to a connection fee or capacity charge in accordance with subsection 12-7.4 of the Code of the Township of Montgomery (1984) ("**Code**");

WHEREAS, based on the rates established for the Utility for 2012, the sewer connection fees for the COAH-qualified and credited deed-restricted Affordable Housing Project are anticipated to be $10,200.00;

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the mutual receipt and sufficiency of which are hereby acknowledged, Affordable Housing Developer and Township agree as follows:

1. **Inclusionary Development New Construction Assistance**. The Utility's sanitary sewer connection charges established pursuant to subsection 12-7.4 of the Code for the COAH-qualified and credited deed-restricted Affordable Housing Project shall be paid from affordable housing trust funds collected by the Township pursuant to the Development Fee Ordinance, rather than paid by the Affordable Housing Developer. The amount to be paid shall be equivalent to the Utility's fee as established by subsection 12-7.4 of the Code, provided same shall not exceed either $10,200.00 or $34.00/gallon of capacity required for the new COAH-qualified and credited deed-restricted affordable housing units being constructed. If there is any shortfall in amount paid for the new COAH-qualified and credited deed-restricted Affordable Housing Project out of affordable housing trust funds and the actual amount owed the Utility pursuant to subsection 12-7.4 of the Code, said shortfall shall be the sole responsibility of the Affordable Housing Developer.

2. **Compliance with Chapter XII. Sewer and Water of the Montgomery Township Code (1984).** Affordable Housing Developer hereby acknowledges its familiarity with an agreement to abide by Chapter XII, Sewer and Water, of the Code also known as the "Sewer Rate and Regulation Ordinance of the Township of Montgomery," and as the same may be amended from time to time. Accordingly, and as may be applicable, Affordable Housing Developer agrees to obtain at its expense: (a) a sewer connection permit; and (b) a street opening and/or excavation permit as may be required to effect the connection of the COAH-qualified and credited deed-restricted Affordable Housing Project to the Utility's sanitary sewer system. In addition, and without limitation, Affordable Housing Developer agrees to pay annual sewer user charges.

3. **Successors and Assigns Bound.** The provisions of this Agreement shall inure to the benefit of and be obligatory upon the respective parties hereto and their successors and assigns.

4. **Waiver.** The waiver of any provision of this Agreement shall only be effective if made in writing.

5. **Construction of Agreement.** This Agreement was prepared jointly and shall be construed on parity between the parties.

6. **Notice of Third Party Actions.** The parties agree to provide each other with immediate notice of any lawsuits, action or governmental declaration, threatened or pending of which they are actually aware which may affect the provisions of this Agreement or implementation thereof.

7. **Authority.** Each party represents that it has the authority from its governing body, board or member, as the case may be, to enter into this Agreement.

8. **Invalidity.** If any provision of this Agreement is determined by a court, COAH, the New Jersey Department of Community Affairs Division of Local Planning Services and/or any successor agency to be invalid, void or unenforceable, either party may, by written notice to the other party,

terminate this Agreement, in which event, neither party shall have any further responsibility to the other with respect to the terms and conditions of this Agreement.

9. **Notices.** All notices required under this Agreement shall be in writing and shall be served upon the respective parties by certified mail, return receipt requested, or by recognized overnight or personal carrier. In addition, where feasible (for example, transmittals of less than fifty pages), copies shall be served by facsimile or e-mail. All notices shall be received upon the date of delivery. In addition, copies of any notice shall be sent to each Party's respective counsel and other officials, addressed as follows:

a. Copies of notices to the Township shall be sent to the Township Clerk, Planning Director and Township Attorney serving in such capacity as of the date of such notice. As of the date of this Agreement and effective until changed, such notices shall be sent to: Donna Kukla, Township Clerk, Montgomery Township Municipal Building, 2261 Van Horne Road, Belle Mead, New Jersey 08502, fax 908-359-3051, e-mail: dkukla@twp.montgomery.nj.us; Lori Savron, Planning Director, Montgomery Township Municipal Building, 2261 Van Horne Road, Belle Mead, New Jersey 08502, fax 908-359-2006, e-mail: lsavron@twp.montgomery.nj.us; and Kristina P. Hadinger, Township Attorney, Mason, Griffin & Pierson, PC, 101 Poor Farm Road Princeton, New Jersey 08540, fax 609-683-7978, e-mail k.hadinger@mgplaw.com.

b. Copies of notices to the Affordable Housing Developer shall be sent to Doug Conkling, Allies, Inc., 1262 Whitehorse-Hamilton Square Road, Building A, Suite 101, Hamilton Square, New Jersey 08690, and David A. Schweizer, Esq., Maniaci, Ciccotta & Schweizer, 6720 Frankford Avenue, Philadelphia, Pennsylvania 19135.

10. **Affordable Housing Agreement.** This Agreement supplements the Agreement entered into between the parties on January 25, 2010.

11. **Captions.** The captions in this Agreement are inserted for convenience of reference only, and are not to be construed as defining, limiting or modifying the scope and intent of the various provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year set forth above.

ATTEST:

Don Tretola

Don Tretola, VP of Public Affairs

Allies, Inc.

By: _____

Elise Tretola, President / CEO

TOWNSHIP OF MONTGOMERY

Donna Kukla

Donna Kukla, Clerk

By: Edward P. Trzaska

Edward Trzaska, Mayor

AGREEMENT
PINE KNOLL-ALLIES, INC.

THIS AGREEMENT is made this 25th day of January, 2010, by and between the Township of Montgomery in Somerset County, a municipal corporation of the State of New Jersey, having an address of 2261 Van Horne Road, Belle Mead, New Jersey 08502 ("**Township**") and, Allies, Inc., a non-profit corporation of the State of New Jersey having an address of 1262 Whitehorse-Hamilton Square Road, Building A, Suite 101, Hamilton Square, New Jersey 08690 ("**Allies**").

FACTUAL RECITALS

A. The Township owns certain real property located on Burnt Hill and The Great Roads, designated as Block 26001, Lot 1, on the Tax Assessment Maps of the Township of Montgomery (2008 rev. ed.), said real property being commonly known as Skillman Village.

B. An unused residence called "Pine Knoll" is situated on said real property in close proximity to Burnt Hill Road.

C. Allies is a not-for-profit organization dedicated to providing a variety of services, including residential services, to individuals with disabilities and, as part of its residential services, Allies creates and operates affordable housing group homes for individuals with disabilities.

D. The New Jersey Supreme Court has determined that developing municipalities have a constitutional obligation to provide realistic opportunities, through land use regulations, for the development of affordable housing. This obligation, known as the "Mt. Laurel Doctrine," is set forth in, among other decisions, South Burlington

H. The Township has petitioned COAH for third round substantive certification of its adopted Housing Plan Element and Fair Share Plan ("**HPE & FSP**") pursuant to COAH's rules.

I. Allies is desirous of developing and operating the Pine Knoll residence for supportive and special needs housing as a six-bedroom group home for COAH-qualified individuals in compliance with COAH's rules, and the Township is desirous of having the Pine Knoll residence used as supportive and special needs housing as proposed by Allies.

J. Allies will provide needed housing opportunities for income-qualified individuals with disabilities and assist the Township in meeting its fair share obligation.

K. The Township included this Allies project for the Pine Knoll residence within the HPE & FSP submitted to COAH as a compliance mechanism for achieving a portion of the Township's fair share obligation determined by COAH.

L. N.J.S.A. 52:27D-311 provides for the donation of municipally-owned land for the purposes of providing low and moderate income housing and N.J.S.A. 52:27D-325 permits the conveyance of municipally-owned real property by resolution of the governing body authorizing the private conveyance of said real property where the conveyance is to a non-profit entity and contains a contractual guarantee that the housing will remain available to low and moderate income households for a period of at least thirty (30) years.

M. In addition, N.J.S.A. 40A:12-21 permits the Township to convey public lands not otherwise needed to a duly incorporated non-profit organization with a principal purpose of the education or treatment of persons afflicted with developmental disabilities

or to any duly incorporated non-profit housing corporation for the purpose of constructing housing for low or moderate persons or families of handicapped persons.

N. The land on which the Pine Knoll residence is located comprises 256∀ acres in its entirety and it is necessary to subdivide the Pine Knoll residence and curtilage from the entire Skillman Village property in order to convey the same to Allies. The approximate area to be subdivided is depicted on an aerial map dated September 23, 2009 entitled "Pine Knoll House," attached hereto and made part hereof as **Exhibit A**.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Township and Allies, intending to be bound, agree as follows:

1. **Preamble**. The factual recitals set forth hereinabove are hereby made an integral part of this Agreement.

2. **Allies Project**. Allies agrees to renovate the Pine Knoll residence to operate supportive and special needs housing for income-qualified individuals with developmental disabilities, consistent with regulations and/or licensing requirements of the New Jersey Department of Human Services. The residence will be used, for a six-bedroom group home, qualifying the Township for six COAH credits and shall not be age-restricted. Allies will provide support of the resident developmentally disabled individuals including, but not limited to, participation in community integrated activities and normal daily living needs. The renovations shall be completed by Allies at its sole cost and expense in accordance with all applicable building codes and other pertinent regulations in order to maintain the eligibility of the Pine Knoll residence for six COAH credits. Hereafter, the work to be undertaken by Allies as described herein may be referred to as the "Allies Project."

3. **Subdivision.** The Township shall undertake, at its cost and expense, a subdivision of the Pine Knoll residence from the balance of the Skillman Village property generally in accordance with Exhibit A. The resulting size of the new lot upon which the Pine Knoll residence will be situated will be 0.9598∀ acres. Allies shall cooperate with the Township in the Township's pursuit of subdivision approval and shall be available to sign such documents as may be required by the applicable development board and to provide testimony before said board. If the subdivision application is denied, or contains conditions unacceptable to either the Township or Allies, the parties shall meet and attempt to cooperatively address the issues giving rise to the denial or unacceptable conditions. If, in good faith, the parties are not able to satisfactorily resolve the denial or unacceptable conditions, either party may terminate this Agreement.

4. **Conveyance.** Following perfection of the subdivision the Township will convey the newly subdivided lot as generally depicted on Exhibit A (hereinafter "Pine Knoll Property") to Allies. The consideration recited in the deed of conveyance shall be one dollar ($1.00). The deed shall contain a limitation that the Pine Knoll Property, inclusive of improvements, shall only be used for the purposes identified and set forth herein (*see, e.g.*, Recitals L and M, and paragraph 2), and that if not so used such that the Township would be deprived of current or future credits towards its obligations pursuant to the Mt. Laurel Doctrine, title shall revert to the Township without entry or re-entry made thereon on behalf of the Township. Said limitation shall be for a period of thirty years from the date of the conveyance and, at the sole option of the Township, may be extended for additional periods of at least thirty years each by the filing of a notice in the Office of the Somerset County Clerk referencing the deed of the conveyance and the

extension of the restrictions. An affordable housing agreement and declaration of covenants, conditions and restrictions in a form acceptable to the Township and Allies shall be executed by Allies and recorded simultaneously with the deed of conveyance vesting title in Allies. The declaration will set forth the affordability restrictions that will encumber the Pine Knoll Property, binding the parties hereto and their respective heirs, successors and assigns.

5. **Compliance with COAH Approvals.**

a. Allies agrees to construct and operate the Allies Project in accordance with the provisions set forth in the Township's third round HPE & FSP, or such plan as receives substantive of certification from COAH, including the required number of bedrooms set forth in the plan, the income requirements and any other requirements or restrictions regarding the nature of the project to be build by Allies.

b. Allies agrees to administer the Allies Project in accordance with COAH's rules and the terms and conditions of the Township's HPE & FSP as receives substantive certification from COAH.

c. It is the express intent of the parties hereto that Allies shall properly manage the group home in Pine Knoll, that the Township shall not be involved in the daily operation of the group home and only reserves the rights set forth herein to ensure proper operation of the group home in accordance with applicable law, and COAH's rules. Allies shall maintain the group home in a peaceable and lawful manner consistent with applicable statutes, regulations, building codes, and local ordinances. The exterior of the residence shall be maintained in a neat and orderly fashion, and the lawn regularly mowed.

6. **Renovation Responsibilities.** The parties agree that responsibilities for the renovation of Pine Knoll shall be as follows:

a. The Township shall, at its cost and expense, secure the subdivision of the Pine Knoll Property from the balance of the Skillman Village property and transfer title to the Pine Knoll Property to Allies. The Township shall make sanitary sewer service available to Allies in the Skillman Village sewage treatment plant (hereinafter "**STP**"); however, the cost of connection thereto, capacity and sewer user charges shall be borne by Allies. Prior to conveyance of the Pine Knoll Property to Allies as set forth in paragraph 4 above, the Township shall, at its cost, televise existing sewerage to be utilized for the conveyance of sewage generated from the Pine Knoll residence to the STP. If said sewerage cannot effectively convey the sewage from the Pine Knoll residence to the STP consistent with reasonable engineering practices and is in need of repair, the parties shall meet and attempt to cooperatively address the necessary repairs. If, in good faith, the parties are not able to satisfactorily resolve the necessary repairs, either party may terminate this Agreement.

b. Allies shall, at its cost and expense, renovate the Pine Knoll residence, and secure any and all permits necessary therefor. Allies will not have to apply for any zoning variance or any other land use variances in order to complete the Allies Project because the Township is responsible for securing development approvals necessary to effectuate the subdivision of the Pine Knoll residence from Skillman Village to further the Allies Project.

7. **Renovation Schedule.**

a. Allies shall secure all necessary funding commitments on or before January 31, 2010.

b. The Township shall obtain the subdivision approval on or before July 15, 2010.

c. Allies shall begin renovation of the Pine Knoll residence on or within ninety (90) days of closing.

d. Allies shall complete the renovations of the Pine Knoll residence and secure a Certificate of Occupancy within one (1) year of closing.

e. These deadlines may be extended by mutual written agreement of the parties.

8. **Funding.**

a. Funding for the development of the Allies Project is anticipated to come from a commercial lending institution. The Township agrees to assist Allies in making any additional grant and/or loan applications, pursuant to the Act, to various County, State, Federal and private agencies to fund the Allies Project. The applications may be for improvements, professional fees and other "soft costs," and/or additional improvements beyond the original scope of development provided the Township has approved said additional improvements. Allies shall pursue such subsidies as may be available for the low and moderate income housing units and such other financial support as may be available through County, State, Federal and/or private agencies.

b. If Allies is unable to secure the necessary financing for part or all of the Allies Project, Allies agrees to provide the Township with an analysis and computation of the amount of funding needed to meet any shortfall, copies of any

funding commitments for the Allies Project, a detailed cost estimate for completion of the project, and any other information the Township may require for such analysis of the Project's financial status. The Township may provide funding from the Township's Affordable Housing Trust Fund, use its best efforts to issue bonds and make the proceeds of such bonds available to Allies, or terminate the Allies Project. In the case of a default by Allies, the Township may exercise all controls over the Allies Project necessary to protect its separate interest, subject to the direction of the Township Attorney, including the right to take control of the Allies Project, subject to proper notice and an opportunity to cure as set forth in Paragraph 11.

9. **Status Reports.** Until commencement of full operation of the Pine Knoll residence by Allies, Allies shall file a written report with the Township Clerk stating its operational and construction status, activities since last report, and all other work done in furtherance of the housing opportunities, on a quarterly basis.

10. **Insurance.** From the date of conveyance of the Pine Knoll Property, Allies shall purchase and keep current, all necessary insurance identified by the Township's insurance consultant, including but not limited to general liability insurance and workers compensation coverage, and shall list the Township as an additional named insured on its policies and require any contractors to do the same. The face amount of all insurance policies shall be approved by the Township's insurance consultant. Failure to maintain such coverage shall be deemed a material breach of this Agreement.

11. **Diligent Prosecution.** The Parties agree that they shall each use their best efforts to diligently prosecute obtaining all necessary funding and construction approvals for the Project. Allies shall diligently prosecute the construction of the Allies

Project to a completion, which shall be defined as the issuance of an unconditional certificate of occupancy for the Pine Knoll residence by the Township. In the event Allies abandons the project or fails to diligently prosecute the construction of the Project to completion, the Township may terminate this Agreement without any consideration to be paid to Allies.

12. **Parties.** Allies and the Township, and all parties who lawfully succeed to their right and responsibilities, shall be bound by this Agreement.

13. **Entire Agreement.** The Agreement represents the entire agreement between the parties and can only be changed in writing by both Allies and the Township.

14. **Controlling Law.** This Agreement shall be interpreted under the laws of the State of New Jersey.

15. **Deficiencies and Cure.** In the event that the Township believes that the actions of Allies, in the construction and/or operation of the Allies Project, are not consistent with or violate the express provisions, intent or purpose of the Agreement, the Township shall provide written notice to Allies of such deficiencies. Allies shall have sixty (60) days from the date of notice to cure such deficiencies. If the deficiencies are not cured within sixty (60) days, or within such extension(s) as may be granted by the Township of Montgomery, the Township shall, at a public meeting, determine if Allies is in default of this Agreement and take such action as the Township deems necessary. Further, in the event the deficiencies are of such nature that the Township could reasonably be deprived of current or future credits towards its obligations pursuant to the Mt. Laurel Doctrine, the Township may declare this Agreement void. If the Agreement

is deemed void by the Township, Allies shall, within sixty (60) days of such determination, vacate the Allies Property.

16. **Notices.** All notices required under this Agreement shall be sent via certified mail, return receipt requested to the following;

To Allies:

Allies, Inc.
1262 Whitehorse-Hamilton Square Road
Building A, Suite 101
Hamilton Square, New Jersey 08690

David A. Schweizer, Esquire
Maniaci, Ciccotta & Schweizer
6720 Frankford Avenue
Philadelphia, Pennsylvania 19135

To the Township:

Township of Montgomery
2261 Van Horne Road
Belle Mead, New Jersey 08502

Kristina P. Hadinger, Esq.
Mason, Griffin & Pierson, P.C.
101 Poor Farm Road
Princeton, New Jersey 08540

17. **Cooperation With Other Entities.** The parties agree that Allies may complete the Project in cooperation with other entities committed to the support individuals with disabilities, including Global Communities of Support.

[REMINDER OF PAGE INTENTIONALLY LEFT BLANK]

18. **Signatures.** Allies and the Township agree to the terms and conditions contained in this Agreement. This Agreement is being made by two corporations and the proper corporate officers of each corporation have been authorized to sign and affix the corporate seals on the date first written above.

Attest:

The Township of Montgomery, a municipal corporation of the State of New Jersey

Donna Kukla, Township Clerk

Mark Caliguire, Mayor

Allies, Inc., a non-profit corporation of the State of New Jersey

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24. Third Round: Community Options Group Homes

LORI A. SAVRON, AICP/PP
Planning Director

Township of Montgomery
County of Somerset

Municipal Building
2261 Van Horne Road
(Route 206)
Belle Mead, NJ 08502
Tel. (908) 359-8211
Fax (908) 359-2006
Lsavron@twp.montgomery.nj.us

April 27, 2018

Mr. Robert Stack
President & CEO
Community Options, Inc.
16 Farber Road
Princeton, New Jersey 08540

Dear Mr. Stack,

The purpose of this letter is to inform you that the Township of Montgomery has committed to fund three (3) group home projects for Community Options, Inc. The Township will provide $50,000 per bedroom unit, with an aggregate total of $600,000. Community Options, Inc. will be responsible for the acquisition, renovation and operation of the group homes for very-low income qualified individuals with developmental disabilities.

Funding is contingent upon the execution of a Funding Agreement for each property and the governing body of Montgomery adopting an ordinance authorizing the expenditure of funds.

Sincerely,

Lori Savron, AICP/PP
Planning Director
Township of Montgomery

FUNDING AGREEMENT

This Funding Agreement ("**Agreement**") is made and dated on 5/16, 2018, by and between:

> The Township of Montgomery, in Somerset County, a municipal corporation of the State of New Jersey, having an address at 2261 Van Horne Road, Belle Mead, New Jersey 08502 ("**Montgomery**"), and
>
> Community Options, Inc., having an address at 16 Farber Road, Princeton, New Jersey 08540 ("**COI**").

Whereas, COI intends to acquire three four-bedroom dwellings, or three dwellings that will be converted by COI to four-bedroom dwellings, or a combination thereof such that, ultimately, COI will have three four-bedroom dwellings in the Township of Montgomery, County of Somerset, (the "**Properties**");

Whereas, COI is acquiring the Properties for the purpose of renovating, creating and operating group homes for very-low income qualified individuals with developmental disabilities (the "**Group Home Projects**");

Whereas, the Group Home Projects shall provide for a total of twelve (12) bedrooms, each bedroom being a "**unit**;"

Whereas, pursuant to the Fair Housing Act (P.L. 1985, c. 222) (the "**Act**"), municipalities in the State of New Jersey are required to provide their fair share of housing that is affordable to very-low, low and moderate income households in accordance with the provisions of the act;

Whereas, Montgomery administers the Montgomery Township Affordable Housing Program for the purpose of meeting its fair share affordable housing obligation in accordance with the provisions of the Act;

Whereas, as part of its Affordable Housing Program, Montgomery administers an Affordable Housing Trust Fund;

Whereas, the New Jersey Council on Affordable Housing ("**COAH**") regulations at N.J.A.C. 5:93-5.8 credit group homes as affordable housing by the bedroom and, as used herein "**COAH**" shall also be deemed to mean any successor agency or the courts;

Whereas, COI and Montgomery wish to restrict the Properties for use solely as very-low income affordable housing defined as housing for individuals with incomes of no more than 30% of the regional median income per N.J.S.A. 52:27D-329.1 for income qualified individuals with developmental disabilities;

Whereas, contingent upon (a) the governing body of Montgomery adopting an ordinance authorizing the expenditure of funds to partially reimburse COI for the provision of twelve very-low income units through the acquisition of the Properties and/or to fund the renovation and creation of the Group Home Projects, and (b) approval by the New Jersey Superior Court, Montgomery shall contribute the sum of Fifty Thousand Dollars ($50,000.00) per bedroom for a total of Six Hundred Thousand Dollars ($600,000.00) toward partially reimbursing COI for the provision of twelve very-low income units through its acquisition of the Properties and/or to fund the renovation and creation of the Group Home Projects in consideration of COI executing Declarations of Covenants, Conditions, and Restrictions (the "**Declarations**") in a substantially similar format as that attached hereto as **Exhibit A**, restricting the Properties for very-low income affordable housing purposes, which Declarations shall be recorded in the Office of the Somerset County Clerk following the recording of the deed of conveyance vesting title to each of the Properties in COI;

Whereas, COI will obtain any additional funding or gap financing from other sources and/or shall contribute all additional funds necessary for the renovation and creation of the Group Home Projects;

Whereas, the Declarations shall implement affordable housing controls on the Properties, and shall ensure that the Properties remains affordable to very-low income qualified individuals with developmental disabilities for a period of at least thirty (30) years from the date the Declarations are recorded in the Office of the Somerset County Clerk, which dates may be extended by Montgomery at its sole discretion;

Whereas, pursuant to the Declarations, the Properties shall be a part of the Montgomery Affordable Housing Program, subject to the rules and regulations of the Montgomery Affordable Housing Program and COAH;

Whereas, the Group Home Projects shall provide Montgomery with twelve (12) credits for three group homes with four (4) bedrooms per group home toward Montgomery's fair share affordable housing obligation pursuant to COAH requirements; and

Whereas, the Declarations shall be executed by COI and shall be recorded following recording of the deeds of conveyance vesting title to the Property in COI.

Now, Therefore, in consideration of the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties hereto, Montgomery and COI agree as follows:

1. The aforesaid preamble to this Agreement is incorporated in this Agreement as if set forth at length herein.

2. It is the intent and purpose of this Agreement to ensure that the affordable housing controls contained herein are implemented and recorded to restrict the Properties as three affordable housing properties in the Township of Montgomery, each one consisting of four (4) bedrooms and being eligible for four (4) affordable housing credits under the Montgomery Affordable Housing Program and the rules and regulations of COAH, so as to bind COI, its successors, heirs and assigns, to comply with the controls, declarations, covenants, conditions

and restrictions contained in the Declarations, of which COI shall be required to notify all future parties taking title to the Properties, for a period of at least thirty (30) years from the date each of the Declarations is recorded in the Office of the Somerset County Clerk, which period may be extended by Montgomery at its sole discretion. COI agrees the controls, declarations, covenants, conditions and restrictions on the affordable units contained in the Declarations may be extended at such time deemed necessary in the future by the Township in accordance with governing law or regulation, including, but not limited to rules adopted by COAH and/or the Uniform Housing and Affordability Control regulations, N.J.A.C. 5:80-26, et seq. COI agrees the Declarations shall take priority over all other liens on the Properties.

3. Contingent upon the governing body of Montgomery adopting an ordinance authorizing the expenditure of funds from the Montgomery Affordable Housing Trust Fund towards the partial reimbursement for the provision of very-low income units through the purchase and/or renovation of the Properties and approval by the New Jersey Superior Court, Montgomery shall contribute the total sum of Six Hundred Thousand Dollars ($600,000.00) toward partially reimbursing COI's provision of very-low income units through the acquisition of the Properties and/or renovation and creation of the Group Home Projects in consideration of COI executing the Declarations, and recording the Declarations following the recording of the deeds of conveyance vesting title to the Properties in COI. More specifically, payment shall be made in the following manner:

   a. Not later than thirty (30) days of COI acquiring a four-bedroom dwelling, executing and recording a Declaration, the Township shall pay COI $200,000.00;

   b. Not later than thirty (30) days of COI acquiring a dwelling with less than four bedrooms, completing the conversion of same to a four-bedroom dwelling, and executing and recording a Declaration, the Township shall pay COI $200,000.00. As used herein "**completing the conversion**" shall mean that a certificate of occupancy has been obtained by COI for the conversion.

4. COI shall obtain any additional funding or gap financing from other source(s) and/or shall contribute all additional funds necessary for the renovation and creation of the Group Home Projects.

5. The Group Home Projects will consist of three homes each with a minimum of four (4) bedrooms, providing Montgomery with twelve (12) units of affordable housing pursuant to COAH rules and regulations. The parties acknowledge that COAH does not have regulations for affirmative marketing for group homes although COAH's required group home monitoring surveys permit group homes to rely on the state-wide waiting list of qualified individuals from the Division of Developmental Disabilities ("**DDD**") in the Department of Human Services. As used herein "**DDD**" shall also mean any successor agency or division. COI shall therefore be responsible for filling the twelve (12) bedrooms and any subsequent re-rental of any of the bedrooms with very-low income qualified individuals with developmental disabilities utilizing the DDD state-wide list for developmentally disabled residents.

6. COI will undertake the renovation, creation and operation of the Group Home Projects, and shall be responsible for making the Properties ADA accessible.

7. COI shall keep Montgomery informed of the status of the creation and renovation of the Group Home Projects, and shall provide documentation regarding the same as may be requested by Montgomery.

8. COI agrees to complete the acquisitions contemplated by this Agreement, create the three Group Home Projects, record the Declarations, and ensure that all of the Group Home Projects are lawfully occupied by qualified individuals no later than July 31, 2020, unless both parties agree in writing to extend the date, and said extension is approved by the Superior Court.

9. This Agreement can only be assigned or changed by an agreement in writing signed by both parties hereto.

10. This Agreement is binding upon all parties who sign it and all who succeed to their rights and responsibilities.

11. All notices under this Agreement must be in writing. The notices must be delivered personally or mailed by certified mail, return receipt requested, to the other party at the address written in this Agreement, or to that party's attorney. Notices may also be sent electronically.

12. This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey.

13. The authorized corporate officers of COI and Montgomery sign this Agreement with authority provided by their respective governing bodies.

14. The Effective Date of this Agreement shall be the date first stated above on Page 1.

In Witness Whereof the parties have caused this Agreement to be approved and executed by their duly authorized representatives, fully intending to be bound hereby.

SIGNED AND AGREED TO BY:

Township of Montgomery

Donna Kukla

Donna Kukla, Clerk

Mark Conforti

By: Mark Conforti, Mayor

Community Options, Inc.

David Sweeney, CFO

By: Robert Stark, CEO

CERTIFICATE

NEW JERSEY UNIFORM CONSTRUCTION CODE

Permit # 19-0429
Date Issued 4/23/19
-or-
Control #
Certificate Issued Date: 2/26/2020

IDENTIFICATION

Block 7003 Lot 1 Qualification Code

Work Site Location 91 Willow Run Lane
Belle Mead, NJ 08502

Owner in Fee Community Options

Address 16 Farrer Rd.
Princeton, NJ 08540

Tel. (609) 951 9900

Contractor Storcella & Nocera Cont. LLC

Address 2115 Hamilton Ave.
Hamilton, NJ 08619

Tel. (609) 586 2100 FAX (____)

Lic. No. or Bldrs. Reg. No. 13VH04007000

Federal Employer No. 22 3389410

Home Warranty No. n/a

Type of Warranty Plan: [ ] State [ ] Private

Use Group R5

Maximum Live Load n/a

Construction Classification n/a

Maximum Occupancy Load n/a

Description of Work/Use:

Renovation of 4 bedroom single family dwelling
Foundation repair, replace furnace & a/c, add
2 handicap ramps, smoke detectors & co detectors
and residential sprinklers.

☐ **CERTIFICATE OF OCCUPANCY**

This serves notice that said building or structure has been constructed in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

☑ **CERTIFICATE OF APPROVAL**

This serves notice that the work completed has been constructed or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of the inspection.

☐ **TEMPORARY CERTIFICATE OF OCCUPANCY/COMPLIANCE**

If this is a temporary Certificate of Occupancy or Compliance, the following conditions must be met no later than _____ or will be subject to fine or order to vacate:

☐ **CERTIFICATE OF CLEARANCE – LEAD ABATEMENT 5:17**

This serves notice that based on written certification, lead abatement was performed as per NJAC 5:17, to the following extent:

[ ] Total removal of lead-based paint hazards in scope of work

[ ] Partial or limited time period (_____ years); see file

☐ **CERTIFICATE OF CONTINUED OCCUPANCY**

This serves notice that based on a general inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

☐ **CERTIFICATE OF COMPLIANCE**

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until _____.

Ray Mc... 2-26-2020

CONSTRUCTION OFFICIAL DATE

Fee $ n/a

Paid [ ] Check No. _____

Collected by: _____

U.C.C. F260
(rev. 8/05)

1 WHITE – APPLICANT 2 CANARY – OFFICE 3 PINK – TAX ASSESSOR

Steve Peter
Somerset County Clerk
20 Grove Street
P.O. Box 3000
Somerville, NJ 08876

****

Date Recorded:	3/14/2019	11:18:59 AM
Recorded By:	ELLMER	
Book & Page:	OPR 7105	858-862
Instrument No.:	2019008423	
Number of Pages:	5	
Document Type:	AGREEMENT DEED	
Recording Fee (inc all addtl charges):	$63.00	

****

DO NOT DISCARD

SOMERSET COUNTY

DOCUMENT COVER SHEET

HON. STEVE PETER
SOMERSET COUNTY CLERK
PO BOX 3000
20 GROVE STREET
SOMERVILLE, NJ 08876

WWW.CO.SOMERSET.NJ.US

INSTRUMENT # 2019008423

BOOK: 7105 PAGE: 858-862

DATE OF DOCUMENT: 1/30/2019	TYPE OF DOCUMENT: Deed Restriction
FIRST PARTY (*Grantor, Mortgagor, Seller or Assignor*)	SECOND PARTY (*Grantee, Mortgagee, Buyer, Assignee*)
Community Options, Inc.	Township of Montgomery
ADDITIONAL PARTIES:	

THE FOLLOWING SECTION IS REQUIRED FOR DEEDS ONLY	
MUNICIPALITY: Montgomery	MAILING ADDRESS OF GRANTEE:
BLOCK: 7003	
LOT: 1	DANNA ANTHONY COMMUNITY OPTIONS INC 16 FARBER ROAD PRINCETON, NJ 08540
CONSIDERATION:	

THE FOLLOWING SECTION IS FOR ORIGINAL MORTGAGE BOOKING & PAGING INFORMATION FOR ASSIGNMENTS, RELEASES, SATISFACTIONS, DISCHARGES & OTHER ORIGINAL MORTGAGE AGREEMENTS ONLY			
BOOK	PAGE	INSTRUMENT #	DOCUMENT TYPE

DO NOT REMOVE THIS PAGE

THIS DOCUMENT COVER SHEET IS PART OF THE SOMERSET COUNTY FILING RECORD

RETAIN THIS PAGE FOR FUTURE REFERENCE

Declaration of Covenants, Conditions and Restrictions
Implementing Affordable Housing Controls

Covenants Restricting Group Home Use

THIS DECLARATION is made this 31st day of January, 2019, by and between COMMUNITY OPTIONS, INC., a New Jersey based non-profit corporation ("Community Options") or its successor, with offices at 16 Farber Road, Princeton, NJ 08540 and the TOWNSHIP OF MONTGOMERY, a municipal corporation of the State of New Jersey ("Township") with offices at 2261 Rt. 206, Belle Mead, NJ 08502;

WHEREAS, Community Options is the owner of land located in the Township of Montgomery, County of Somerset and State of New Jersey, and described more specifically as 91 Willow Run Lane, Belle Mead, NJ (Block 7003, Lot 1) on which there has been constructed a residential dwelling to be used as a four-bedroom very low-income group home for developmentally disabled and mentally ill persons (the "group home"); and

WHEREAS, municipalities within the State of New Jersey have a constitutional obligation to provide affordable housing and are required by the Fair Housing Act (P.L. 1985, c. 222) (hereinafter the "Act") to provide for their fair share of housing that is affordable to individuals or households with very low-incomes in accordance with the provisions of the Act; and

WHEREAS, the Act requires that municipalities insure that such designated housing remains affordable to very low income households for a designated period of time; and

WHEREAS, to satisfy its affordable housing obligation the Township entered into an agreement with Community Options to advance $50,000 for each affordable housing credit (bedroom) created by Community Options for an alternative living arrangement (group home) for developmentally disabled and mentally ill persons; and

WHEREAS, the purpose of this Declaration is to insure that the group home remains affordable to very low-income eligible households for the Control Period described in Article 1 of this Declaration;

NOW THEREFORE, in consideration of the payment of $50,000 for each group home bedroom for a total Township contribution of $200,000 for a four-bedroom group home, it is the intent of this Declaration to insure that the affordability controls are recorded on the property so as to bind the owner of the property to the covenants, conditions and restrictions contained herein; to notify all future purchasers that the group home is encumbered with affordability controls, and to enable the Township to take such actions as may be necessary to maintain the affordability controls for at least thirty (30) years.

ARTICLE 1. AFFORDABLE HOUSING COVENANTS (RENTALS)

The following covenants (the "Covenants") shall run with the land, known as 91 Willow Run Lane for a period of at least thirty (30) years from the date of the filling of this Declaration of Covenants, Conditions and Restrictions ("Control Period").

A. Sale and use of the land and group home is governed by regulations known as the Uniform Housing Affordability Controls, which are found in New Jersey Administrative Code at Title 5, chapter 80, subchapter 26 (N.J.A.C. 5:80-26.1, et seq., the "Uniform Controls").

B. The land and group home shall be used solely for the purpose of providing rental dwelling units for very low-income persons in need of alternative living arrangements, and no commitment for this group home shall be given or implied, without securing documentation with which the Township's Administrative Agent could issue a certificate of eligibility.

C. So long as the group home remains within its Control Period, its sale may only be undertaken if the Township is notified of the proposed sale at least thirty (30) days prior thereto and if the sale is in conformance with the administrative regulations governing the sale of a rental dwelling subject to affordable housing controls as approved in advance by the Township. The Township agrees that its approval shall not be unreasonably withheld, delayed or conditioned.

D. No improvements may be made to the group home that would affect its bedroom configuration unless requested by Community Options and approved by the Township, same to be in accordance with all applicable regulations as they may be amended from time to time.

E. Any mortgage lien holder now existing, or its successors or assigns, shall notify the Township of any foreclosure actions filed with respect to the group home within (5) business days of service upon Owner. The restrictions contained in this Declaration are subordinate to any mortgage currently recorded against the group home and shall be subordinate to any refinancing of such mortgage.

F. Community Options, its successors or assigns, shall notify the Township within three (3) business days of the filling of any petition for protection from creditors or reorganization filed by or on behalf of the Owner.

G. The affordability controls will remain in effect despite the occurrence of any of the following events; a sublease or assignment of the lease of the group home; a sale or other voluntary transfer of the ownership of the group home; or, the entry and enforcement of any judgment of foreclosure.

ARTICLE 2. REMEDIES FOR BREACH OF AFFORDABLE HOUSING COVENANTS

A breach of this Declaration of Covenants, Conditions and Restrictions will cause irreparable harm to the Township and to the public, in light of the public policies set forth in the New Jersey Fair Housing Act, the Uniform Housing Affordability Control rules found at N.J.A.C. 5:80-26.1, and the obligation for the provision of affordable housing. Accordingly, in the event of a threatened or actual breach of this Declaration of Covenants, Conditions and Restrictions by Community Options, the Township shall have all remedies provided at law or equity, including, but not limited to, those set forth in the administrative regulations governing affordable housing and the right to seek injunctive relief or specific performance.

ARTICLE 3. OTHER PROVISIONS

Community Options shall cooperate in following and complying with the Fair Housing Act and with all rules and regulations of COAH, any successor State agency, and the NJ Superior Court, and shall cooperate in any and all necessary actions, to the extent such cooperation is necessary to assist the Township in securing maximum

credits for the group home thereby assisting the Township in fulfilling its affordable housing obligation. Community Options shall complete required affordable housing monitoring forms within 20 days of a request by the Township.

ARTICLE 4. BINDING AGREEMENT

This Declaration of Covenants, Conditions and Restrictions shall be binding on Community Options, its successors and assigns, and shall run with the land.

IN WITNESS WHEREOF, Community Options has caused this instrument to be executed by its duly authorized and proper officer, this 30th day of January, 2019

ATTEST:

COMMUNITY OPTIONS, INC

By:

Svetlana Repic-Qira, Secretary

Robert P. Stack, Pres/CEO

STATE OF NEW JERSEY, COUNTY OF MERCER

I CERTIFY that on the 30th day of January, 2019, Robert P. Stack personally came before me and this person acknowledged under oath to my satisfaction that.

(a) This person is the Pres/CEO of COMMUNITY OPTIONS, INC. the corporation named in the Declaration of Covenants, Conditions and Restrictions;

(b) This person is the attesting witness to the sign of this Declaration of Covenants, Conditions and Restriction by the proper corporate officer who is President, the CEO of the corporation;

(c) This Declaration of Covenants, Conditions and Restriction was signed and delivered by the corporation as its voluntary act duly authorized by a proper resolution of its Board of Directors:

(d) This person knows the proper seal of the corporation which was affixed to this Declaration of Covenants, Conditions and Restriction;

(e) This person signed this proof of attest to the truth of these facts.

Notary Public of the State of New Jersey

DANNA MARIE ANTHONY
NOTARY PUBLIC OF NEW JERSEY
Comm. # 2417993
My Commission Expires 03/01/2022

CERTIFICATE

Permit # 21-0317
Date Issued 3/15/21
- or -
Control #
Certificate Issued Date: 7/22/21

IDENTIFICATION

Block 4066 Lot 7 Qualification Code

Work Site Location 19 Heather Lane
Belle Mead, NJ 08502

Owner in Fee Community Options Enterprises
Address 16 Farber Rd.
Princeton, NJ 08540
Tel. (732) 684 5669

Contractor Simple SLA LLC
Address 1118 Morris Ave.
Point Pleasant, NJ
Tel. (732) 684 5669 FAX( )
Lic. No. or Bldrs. Reg. No. 13VH11278100
Federal Employer No. 834129170

Home Warranty No. n/a
Type of Warranty Plan: [ ] State [ ] Private
Use Group R5
Maximum Live Load n/a
Construction Classification n/a
Maximum Occupancy Load n/a
Description of Work/Use:

Alterations to single family dwelling for ADA access & bathroom. Includes Fire Sprinklers.

☐ **CERTIFICATE OF OCCUPANCY**

This serves notice that said building or structure has been constructed in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

☑ **CERTIFICATE OF APPROVAL**

This serves notice that the work completed has been constructed or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of the inspection.

☐ **TEMPORARY CERTIFICATE OF OCCUPANCY/COMPLIANCE**

If this is a temporary Certificate of Occupancy or Compliance, the following conditions must be met no later than _____ or will be subject to fine or order to vacate:

☐ **CERTIFICATE OF CLEARANCE – LEAD ABATEMENT 5:17**

This serves notice that based on written certification, lead abatement was performed as per NJAC 5:17, to the following extent:

[ ] Total removal of lead-based paint hazards in scope of work
[ ] Partial or limited time period (_____ years); see file

☐ **CERTIFICATE OF CONTINUED OCCUPANCY**

This serves notice that based on a general inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

☐ **CERTIFICATE OF COMPLIANCE**

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until _____.

Ravi Nand
CONSTRUCTION OFFICIAL

7-21-2021
DATE

Fee $ n/a
Paid [ ] Check No.
Collected by:

U.C.C. F260
(rev. 8/05)

1 WHITE – APPLICANT 2 CANARY – OFFICE 3 PINK – TAX ASSESSOR

SOMERSET COUNTY

DOCUMENT COVER SHEET

HON. STEVE PETER
SOMERSET COUNTY CLERK
PO BOX 3000
20 GROVE STREET
SOMERVILLE, NJ 08876

WWW.CO.SOMERSET.NJ.US

Steve Peter, County Clerk
Somerset County, NJ
2021 Mar 24 02:05 PM
BK: 7323 PGS: 3109-3112
Instrument # 2021019188
Fee: $63.00 Doc Type: AGTDEED

(Official Use Only)

DATE OF DOCUMENT: 3/16/2021	TYPE OF DOCUMENT: Deed Restriction
FIRST PARTY (*Grantor, Mortgagor, Seller or Assignor*)	SECOND PARTY (*Grantee, Mortgagee, Buyer, Assignee*)
Community Options, Inc.	Township of Montgomery
ADDITIONAL PARTIES:	

THE FOLLOWING SECTION IS REQUIRED FOR DEEDS ONLY

MUNICIPALITY: Montgomery	MAILING ADDRESS OF GRANTEE:
BLOCK: 4066	
LOT: 7	
CONSIDERATION:	

THE FOLLOWING SECTION IS FOR ORIGINAL MORTGAGE BOOKING & PAGING INFORMATION FOR ASSIGNMENTS, RELEASES, SATISFACTIONS, DISCHARGES & OTHER ORIGINAL MORTGAGE AGREEMENTS ONLY

BOOK	PAGE	INSTRUMENT #	DOCUMENT TYPE

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Declaration of Covenants, Conditions and Restrictions
Implementing Affordable Housing Controls

Covenants Restricting Group Home Use

THIS DECLARATION is made this 16th day of March, 2021, by and between COMMUNITY OPTIONS, INC., a New Jersey based non-profit corporation ("Community Options") or its successor, with offices at 16 Farber Road, Princeton, NJ 08540 and the TOWNSHIP OF MONTGOMERY, a municipal corporation of the State of New Jersey ("Township") with offices at 2261 Rt. 206, Belle Mead, NJ 08502;

WHEREAS, Community Options is the owner of land located in the Township of Montgomery, County of Somerset and State of New Jersey, and described more specifically as 19 Heather Lane, Belle Mead, NJ (Block 4066, Lot 7), on which there has been constructed a residential dwelling to be used as a four-bedroom very low-income group home for developmentally disabled persons (the "group home"); and

WHEREAS, municipalities within the State of New Jersey have a constitutional obligation to provide affordable housing and are required by the Fair Housing Act (P.L. 1985, c. 222) (hereinafter the "Act") to provide for their fair share of housing that is affordable to individuals or households with very low-incomes in accordance with the provisions of the Act; and

WHEREAS, the Act requires that municipalities insure that such designated housing remains affordable to very low income households for a designated period of time; and

WHEREAS, to satisfy its affordable housing obligation the Township entered into an agreement with Community Options to advance $50,000 for each affordable housing credit (bedroom) created by Community Options for an alternative living arrangement (group home) for developmentally disabled persons; and

WHEREAS, the purpose of this Declaration is to insure that the group home remains affordable to very low-income eligible households for the Control Period described in Article 1 of this Declaration;

NOW THEREFORE, in consideration of the payment of $50,000 for each group home bedroom for a total Township contribution of $200,000 for a four-bedroom group home, it is the intent of this Declaration to insure that the affordability controls are recorded on the property so as to bind the owner of the property to the covenants, conditions and restrictions contained herein; to notify all future purchasers that the group home is encumbered with affordability controls, and to enable the Township to take such actions as may be necessary to maintain the affordability controls for at least thirty (30) years.

ARTICLE 1. AFFORDABLE HOUSING COVENANTS (RENTALS)

The following covenants (the "Covenants") shall run with the land, known as 19 Heather Lane for a period of at least thirty (30) years from the date of the filling of this Declaration of Covenants, Conditions and Restrictions ("Control Period").

A. Sale and use of the land and group home is governed by regulations known as the Uniform Housing Affordability Controls, which are found in New Jersey Administrative Code at Title 5, chapter 80, subchapter 26 (N.J.A.C. 5:80-26.1, et seq., the "Uniform Controls").

B. The land and group home shall be used solely for the purpose of providing rental dwelling units for very low-income persons in need of alternative living arrangements, and no commitment for this group home shall be given or implied, without securing documentation with which the Township's Administrative Agent could issue a certificate of eligibility.

C. So long as the group home remains within its Control Period, its sale may only be undertaken if the Township is notified of the proposed sale at least thirty (30) days prior thereto and if the sale is in conformance with the administrative regulations governing the sale of a rental dwelling subject to affordable housing controls as approved in advance by the Township. The Township agrees that its approval shall not be unreasonably withheld, delayed or conditioned.

D. No improvements may be made to the group home that would affect its bedroom configuration unless requested by Community Options and approved by the Township, same to be in accordance with all applicable regulations as they may be amended from time to time.

E. Any mortgage lien holder now existing, or its successors or assigns, shall notify the Township of any foreclosure actions filed with respect to the group home within (5) business days of service upon Owner. The restrictions contained in this Declaration are subordinate to any mortgage currently recorded against the group home and shall be subordinate to any refinancing of such mortgage.

F. Community Options, its successors or assigns, shall notify the Township within three (3) business days of the filling of any petition for protection from creditors or reorganization filed by or on behalf of the Owner.

G. The affordability controls will remain in effect despite the occurrence of any of the following events; a sublease or assignment of the lease of the group home; a sale or other voluntary transfer of the ownership of the group home; or, the entry and enforcement of any judgment of foreclosure.

ARTICLE 2. REMEDIES FOR BREACH OF AFFORDABLE HOUSING COVENANTS

A breach of this Declaration of Covenants, Conditions and Restrictions will cause irreparable harm to the Township and to the public, in light of the public policies set forth in the New Jersey Fair Housing Act, the Uniform Housing Affordability Control rules found at N.J.A.C. 5:80-26.1, and the obligation for the provision of affordable housing. Accordingly, in the event of a threatened or actual breach of this Declaration of Covenants, Conditions and Restrictions by Community Options, the Township shall have all remedies provided at law or equity, including, but not limited to, those set forth in the administrative regulations governing affordable housing and the right to seek injunctive relief or specific performance.

ARTICLE 3. OTHER PROVISIONS

Community Options shall cooperate in following and complying with the Fair Housing Act and with all rules and regulations of COAH, any successor State agency, and the NJ Superior Court, and shall cooperate in any and all necessary actions, to the extent such cooperation is necessary to assist the Township in securing maximum credits for the group home thereby assisting the Township in fulfilling its affordable housing obligation. Community Options shall complete required affordable housing monitoring forms within 20 days of a request by the Township.

ARTICLE 4. BINDING AGREEMENT

This Declaration of Covenants, Conditions and Restrictions shall be binding on Community Options, its successors and assigns, and shall run with the land.

IN WITNESS WHEREOF, Community Options has caused this instrument to be executed by its duly authorized and proper officer, this 16th day of March, 2021

ATTEST:

COMMUNITY OPTIONS, INC

By:

Robert P. Stack, President/CEO

STATE OF NEW JERSEY, COUNTY OF MERCER

I CERTIFY that on the 16th day of March, 2021, Robert P. Stack personally came before me and this person acknowledged under oath to my satisfaction that:

(a) This person is the President/CEO of COMMUNITY OPTIONS, INC. the corporation named in the Declaration of Covenants, Conditions and Restrictions;

(b) This person is the attesting witness to the sign of this Declaration of Covenants, Conditions and Restriction by the proper corporate officer who is President, the CEO of the corporation;

(c) This Declaration of Covenants, Conditions and Restriction was signed and delivered by the corporation as its voluntary act duly authorized by a proper resolution of its Board of Directors:

(d) This person knows the proper seal of the corporation which was affixed to this Declaration of Covenants, Conditions and Restriction;

(e) This person signed this proof of attest to the truth of these facts.

Notary Public of the State of New Jersey

Exp: December 29, 2025

Devon R. Richardson

Record & Return:
Community Options, Inc.
16 Farber Road
Princeton, NJ 08540

Use Restriction -- 19 Heather Lane

CERTIFICATE

Permit # 20-1390
Date issued 12/10/2020
-or-
Control #
Certificate Issued Date: 6/16/21

IDENTIFICATION

Block 6001 Lot 8.04 Qualification Code

Work Site Location 231 Belle Mead Griggstown Rd.
Belle Mead, NJ 08502

Owner in Fee Community Options

Address 16 Farber Rd.
Princeton, NJ

Tel. (609) 951 9900

Contractor Stephen L. Stewart, Jr.

Address 176 Rt. 526
Robbinsville, NJ 08691

Tel. (609) 321 4739 FAX ( )

Lic. No. or Bldrs. Reg. No. 13VH03642100

Federal Employer No. 80 0584048

Home Warranty No. n/a

Type of Warranty Plan: [ ] State [ ] Private

Use Group R5

Maximum Live Load n/a

Construction Classification n/a

Maximum Occupancy Load n/a

Description of Work/Use:

Interior renovations to single family dwelling, Construct ADA bathroom, bedroom & laundry in garage, fire alarms, fire sprinklers.

☑ **CERTIFICATE OF OCCUPANCY**

This serves notice that said building or structure has been constructed in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

☐ **CERTIFICATE OF APPROVAL**

This serves notice that the work completed has been constructed or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of the inspection.

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[ ] Total removal of lead-based paint hazards in scope of work

[ ] Partial or limited time period (_____ years); see file

☐ **CERTIFICATE OF CONTINUED OCCUPANCY**

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☐ **CERTIFICATE OF COMPLIANCE**

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until _____.

Kevin Milone 6-16-2021
CONSTRUCTION OFFICIAL DATE

Fee $ n/a
Paid [ ] Check No.
Collected by:

U.C.C. F260
(rev. 8/05)

1 WHITE – APPLICANT 2 CANARY – OFFICE 3 PINK – TAX ASSESSOR

SOMERSET COUNTY

DOCUMENT COVER SHEET

HON. STEVE PETER
SOMERSET COUNTY CLERK
PO BOX 3000
20 GROVE STREET
SOMERVILLE, NJ 08876

WWW.CO.SOMERSET.NJ.US

Steve Peter, County Clerk
Somerset County, NJ
2021 Mar 24 02:05 PM
BK: 7323 PGS: 3105-3108
Instrument # 2021019187
Fee: $63.00 Doc Type: AGTDEED

(Official Use Only)

DATE OF DOCUMENT: 3/16/2021	TYPE OF DOCUMENT: Deed Restriction
FIRST PARTY (*Grantor, Mortgagor, Seller or Assignor*)	SECOND PARTY (*Grantee, Mortgagee, Buyer, Assignee*)
Community Options, Inc.	Township of Montgomery
ADDITIONAL PARTIES:	

THE FOLLOWING SECTION IS REQUIRED FOR DEEDS ONLY

MUNICIPALITY: Montgomery	MAILING ADDRESS OF GRANTEE:
BLOCK: 6001	
LOT: 8.04	
CONSIDERATION:	

THE FOLLOWING SECTION IS FOR ORIGINAL MORTGAGE BOOKING & PAGING INFORMATION FOR ASSIGNMENTS, RELEASES, SATISFACTIONS, DISCHARGES & OTHER ORIGINAL MORTGAGE AGREEMENTS ONLY

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Declaration of Covenants, Conditions and Restrictions
Implementing Affordable Housing Controls

Covenants Restricting Group Home Use

THIS DECLARATION is made this 16th day of March, 2021, by and between COMMUNITY OPTIONS, INC., a New Jersey based non-profit corporation ("Community Options") or its successor, with offices at 16 Farber Road, Princeton, NJ 08540 and the TOWNSHIP OF MONTGOMERY, a municipal corporation of the State of New Jersey ("Township") with offices at 2261 Rt. 206, Belle Mead, NJ 08502;

WHEREAS, Community Options is the owner of land located in the Township of Montgomery, County of Somerset and State of New Jersey, and described more specifically as 231 Belle Mead-Griggstown Road, Belle Mead, NJ (Block 6001, Lot 8.04) on which there has been constructed a residential dwelling to be used as a four-bedroom very low-income group home for developmentally disabled persons (the "group home"); and

WHEREAS, municipalities within the State of New Jersey have a constitutional obligation to provide affordable housing and are required by the Fair Housing Act (P.L. 1985, c. 222) (hereinafter the "Act") to provide for their fair share of housing that is affordable to individuals or households with very low-incomes in accordance with the provisions of the Act; and

WHEREAS, the Act requires that municipalities insure that such designated housing remains affordable to very low income households for a designated period of time; and

WHEREAS, to satisfy its affordable housing obligation the Township entered into an agreement with Community Options to advance $50,000 for each affordable housing credit (bedroom) created by Community Options for an alternative living arrangement (group home) for developmentally disabled persons; and

WHEREAS, the purpose of this Declaration is to insure that the group home remains affordable to very low-income eligible households for the Control Period described in Article 1 of this Declaration;

NOW THEREFORE, in consideration of the payment of $50,000 for each group home bedroom for a total Township contribution of $200,000 for a four-bedroom group home, it is the intent of this Declaration to insure that the affordability controls are recorded on the property so as to bind the owner of the property to the covenants, conditions and restrictions contained herein; to notify all future purchasers that the group home is encumbered with affordability controls, and to enable the Township to take such actions as may be necessary to maintain the affordability controls for at least thirty (30) years.

ARTICLE 1. AFFORDABLE HOUSING COVENANTS (RENTALS)

The following covenants (the "Covenants") shall run with the land, known as 231 Belle Mead-Griggstown Road for a period of at least thirty (30) years from the date of the filling of this Declaration of Covenants, Conditions and Restrictions ("Control Period").

A. Sale and use of the land and group home is governed by regulations known as the Uniform Housing Affordability Controls, which are found in New Jersey Administrative Code at Title 5, chapter 80, subchapter 26 (N.J.A.C. 5:80-26.1, et seq., the "Uniform Controls").

B. The land and group home shall be used solely for the purpose of providing rental dwelling units for very low-income persons in need of alternative living arrangements, and no commitment for this group home shall be given or implied, without securing documentation with which the Township's Administrative Agent could issue a certificate of eligibility.

C. So long as the group home remains within its Control Period, its sale may only be undertaken if the Township is notified of the proposed sale at least thirty (30) days prior thereto and if the sale is in conformance with the administrative regulations governing the sale of a rental dwelling subject to affordable housing controls as approved in advance by the Township. The Township agrees that its approval shall not be unreasonably withheld, delayed or conditioned.

D. No improvements may be made to the group home that would affect its bedroom configuration unless requested by Community Options and approved by the Township, same to be in accordance with all applicable regulations as they may be amended from time to time.

E. Any mortgage lien holder now existing, or its successors or assigns, shall notify the Township of any foreclosure actions filed with respect to the group home within (5) business days of service upon Owner. The restrictions contained in this Declaration are subordinate to any mortgage currently recorded against the group home and shall be subordinate to any refinancing of such mortgage.

F. Community Options, its successors or assigns, shall notify the Township within three (3) business days of the filling of any petition for protection from creditors or reorganization filed by or on behalf of the Owner.

G. The affordability controls will remain in effect despite the occurrence of any of the following events; a sublease or assignment of the lease of the group home; a sale or other voluntary transfer of the ownership of the group home; or, the entry and enforcement of any judgment of foreclosure.

ARTICLE 2. REMEDIES FOR BREACH OF AFFORDABLE HOUSING COVENANTS

A breach of this Declaration of Covenants, Conditions and Restrictions will cause irreparable harm to the Township and to the public, in light of the public policies set forth in the New Jersey Fair Housing Act, the Uniform Housing Affordability Control rules found at N.J.A.C. 5:80-26.1, and the obligation for the provision of affordable housing. Accordingly, in the event of a threatened or actual breach of this Declaration of Covenants, Conditions and Restrictions by Community Options, the Township shall have all remedies provided at law or equity, including, but not limited to, those set forth in the administrative regulations governing affordable housing and the right to seek injunctive relief or specific performance.

ARTICLE 3. OTHER PROVISIONS

Community Options shall cooperate in following and complying with the Fair Housing Act and with all rules and regulations of COAH, any successor State agency, and the NJ Superior Court, and shall cooperate in any and all necessary actions, to the extent such cooperation is necessary to assist the Township in securing maximum credits for the group home thereby assisting the Township in fulfilling its affordable housing obligation. Community Options shall complete required affordable housing monitoring forms within 20 days of a request by the Township.

ARTICLE 4. BINDING AGREEMENT

This Declaration of Covenants, Conditions and Restrictions shall be binding on Community Options, its successors and assigns, and shall run with the land.

IN WITNESS WHEREOF, Community Options has caused this instrument to be executed by its duly authorized and proper officer, this 16th day of March 2021

ATTEST:

COMMUNITY OPTIONS, INC

By:

Robert P. Stack, President/CEO

STATE OF NEW JERSEY, COUNTY OF MERCER:

I CERTIFY that on the 16th day of March, 2021, Robert P. Stack personally came before me and this person acknowledged under oath to my satisfaction that:

(a) This person is the President/CEO of COMMUNITY OPTIONS, INC. the corporation named in the Declaration of Covenants, Conditions and Restrictions;

(b) This person is the attesting witness to the sign of this Declaration of Covenants, Conditions and Restriction by the proper corporate officer who is President, the CEO of the corporation;

(c) This Declaration of Covenants, Conditions and Restriction was signed and delivered by the corporation as its voluntary act duly authorized by a proper resolution of its Board of Directors:

(d) This person knows the proper seal of the corporation which was affixed to this Declaration of Covenants, Conditions and Restriction;

(e) This person signed this proof of attest to the truth of these facts.

Notary Public of the State of New Jersey

Exp: December-29, 2025

Devon R. Richardson

Record & Return:
Community Options, Inc
16 Farber Road
Princeton, NJ 08540

Use Restriction – 231 Belle Mead-Griggstown Road

25. THIRD ROUND: TAPESTRY ASSISTED LIVING

MONTGOMERY TOWNSHIP PLANNING BOARD
COUNTY OF SOMERSET

Application No. PB-07-22

BPS Development Company LLC – Applicant
Sharbell Plainsboro Inc. – Owner
East Hartwick and Village Drive
Block 28003, Lot 211

FINDINGS OF FACT, CONCLUSIONS AND RESOLUTION GRANTING PRELIMINARY AND FINAL MAJOR SITE PLAN APPROVAL WITH VARIANCES AND DESIGN WAIVERS

WHEREAS, BPS Development Company LLC ("the Applicant") has filed an application seeking preliminary and final major site plan approval with bulk variances and design waivers to allow the construction of a 2-floor, 35,400 square feet footprint (67,730 square feet gross floor area) assisted living and memory care facility containing 80 units with capacity for 91 beds on property located on East Hartwick and Village Drive, Montgomery Township, New Jersey (being Block 28003, Lot 211 on the Montgomery Township Tax Map), in the ARH Age-Restricted Housing District zone ("the Property"); and

WHEREAS, the Board held public hearings on the application on March 27, 2023, and May 8, 2023; and

WHEREAS, the Board entertained jurisdiction over the application pursuant to *N.J.S.A.* 40:55D-37 and the Montgomery Township municipal ordinances; and

WHEREAS, the Applicant has complied with the notification and publication requirements of the Municipal Land Use Law. All property taxes due and owing for the subject property are paid in full as are the current professional fees/escrow account in connection with the within application; and

WHEREAS, the Applicant was represented by Michael Butler, Esq., Eckert Seamans; and

WHEREAS, the Board considered the application, site plans and related documents, testimony and exhibits presented at the hearings as follows:

(1) Applicant's Exhibits and Witnesses

Testimony was provided by Cliff Stanfield, Braemar Partners, LLC; Jeffrey S. Haberman, PE, and Corey Chase, PE, Dynamic Engineering Consultants, PC; James Kyle, PP, AICP, Kyle + McManus Associates; Christopher Van Kley, Studio Architects.

The Applicant placed the following exhibits into evidence:

Exhibit A-1: Aerial Map, dated March 27, 2023;

Exhibit A-2: Site Plan, Color Rendered;

Exhibit A-3: Elevation Plans;

Exhibit A-4: Overall Roof Plan;

Exhibit A-5: Overall Floor Plan, Level 1;

Exhibit A-6: Overall Floor Plan, Level 2;

Exhibit A-7: Sight Profile (view from Village Drive);

Exhibit A-8: Able Medical transport contract;

Testimony of Cliff Stanfield

Mr. Stanfield testified that he is a principal of BPS Development Company, LLC, d/b/a Braemar Partners, which is the owner of the Applicant entity. Mr. Stanfield advised that Braemar has been in business since 2016 and has developed senior living facilities across the country. He noted that Braemar has developed a number of senior living facilities in New Jersey and currently has a facility under construction in Basking Ridge. Mr. Stanfield further testified that Arbor Terrace, a third party national senior living operator, will be the operator of the proposed facility. He advised that although zoning standards would allow 120 units, the proposed project will be limited to 80 units with capacity for 91 beds. Mr. Stanfield initially testified that the Applicant anticipated contracting with Atlantic Ambulance for private ambulance service as it had done at their other facilities and that a contract would be provided to the Board for information and review. Mr. Stanfield subsequently advised the Board that the proposed project in Montgomery was beyond the service area for Atlantic Ambulance and provided a copy of the Applicant's contract with Able Medical Transportation for non-emergency service and transportation. Mr. Stanfield further clarified that the Applicant anticipated using Montgomery EMS for emergency calls. In response to Board questions, he testified that the proposed facility would have a registered nurse on staff 24 hours a day to assess and triage the need for emergency EMS calls. Mr. Stanfield advised that the Applicant requires that their private ambulance service not use sirens entering or leaving the facility in order to limit impacts on project's residents and the residential neighbors. In response to testimony from the Montgomery EMS, Mr. Stanfield testified that he believed both the Stonebridge and Carrier Clinic facilities provide different services from that to be provided by the proposed project which results in a higher emergency call volume. He noted that Stonebridge provides skilled nursing services which involves a different facility population and the Carrier Clinic is a behavioral health facility which has a different clientele than that of the proposed facility.

Mr. Stanfield further testified that the proposed project will operate 24 hours a day, 7 days a week as a New Jersey state licensed assisted living and memory care facility. In response to Board questions, he advised that hours of visitation will be 8 am-6 pm daily and that there will be three work shifts with a total of 14 employees working each shift. Mr. Stanfield noted that although the project is required under the zoning ordinances to provide 27 parking spaces, the Applicant is providing 40 parking spaces, including the two credited parking spaces under the electric vehicle charging station legislation. He confirmed that although the Applicant is required to provide only one electric vehicle station, the Applicant will provide an additional EV parking space and charging station for a total of two EV charging stations with dual charging capacity to allow four cars to charge their vehicles.

Mr. Stanfield advised that most deliveries to the proposed facility will be made by box trucks and that the Applicant will work with the Township regarding the appropriate hours for trash pickup which will be done by a private third-party vendor. Mr. Stanfield advised that the Applicant has not yet received any approvals from the State for the project. He confirmed that the facility will be 100% private pay except for the required Medicaid pay units. Mr. Stanfield further testified that every resident at the facility will be on a dining plan and that all meals are provided.

Mr. Stanfield confirmed that the Applicant will cause the sidewalks on Village Drive to be installed as a condition of issuance of its Certificate of Occupancy.

Jeffrey S. Haberman, PE

Mr. Haberman advised that he is a licensed professional engineer in the State of New Jersey, serves as project engineer and has previously been accepted as an expert witness in land use engineering before the Board as well as numerous land use boards. The Board accepted him as an expert witness in land use engineering.

Mr. Haberman testified regarding the application and Exhibits A-1 and 2. He noted that the Property is 4.43 acres in size, is located in the ARH zone and is currently undeveloped. Mr. Haberman testified regarding existing site conditions, advising that the Property has some existing trees that will be preserved. He advised that there are no wetlands or water bodies on site and the Property is not in a flood hazard area. Mr. Haberman confirmed that NJ DEP has issued a Letter of Interpretation for the Property on March 20, 2023, confirming the absence of wetlands.

Mr. Haberman advised that there is an existing stormwater management detention basin on the property. He advised that the basin, which accounts for 20% of the total site area, currently services the overall Tapestry development area and a portion of Hartwick Drive. Mr. Haberman testified the majority of the Property drains from the west to east towards the existing detention basin at the rear of the site. That detention basin detains run off and releases it further downstream to the east of the parcel. A portion of Hartwick Drive also drains towards the existing detention basin. One small stormwater pipe previously near the building footprint will be relocated.

In response to Board questions, Mr. Haberman advised that the Applicant will add a small bio-retention facility along Village Drive for stormwater management which will comply with current NJ DEP requirements. He explained that the Applicant will also discharge to the existing basin which will allow additional attenuation of the runoff. He testified that this bio-retention facility has been designed to meet

the NJ DEP stormwater quality, quantity and groundwater recharge requirements as well as Township stormwater ordinance. Mr. Haberman confirmed that the Delaware & Raritan Canal Commission has reviewed the design and has accepted the analysis. He also confirmed that roof runoff from the proposed facility is considered clean runoff and it will discharge directly into the existing basin.

Mr. Haberman generally described the proposed building which will be a two-story assisted living and memory care facility. He advised the building will have a footprint of approximately 35,400 square feet and a total gross floor area of 67,730 square feet. The proposed building will have 80 units and a capacity for 91 beds. Mr. Haberman explained that the building will be located closer to Hartwick Drive than Village Drive. He noted that there will be two courtyards, one for the assisted living residents in the middle of the building and one on the north end of the building for memory care. Mr. Haberman confirmed that the facility will comply with all the principal structure setbacks as well as the impervious coverage standard in the ARH zoning district with 35.8% impervious coverage and a zone standard of 50% coverage.

Mr. Haberman advised that access to the Property will be provided by two full movement driveways from Hartwick Drive along with a grass paver emergency drive that will have a chain and a lock located off of Village Drive. He explained that the internal site circulation consists of a 24-foot-wide driveway that circulates around to the north side and west side of the building. Mr. Haberman further testified that vehicular templates were prepared for a private ambulance service, private refuse pick up service, fire truck and a community bus and provided to the Board staff for review.

Mr. Haberman noted that the facility will be a low traffic generator and that access to the site would be from Route 518. He confirmed that although the zoning standard requires 27 parking spaces, the Applicant will provide 40 spaces, including two EV charging station in order to fully accommodate staff and visitors. Mr. Haberman advised that there will be two ADA compliance spaces.

Mr. Haberman testified that the Applicant will require variance to allow a deviation from the ordinance requirement of a 150-foot separation between a residential lot line and the principal structure. The Applicant proposes a 100.9 ft. separation which is measured from the proposed porte-cochere to the lot line of the multi-family apartment building on Hartwick Drive across from the Property. He noted that the distance to the apartment building itself from the facility is 132 feet.

Mr. Haberman further testified that the Applicant requires a design waiver to allow parking stalls of 9 feet x 18 feet but confirmed that the required two-foot overhang will be provided. He advised that Applicant requires a variance for the dedicated loading space on the north end of the building to allow a depth of 36.8 feet deep and 15 feet width where a 40-foot depth is required by ordinance. Mr. Haberman testified that compliance with the full depth requirement of 40 feet would push the facility closer to the adjacent single- family residences.

Mr. Haberman addressed the dimensions and appearance of the proposed trash enclosure. He testified that the proposed 12 foot by 22-foot trash enclosure will be located on the north side of the facility consisting of masonry split block material with a chain link gate on the front with black vinyl slats and a roof structure proposed over the enclosure. The trash enclosure will be surrounded by landscaping to buffer it from residences to the north.

Mr. Haberman testified the Property will be served by public water, sewer, gas, and electric. He advised that NJ American Water is requiring an above ground heated structure to house the metering facilities outside the building which will require variance relief for an above ground hot box structure. Mr. Haberman testified that the structure will be about 6 feet tall and will be located near the northern driveway. Due to NJ American Water requirements, the structure setback will be 30 feet from the right-of-way line where 50 feet is required under the zone standards. He confirmed that landscaping is proposed around the structure to provide buffering.

Mr. Haberman advised that the facility has been designed to minimize the offsite glare while ensuring there is safe lighting for the operation of the facility. All lighting will be LED, rated as a 3,000k or less which will provide a warmer glow and all the fixtures are downward casting. He advised that the Applicant seeks a design waiver from the design standard requiring site lighting to be turned off after business hours. Instead, the Applicant seeks approval to allow a dimming of the exterior lighting to 25% of full intensity from 10:00 pm to 5:00 am for safe circulation around the site.

Mr. Haberman advised that the Applicant seeks variances with respect to the western buffer composition and tree spacing along Hartwick Drive. He advised that the landscaping for the site was designed by a licensed landscape architect and that an extensive landscape buffer along Village Drive has been provided. Mr. Haberman testified that the Applicant proposes to provide over 2,000 plantings including 15 different species of trees and 20 different species of shrubs which will all be native indigenous plantings. In addition, the Applicant proposes an evergreen buffer to further buffer the residences to the north which will be extended along the eastern property line to close the gap. He confirmed that the Applicant will comply with the recommendations from the Board professionals regarding species.

Mr. Haberman described the proposed monument sign at the southern driveway which will comply with the ordinance requirements regarding height and lighting.

Mr. Haberman confirmed that the Delaware & Raritan Canal Commission has accepted the stormwater management design. In addition, he advised that the Somerset County Planning Board issued an approval for the project dated January 11, 2023.

Mr. Haberman further testified that the Applicant seeks variance relief to allow eight-foot-high cedar board on board fence around the memory care courtyard to the north of the facility where the zone maximum standard is four feet. Mr. Haberman advised that the Applicant proposes the higher fence height for the safety of the residents.

Mr. Haberman confirmed that the Applicant will comply with the comments and recommendations set forth in the review memos/letters provided by: Michael Sullivan, PP, AICP and James Clavelli, PP, AICP, of Clarke Caton Hintz, dated January 30, 2023, March 23, 2023 and April 28, 2023; Rakesh Darji, P.E., P.P. C.M.E. of Environmental Resolutions, Inc. dated January 31, 2023, March 22, 2023 and May 3, 2023; Joseph Fishinger, Jr., P.E., P.P., PTOE dated January 17, 2023, March 7, 2023; Lauren A. Wasilauski, Township Open Space& Stewardship Director, dated January 31, 2023, revised March 20, 2023, further revised April 28, 2023; Richard Bartolone, ASLA, Landscape Architect, dated January 19, 2023, March 23, 2023 and May 2, 2023; and the Shade Tree Committee, dated January 30, 2023 and

March 15, 2023. With respect to the Landmarks Commission memos, Mr. Haberman advised that the Applicant believes that it has adequately presented information regarding stormwater management for the site.

Testimony of Christopher Van Kley, Architect

Christopher Van Kley, of Studio Architects, provided testimony regarding the application. Mr. Van Kley testified that he is an architect and he prepared the architectural plans under the supervision of James Anderson, the architect of record who is licensed in New Jersey. Mr. Van Kley was presented as a factual witness.

Mr. Van Kley testified regarding the Colored Rendered Elevations, roof plan, floor plans which were marked respectively as Exhibits A-3, A-4, A-5 and A-6. He confirmed that no variances are required with respect to the architecture.

Mr. Van Kley also described the exterior plans for the building, noting that the proposed building is a two-story structure which steps down to one story as it gets closer to the neighboring single family dwellings. He advised that an effort was made to break up the mass of the building through the wall planes. Mr. Van Kley advised that there will be a single roofline with gable elements along the front. He explained that the proposed porte-cochere has simulated exposed timber trusses built into it and raised eve lines and will be nested into the building with the roof structures overlapping. Mr. Van Kley further testified that the facility will use two masonry materials consisting of painted brick and natural stone veneer.

Mr. Van Kley advised that the mechanical equipment will be located in the well of the roof and will be completely screened from all sides.

Mr. Van Kley described the interior first floor plan advising that it will contain the main common area, the administrative offices and support spaces for staff, the commercial kitchen and the right and left residential wings of the buildings. He testified that the memory care wing will have its own dining, common areas and dedicated outdoor area. Mr. Van Kley testified that the second floor will contain the assisted living units, associated amenity space and the bridge's wing which he explained is the transition area between assisted and memory care. He advised that the bridge's wing will have its own dining and common areas. Mr. Van Kley testified that the proposed building will have two elevators and three stairwells and will be fully sprinklered.

Testimony of James Kyle, PP, AICP, Kyle + McManus

James Kyle PP, AICP testified on behalf of the Applicant. Mr. Kyle is a licensed professional planner in the State of New Jersey and a member of the American Institute of Certified Planners. He advised that he has served as an expert witness before various land use boards. The Board accepted Mr. Kyle as an expert witness in land use planning.

Mr. Kyle testified that the ARH zoning district permits the proposed assisted living/memory care facility. He explained that in response to Board comments, the Applicant has revised its application and sought the following variances:

(1) Variance relief to provide a distance of 100.9 feet from the proposed facility to the residential lot line to the west where the zone standard requires a minimum distance of 150 feet;
(2) Variance relief regarding the composition of the western landscaping buffer;
(3) Variance relief regarding the tree spacing in the western landscaping buffer;
(4) Variance relief to allow a 30 ft. setback for the hot box setback;
(5) Variance relief to allow a 36.8 ft. depth for the loading space where the zone standard is 40 feet;
(6) Variance relief to allow an eight foot fence around the memory care around the memory care courtyard to the north of the facility where the zone maximum standard is four feet.

Mr. Kyle further advised that the Applicant sought design waivers to allow lighting timers for nighttime illumination at 25% of the full intensity, and parking space length of 9 ft. x 18 ft. with a two-foot overhang.

Mr. Kyle opined that the proposed variance relief to allow a distance of 100.9 feet from the facility to the residential lot line to the west will allow the Applicant to balance parking needs and will still provide a sufficient setback from the residential units. He noted that the proposed composition and spacing for the western buffer will allow an attractive mix of landscaping which will allow visibility onto the site for safety and still provide adequate screening. Mr. Kyle confirmed that the Applicant had revised the proposed plans to eliminate the possibility that car headlights would face Hartwick Drive. He advised that the fence height variance is appropriate for the safety of the memory care residents. Mr. Kyle further testified that the proposed design exceptions are limited in scope and are reasonable given the proposed use and site configuration.

Mr. Kyle noted that the proposed use is permitted under the zone standards of the ARH Age Restricted Housing District. He believes that the proposed variances and waivers will promote the fundamental purposes of the Land Use Law purposes of zoning pursuant to *N.J.S.A.* 40:55D-2 (a), and (c), specifically the promotion of the general welfare and adequate light, air and open space, and will facilitate the permitted use as an assisted living/memory care unit. Mr. Kyle further opined that there would be no substantial detriment to the zone plan or public welfare as the use is permitted in the zone and the facility configuration on the site, parking location and buffering will provide adequate protections to surrounding residential uses.

Testimony of Corey Chase, PE

Corey Chase, PE of Dynamic Engineering Consultants, PC testified regarding traffic aspects of the application. He advised that he is a professional engineer in New Jersey and a certified professional traffic operations engineer and has been accepted as an expert in traffic engineering by many land use boards in New Jersey. The Board agreed to accept him as an expert in traffic engineering. Mr. Chase referenced the traffic engineering reports prepared by Dynamic Engineering Consultants, PC which was filed with the project application. He testified that the nature of the proposed project, as an assisted living/memory care facility, will generate very little traffic and that as a result there will not no net impact on traffic.

(2) The Application, Plans and related documents:

The Applicant applied for preliminary and final site plan approval, variances and waivers with related documents as follows:

1. Montgomery Township Land Development Application dated December 2022.
2. Checklist, Final Major Subdivision Plats and Final Major Site Plan, dated December 2022.
3. ALTA/NSPS Land Title Survey, prepared by Dynamic Survey, LLC, dated November 2, 2022.
4. Preliminary and Final Major Subdivision and Site Plan, prepared by Dynamic Engineering, dated December 7, 2022, revised to April 10, 2023, consisting of the following:
    a. Cover Sheet, sheet 1 of 20.
    b. Aerial Map, 2 of 20.
    c. Demolition Plan and Steep Slopes Analysis, sheet 3 of 20.
    d. Site Plan, sheet 4 of 20.
    e. Grading Plan, sheet 5 of 20.
    f. Drainage Plan, sheet 6 of 20.
    g. Utility Plan, sheet 7 of 20.
    h. Utility Profiles, sheet 8 of 20.
    i. Landscape Plan, sheet 9 of 20.
    j. Lighting Plan, sheet 10 of 20.
    k. Soil Erosion and Sediment Control Plan, sheet 11 of 20.
    l. Soil Management and Compaction Plan, sheet 12 of 20.
    m. Construction Details, sheets 13 through 16 of 20.
    n. Vehicle Circulation Plan, SU-30, sheet 17 of 20.
    o. Vehicle Circulation Plan, Fire Truck sheet 18 of 20.
    p. *(new)* Vehicle Circulation Plan, Ambulance, 19 of 20.
    q. *(new)* Vehicle Circulation Plan, Minibus, 20 of 20.
5. Stormwater Management, Groundwater Recharge and Water Quality Analysis, prepared by Dynamic Engineering, dated December 2022.
6. Addendum to the Stormwater Management, Groundwater Recharge and Water Quality Analysis, prepared by Dynamic Engineering, dated February 2023.
7. Report of Preliminary Geotechnical and Stormwater Basin Area Investigation, prepared by Dynamic Earth, dated November 4, 2022.
8. Stormwater Management Operation and Maintenance Manual, prepared by Dynamic Engineering, dated December 2022, last revised February 2023.
9. Traffic and Parking Assessment, prepared by Dynamic Traffic, LLC, dated December 9, 2022.
10. Environmental Impact Statement, prepared by Dynamic Engineering, dated December 2022.
11. Water and Sanitary Sewer Engineer's Report, prepared by Dynamic Engineering, dated December 2022.
12. Architectural Plans, for Assisted Living and Memory Care Facility, prepared by Studio Architects, dated December 13, 2022, revised to March 19, 2023, consisting of 5 sheets.
13. Utility Will-Serve Letters – PSEG Gas and Electric, dated September 2022

(3) Staff and Professional Consultant Memos

The Board considered the following review and comment memos provided by the Township staff and Board consultants:

Michael Sullivan, PP, AICP and James Clavelli, PP, AICP, of Clarke Caton Hintz, dated January 30, 2023, March 23, 2023 and April 28, 2023; Rakesh Darji, P.E., P.P. C.M.E. of Environmental Resolutions, Inc.

dated January 31, 2023, March 22, 2023 and May 3, 2023; Joseph Fishinger, Jr., P.E., P.P., PTOE, Brightview Engineering, dated January 17, 2023 and March 7, 2023; Montgomery Township Environmental Commission dated January 30, 2023 and March 20, 2023; Lauren A. Wasilauski, Township Open Space& Stewardship Director, dated January 31, 2023, revised March 20, 2023 revised April 28, 2023; Richard Bartolone, ASLA, Landscape Architect, dated January 19, 2023, March 23, 2023 and May 2, 2023; Shade Tree Committee, dated January 30, 2023 and March 15, 2023; Landmarks Commission, dated February 24, 2023 and March 20, 2023; Health Department dated March 8, 2023.

(4) Testimony of Board Professionals:

Michael Sullivan, PP, AICP and James Clavelli, PP, AICP

Michael Sullivan, PP, AICP and James Clavelli, PP, AICP, Clarke Caton Hintz, the Board's consulting planners, testified regarding their review memos dated January 20, 2023, March 23, 2023, and April 28, 2023. Mr. Sullivan referenced the required variances and waivers initially sought by the Applicant as presented at the March 27, 2023, hearing, advising that the most visible relief required is the buffer along Hartwick Drive that resulted from a reconfiguration of the plan suggested during the Site Plan Committee review. He noted that some degree of visibility is needed into the site from Hartwick Drive. Mr. Sullivan advised that the proposed buffer should screen the headlights and the cars.

Mr. Clavelli provided testimony at the May 8, 2023, hearing. He advised that the Applicant had revised its application to eliminate certain variances. Mr. Clavelli further testified that the remaining required variances were to allow a distance of 100.9 feet from the proposed building façade to the western residential lot line, to allow for a western landscape buffer composed of an ornamental mix of plantings as opposed to the required evergreens and planted at 30 ft., rather than 10 ft., intervals, to allow a 30 ft. setback for the hot box, to permit a loading space with a depth of 36.8 feet as opposed to the required 40 foot depth, and to allow for an eight foot fence around the memory care unit, along with design waivers to allow lighting timers to permit night time illumination at 25% of the full intensity and a parking space length of 9 ft. x 18 ft. with a two foot overhang.

Rakesh R. Darji, P.E., P.P., C.M.E. and Kevin Becica, P.E., P.P., C.M.E.

Rakesh Darji, PE, PP, CME, Environmental Resolutions, Inc. the Board's consulting engineer, testified regarding his memos dated January 31, 2023, and March 22, 2023. Mr. Darji generally referenced the required variances and waivers. He advised that he agreed with Mr. Haberman's testimony regarding the basin design. In response to Board questions, Mr. Darji advised that the existing detention basin was designed to account for some development on this site. However, he noted that because NJ DEP regulations now require green infrastructure, the Applicant's proposed bio retention basin has been designed to comply with the new regulations. He recommended that the Applicant modify the outlet structure of the existing basin to address the concerns of downstream flooding. Mr. Darji recommended that the Applicant add a schedule to the project plans identifying the existing and relocated swale easement. In addition, Mr. Darji asked that the Applicant provide a copy of the maintenance agreement with Sharbell regarding maintenance of the existing basin along with a copy of the written easement allowing the Applicant to discharge into the existing basin.

Kevin Becica, PP, PE, CME of Environmental Resolutions, Inc. testified regarding Mr. Darji's memo of May 3, 2023. Ms. Becica noted that the Applicant has agreed to conform to the technical comments in Mr. Darji's review memo and recommended that, in addition to the comments in Mr. Darji's review memo of May 3, 2023, and has also agreed to provide all stormwater, utility, and access easements for final review and approval. Ms. Becica recommended as a condition of approval that the Applicant extend the limits of Hartwick Drive curb-to-curb milling and paving in the northerly direction to include the water main connection trench.

Joseph Fishinger, PE, PTOE and John Jahr, PTP, TSOS

Joseph Fishinger, PE, PTOE and John Jahr, PTP, TSOS of BrightView Engineering, the Board's traffic engineering consultant, testified regarding Mr. Fishinger's memos dated January 17, 2023, and March 7, 2023. They advised that the Applicant had addressed their comments from earlier review letters. In response to Mr. Jahr's comment, the Applicant agreed to revise the style of the crosswalk that goes across their driveway so that it matches the crosswalks across the street.

(5) Public Comment and Objector Exhibits

The application was opened to the public for comment on March 27, 2023, and May 8, 2023, and the following members of the public provided comment which was considered by the Board:

Francine Pfeffer, 5 Mystic Drive, expressed concerns regarding various aspects of the project with respect to the location of a business use in a residential area, noise from food delivery trucks, limited parking and/or no parking on Mystic Drive and Hartwick Drive, impacts of traffic on pedestrian safety and disruption from the lights and sirens of anticipated ambulance calls. Ms. Pfeffer also expressed concern that the Montgomery EMS squad could not accommodate the anticipated volume of calls from an additional facility.

Siddharth Saran, appearing on behalf of the Montgomery EMS, was sworn in. He advised that the EMS is an all-volunteer nonprofit entity which provides 9-1-1 emergency basic life support ambulance service 24 hours a day, 365 days a year to the residents of Montgomery Township and provides back-up emergency service to surrounding municipalities through a county mutual aid arrangement. Mr. Saran noted that the EMS relies 100% on donations and provides its services at no charge.

Mr. Saran noted that the Applicant had testified that it planned to contract with a private ambulance service. He asked that the Applicant provide further information including the anticipated response times by the private ambulance service. Mr. Saran expressed concern that the Applicant's proposed private ambulance service would not be able to adequately handle the nonemergency calls anticipated for an 80-unit facility and that EMS would then be called by facility. Mr. Saran further testified, as an example, based on EMS call records for the 12-month period ending February 2023, that over 70% of the calls EMS received from the Stonebridge assisted living facilities and the Carrier Clinic were for nonemergency calls as their private ambulance service was not available. Mr. Saran further noted that the existing municipal ordinance requires a licensed assisted living/memory care facility to take care of its own non-emergency calls.

Srinivasanti Sriram, of 8 Mystic Drive expressed opposition to the project. She referenced a written statement which she had prepared on her own behalf and that of residents who were not in attendance. The Board allowed Ms. Sriram to read the letter into the record on her own behalf as a nearby resident raising concerns regarding increased traffic in the neighborhood, safety concerns for the children playing and walking in the area and the environmental impacts to the existing residential area. She also noted that the loading area and trash enclosure is closest to the existing residential houses.

Jasmeet Bedi, 14 Mystic Drive testified in opposition to the project. He provided photos of the residential areas surrounding the Property which he took himself and which were marked as Objector Exhibit 1. Mr. Bedi advised that the photos accurately depict school buses dropping off children and children playing in the residential neighborhood surrounding the Property.

Kanwarjeet Chadha, 3 Comstock Lane, expressed support for the comments made opposing the project. He advised that he believes there have been many near miss traffic conditions on Route 518 and Village Drive as result of the existing density of development and that the proposed project will affect the quality of life for the surrounding residents.

Sanjeev Mehta, 16 Mystic Drive, testified in opposition to the project. He advised that he believes the extent and density of construction in the surrounding area has negatively affected quality of life.

Ellen Nusbaum, 24 Norfolk Way, testified in opposition to the project.

Venkata Thirunagari, 12 Comstock Lane expressed support for the comments made opposing the project.

Amod Antarkar, 81 Hartwick Drive expressed support for the comments made opposing the project.

Srinivas Kalinadhabhotla, 10 Mystic Drive, expressed support for the comments made opposing the project.

Mamta Mehta, 16 Mystic Drive, discussed traffic concerns, timing of the traffic light and concerns with children playing in the street.

Abhishek Kumar, 16 McGovern, expressed support for the comments made opposing the project.

Bedi Jasmeet Singh, 14 Mystic Drive, expressed support for the comments made opposing the project.

Uma Atmuri, 21 Mystic Drive expressed support for the comments made opposing the project.

Zhengrong Zhu, 8 McGovern Lane, expressed support for the comments made opposing the project.

AND WHEREAS, based upon review of the foregoing testimony, exhibits and the application, plans and related documents, the Planning Board makes the following findings of facts and conclusions:

(1) BPS Development Company LLC ("the Applicant") has filed an application seeking preliminary and final major site plan approval with bulk variances and design waivers to allow the construction of 35,400 square foot assisted living and memory care facility containing 80 units with capacity for 91 beds on

property located on East Hartwick and Village Drive, Montgomery Township, New Jersey (being Block 28003, Lot 211 on the Montgomery Township Tax Map), in the ARH Age-Restricted Housing District ("the Property");

(2) The Board entertained jurisdiction over the application pursuant to *N.J.S.A.* 40:55D-37 and the Montgomery Township municipal ordinances;

(3) The Applicant has complied with the notification and publication requirements of the Municipal Land Use Law. All property taxes due and owing for the subject property are paid in full as are the current professional fees/escrow account in connection with the within application;

(4) The use of the Property for an assisted living/memory care facility is permitted in the ARH Age-Restricted Housing zone;

(5) The proposed facility will be a two-story assisted living and memory care facility. The building will have a footprint of approximately 35,400 square feet and a total gross floor area of 67,730 square feet. The proposed building will have 80 units and a capacity for 91 beds. There will be two courtyards, one for the assisted living residents in the middle of the building and one on the north end of the building for the memory care. The facility will comply with all the principal structure setbacks as well as the impervious coverage standard in the ARH zoning district with 35.8% impervious coverage and a zone standard of 50% coverage. There will be a single roofline with gable elements along the front. A proposed porte-cochere will have simulated exposed timber trusses built into it and raised eve lines and will be nested into the building with the roof structures overlapping. The facility will use two masonry materials consisting of painted brick and natural stone veneer. The mechanical equipment will be located in the well of the roof and will be completely screened from all sides.

(6) The proposed facility will not generate a significant increase in traffic. Access to the Property will be provided by two full movement driveways from Hartwick Drive along with a grass paver emergency drive that will have a chain and a lock located off of Village Drive. The internal site circulation consists of a 24-foot-wide driveway that circulates around to the north side and west side of the building.

(7) There are no wetlands or water bodies on site and the Property is not in a flood hazard area. Stormwater management for the project will be addressed through use of an existing detention basin and a new bio-retention basin to be constructed by the Applicant in compliance with current NJ DEP regulations.

(8) The proposed facility requires the following bulk variances and design waivers:

Variances:

§16-4.13d.2(b) Min. distance of building to residential lot line (west) The distance between proposed building and existing townhomes is 100.9 feet where the zone requirement is 150 feet.

§16-4.13d.2(c) Western buffer composition- A variance is required. Pursuant to §16-4.13d.2(c), buffers shall consist of densely planted evergreen trees at least six feet high at time of planting.

The trees proposed along the western buffer are American Hornbeam (Carpinus caroliniana), which are deciduous, not evergreen.

§16-4.13d.2(c) Western buffer tree spacing- Pursuant to §16-4.13d.2(c), trees within buffers shall be spaced no more than 10 feet apart on-center. The proposed trees are approximately 30-feet on center at their closest.

§16-4.13d.2(b) Hot box setback- The proposed setback is 30 feet where a 50-foot setback is required.

§16-4.1.3i.1 Loading space size- Pursuant to §16-4.1.3i.1, each loading dock space shall be at least 15 feet in width by 40 feet in length. The Applicant proposes a 15-foot wide and 36.8 ft. loading space.

§16-5.3.b Board-on-Board fence height – The maximum permitted height for a fence is four feet. The proposed fence along the courtyard for the memory care unit is eight feet in height.

Design Exceptions:

§16-5.4. b.2(d) Lighting timer- Pursuant to §16-5.4. b.2(d), lighting shall be controlled by circuit timers so that lights are turned off after business hours. The Applicant proposes that lighting will be dimmed to 25% of intensity between 10 PM and 5 PM and equipped with motion sensors. The lights will be dimmed, as opposed to turned off.

§16-5.8f.3 Parking space length- Parking spaces are required to be 20-feet in length. The Applicant is proposing spaces that are 18-feet in length with a two-foot overhang.

(9) Section 3-19 of the Montgomery Township municipal ordinances prohibits care facilities from making nonemergency calls to request dispatch from the Montgomery Emergency Medical Services (MEMS), an all-volunteer member nonprofit organization which provides basic emergency life support ambulance services to the Township of Montgomery. The ordinance indicates that there has been a marked increase in nonemergency calls from care facilities in Montgomery Township which has the potential to compromise the ability of MEMS to respond to emergency calls and strain volunteer resources. The testimony provided by MEMS during the hearings on the within application has confirmed that the MEMS continues to deal with a large volume of nonemergency calls from care facilities which places a great strain on their ability to respond to emergency calls. With the advice of its counsel, the Board has determined that the Applicant will be obligated to comply with Section 3-19 of the municipal ordinance, regarding ambulance nuisance calls, as that ordinance may be amended, because the ordinance is not a land use ordinance but rather involves exercise of the municipality's police power.

(10) The Municipal Land Use Law gives the Board the power to grant a C (2) "flexible" variance where the Board determines that the purposes of zoning and the Municipal Land Use Law, N.J.S.A. 40:55D-1 et. seq. would be advanced by a deviation from the zoning requirements, that the variances can be granted without substantial detriment to the public good, that the benefits of the deviation would be substantially outweigh any detriment and that the variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance. The Board finds that the proposed use is permitted in the ARH Age

Restricted Housing district zone. The Board further finds that the requested variances will promote the purposes of zoning pursuant to the Municipal Land Use Law, NJSA 40:55D-2(a) and (c) by facilitating an appropriate use of the Property and adequate light, air and space and that the facility configuration on the site, parking location and proposed buffering will minimize any negative impact on the surrounding residential uses.

Based on the foregoing, the Board finds that, as conditioned by the Board, the variances can be granted without substantial detriment to the public good, that the benefits of the deviation will substantially outweigh any detriment and that the variances will not substantially impair the intent and purpose of the zone plan.

The Board further finds that the requested waivers are reasonable because the parking space length will still allow the required two-foot overhang and the nighttime timer illumination will be at only 25% of the full intensity, will allow safe ingress and egress, and should not cause any significant impact.

The Municipal Land Use Law further authorizes the Board to grant preliminary and final major site plan approval pursuant to N.J.S.A 40:55D-37. The Board finds that the professional staff has testified that the Applicant has met the municipal site plan standards and recommends preliminary and final major site plan approval with conditions. The Board adopts the staff recommendation and finds that the record before the Board supports the issuance of preliminary and final major site plan approval with variances and waivers, as conditioned by the Board.

NOW, THEREFORE, BE IT RESOLVED based upon the foregoing findings of fact and conclusions, the Montgomery Township Planning Board does hereby grant to the BPS Development Company LLC preliminary and final site plan approval with variances and design waivers to construct an assisted living/memory care facility as set forth in the Board's foregoing findings and conclusions, consistent with the testimony presented by the Applicant, revised plans, reports and exhibits, subject to the Applicant's compliance with the following conditions:

(1) Compliance with the comments and recommendations of the Board Engineer, Rakesh R. Darji, PE of and Kevin Becica, PE of Environmental Resolutions, Inc. as set forth in Mr. Darji's memorandums dated January 31, 2023, March 22, 2023, and May 3, 2023, and his testimony, as well as the testimony of Kevin Becica, PE, and any subsequent comments in connection with conformance review by staff;

(2) Compliance with the comments and recommendations of Michael Sullivan, PP AICP and James Clavelli, PP, AICP of Clarke Caton Hintz, as set forth in their memorandums of January 30, 2023, March 23, 2023, and April 28, 2023, their testimony, and any subsequent comments in connection with conformance review by staff;

(3) Compliance with the comments and recommendations set forth in the memorandum of Richard Bartolone, ALSA, dated January 19, 2023, March 23, 2023, May 2, 2023, and any subsequent comments in connection with conformance review by staff;

(18) If applicable, any improvements proposed to be dedicated to the Township are subject to the Township Engineer's review and Township Committee approval.

(19) The Applicant shall enter into a "Developer's Construction Sequence Agreement", subject to authorization by the Township Committee. The Agreement shall conform to applicable Township Code including but not limited to Section 16-9.2. The "Developer's Construction Sequence Agreement" is subject to review and approval by the Township Attorney and Township Engineer.

(20) The Applicant shall enter into a "Sewer Participation/ Capacity Agreement" with the Township Committee and pay sewer capacity charges in accordance with Section 12-7.4 of the Montgomery Township Code.

(21) The Applicant is subject to the requirements of the Sewer Utility including but not limited to payment of sewer capacity charges, analysis of the collection system and downstream pump stations to demonstrate there is adequate capacity for the additional flow, any necessary upgrades to the collection system and pump stations, conformance with Township standard details, Township Code requirements, and other applicable standards.

(22) The Applicant must provide NJDEP Tier A MS4 required forms to the Township Engineer, including Attachment D Stormwater Summary, 5G3 Authorization, annual BMP maintenance reports, inspection logs, and other relevant information needed by the Township Engineer for annual reporting.

(23) The Stormwater Management Facility Operations and Maintenance Manual is subject to the review and approval of the Board and Township Engineers. The Operations and Maintenance Manual will be recorded with the Somerset County Clerk's office. The Applicant's stormwater Operations and Maintenance must require annual reporting in accordance with Township Code.

(24) The Applicant shall provide a copy of the written easement, agreement, or legal mechanism pursuant to which the Applicant will discharge stormwater and runoff into the existing detention basin, for review and approval by the Board Engineer. There are currently provisions within the Declaration of Stormwater Easements recorded on October 19, 2007 as Instrument 2007060994, that established stormwater facility maintenance responsibilities on the Property. The Declaration states the existing Homeowner's Association is responsible for the existing basin, and a one-time $47,500.00 contribution to the referenced Homeowners Association is payable within sixty (60) days of receipt of building permit. The Applicant must demonstrate if the Homeowner's Association is still the intended responsible party and update the Operations and Maintenance Manual accordingly. Any existing Operations and Maintenance Manuals and Homeowner's Association Declarations should also be amended, if necessary, to reflect any changes in maintenance requirements or parties for the existing basin. Coordination with the Association may be needed.

(25) The Applicant shall be required to post the sewer payments in full for as a condition of approval of final plats.

(26) An address or address map must be provided to the Township Engineer for review and approval.

(27) The applicant will yield Title 39 jurisdiction to the Township for private roads, parking lots, and driveways, subject to acceptance of jurisdiction by the Township. The applicant shall submit a letter requesting that the Township accept Title 39 jurisdiction and a draft ordinance for Title 39 jurisdiction subject to the review and approval of the Township Attorney and Township Engineer.

(28) The Property is currently being used by the owner, Sharbell, as a field office for the Montgomery Crossing project. Applicant must coordinate removal of the trailer with Sharbell.

(29) In the event that any soil removal, exportation, or importation is required for this project, the Applicant shall obtain a Soil Hauling Permit from the Township Engineer. Soil removal, exportation, or importation from or to the Property for the proposed project shall not exceed a cumulative total of 20 cubic yards without further approval by the Board.

(30) The applicant shall submit revised construction details to be consistent with the Township standard details and Township Code to the Township Engineer for review and approval.

(31) The applicant shall revise the plans to show detailed ADA and PROWAG compliant designs for each curb ramp subject to the review and approval of the Board and Township Engineers.

(32) Montgomery Crossing plans show guide rail along where the BPS development is proposed. The BPS site plans do not show this guiderail or indicate whether it is still needed. The bio basin along Village Drive should be considered in the evaluation. Any guiderail necessitated by the site grading should be located on the property, and not in the right-of-way. The grading shown along the emergency access driveway also conflicts with the Montgomery Crossing plans and should be adjusted. Guide rail must conform to NJDOT standard specifications, roadway design manual, and applicable safety standards.

ROLL CALL VOTE ON MOTION TO GRANT PRELIMINARY AND FINAL MAJOR SITE PLAN APPROVAL WITH VARIANCES AND WAIVERS
(May 8, 2023)

Moved by: Blodgett

Seconded by: Mani

Those in Favor: Blodgett, Hamilton, Mani, Matthews, Roberts and Campeas

Those Opposed: Keenan and Todd

Those Recused: None

Those Absent: Battle and Khan

ROLL CALL VOTE ON MOTION TO APPROVE
RESOLUTION OF MEMORIALIZATION (July 10, 2023)

Moved by: Mani

Seconded by: Matthews

Those in Favor: Hamilton, Mani, Matthews and Campeas

LORI SAVRON
PLANNING BOARD SECRETARY
TOWNSHIP OF MONTGOMERY
STATE OF NEW JERSEY

26. THIRD ROUND: HABITAT FOR HUMANITY

FINAL

CERTIFICATE

Permit # 20-0856
Date Issued 8/13/2020
- or -
Control #
Certificate Issued Date: 6/27/22

IDENTIFICATION

Block 7002 Lot 5 Qualification Code

Work Site Location 165 Willow Rd.
Belle Mead, NJ 08502

Owner in Fee Cicely Caldwell
Address 165 Willow Rd.
Belle Mead, NJ 08502
Tel. ( )

Contractor Raritan Valley Habitat for Humanity
Address PO Box 330
Pluckemin, NJ 07949
Tel. (908) 704 0016 FAX ( )
Lic. No. or Bldrs. Reg. No. 014593
Federal Employer No. 22 3126027

State of NJ New Home Warranty Program
Home Warranty No. 212928
Type of Warranty Plan: [X] State [ ] Private
Use Group
Maximum Live Load 1st floor =40psf, 2nd floor & roof = 30psf
Construction Classification VB
Maximum Occupancy Load n/a
Description of Work/Use:

Single Family Dwelling - Slab on grade.
3 Bedrooms, 2 Baths.

[X] CERTIFICATE OF OCCUPANCY

This serves notice that said building or structure has been constructed in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

☐ CERTIFICATE OF APPROVAL

This serves notice that the work completed has been constructed or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of the inspection.

☐ TEMPORARY CERTIFICATE OF OCCUPANCY/COMPLIANCE

If this is a temporary Certificate of Occupancy or Compliance, the following conditions must be met no later than _____ or will be subject to fine or order to vacate:

☐ CERTIFICATE OF CLEARANCE – LEAD ABATEMENT 5:17

This serves notice that based on written certification, lead abatement was performed as per NJAC 5:17, to the following extent:

[ ] Total removal of lead-based paint hazards in scope of work
[ ] Partial or limited time period (_____ years); see file

☐ CERTIFICATE OF CONTINUED OCCUPANCY

This serves notice that based on a general inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

☐ CERTIFICATE OF COMPLIANCE

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until _____.

Rory Mark 6-27-2022
CONSTRUCTION OFFICIAL DATE

Fee $ PAID
Paid [ ] Check No.
Collected by:

U.C.C. F260
(rev. 8/05)

1 WHITE – APPLICANT 2 CANARY – OFFICE 3 PINK – TAX ASSESSOR

SOMERSET COUNTY

DOCUMENT COVER SHEET

HON. STEVE PETER
SOMERSET COUNTY CLERK
PO BOX 3000
20 GROVE STREET
SOMERVILLE, NJ 08876

WWW.CO.SOMERSET.NJ.US

Steve Peter, County Clerk
Somerset County, NJ
2022 Feb 15 02:27 PM
BK: 7425 PGS: 207-214
Instrument # 2022006921
Doc Type: DEED Fee: $113.00
Consideration: $195,000.00
Exemption: Partially Exempt
RTF: $262.50

Total RTF: $262.50

(Official Use Only)

DATE OF DOCUMENT: 2/11/2022	TYPE OF DOCUMENT: Deed
FIRST PARTY *(Grantor, Mortgagor, Seller or Assignor)*	SECOND PARTY *(Grantee, Mortgagee, Buyer, Assignee)*
Raritan Valley Habitat for Humanity, Inc.	Cicely K. Caldwell, unmarried
ADDITIONAL PARTIES	

THE FOLLOWING SECTION IS REQUIRED FOR DEEDS ONLY

MUNICIPALITY: Township of Montgomery	MAILING ADDRESS OF GRANTEE:
BLOCK: 7002	165 Willow Road Belle Mead, NJ 08502
LOT: 5	
CONSIDERATION: $195,000.00	

THE FOLLOWING SECTION IS FOR ORIGINAL MORTGAGE BOOKING & PAGING INFORMATION FOR ASSIGNMENTS, RELEASES, SATISFACTIONS, DISCHARGES & OTHER ORIGINAL MORTGAGE AGREEMENTS ONLY

BOOK	PAGE	INSTRUMENT #	DOCUMENT TYPE

DO NOT REMOVE THIS PAGE

THIS DOCUMENT COVER SHEET IS PART OF THE SOMERSET COUNTY FILING RECORD

RETAIN THIS PAGE FOR FUTURE REFERENCE

UNOFFICIAL

38549

Record and Return to:
CGP&H, LLC
Att. Eric Chapman
1249 South River Road, Suite 301
Cranbury, NJ 08512-3633

Prepared By: Tilah Young

APPENDIX A
MANDATORY DEED FORM FOR OWNERSHIP UNITS

Deed

DEED-RESTRICTED AFFORDABLE HOUSING UNIT WITH RESTRICTIONS ON RESALE AND REFINANCING

To State Regulated Property
With Covenants Restricting Conveyance
And Mortgage Debt

THIS DEED is made on the 11 day of FEBRUARY 2022, by and between

Raritan Valley Habitat for Humanity, Inc., with a mailing address of 285 US Route 202/206, Bedminster, NJ 07921, referred to as, (the "**Grantor**") and **Cicely K. Caldwell, unmarried**, (the "**Grantee**") whose address is about to be **165 Willow Road, Belle Mead NJ 08502**.

Article 1. CONSIDERATION AND CONVEYANCE

In return for payment to the Grantor by the Grantee of **ONE HUNDRED AND NINETY-FIVE THOUSAND DOLLARS 00/100, ($195,000.00)**, the receipt of which is hereby acknowledged by the Grantor, the Grantor hereby grants and conveys to the Grantee all of the land and improvements thereon as is more specifically described in Article 2, hereof (the "Property").

Article 2. DESCRIPTION OF PROPERTY (attached Schedule "A")

The Property consists of all of the land, and improvements thereon that is located in Montgomery Township, County of Somerset, State of New Jersey, and described more specifically as **Block No. 7002, Lot No. 5**, and known by the street address: **165 Willow Road, Belle Mead NJ 08502**

BEING the same premises conveyed to Raritan Valley Habitat for Humanity, Inc. by Deed from Township of Montgomery, A Municipal Corporation of the State of New Jersey, dated November 7, 2019, recorded November 27, 2019, in the Somerset County Clerk/Register's Office in Deed Book 7170, Page 2058.

Article 3. GRANTOR'S COVENANT

The Grantor hereby covenants and affirms that Grantor has taken no action to encumber the Property.

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Article 4. AFFORDABLE HOUSING COVENANTS

Sale and use of the Property is governed by regulations known as the Uniform Housing Affordability Controls, which are found in New Jersey Administrative Code at Title 5, chapter 80, subchapter 26 (N.J.A.C. 5:80-26.1, et seq., the "Regulations"). Consistent with the Regulations, the following covenants (the "Covenants") shall run with the land for the period of time commencing upon the earlier of (a) the date hereof or (b) the prior commencement of the "Control Period", as that term is defined in the Regulations, and terminating upon the expiration of the Control Period as provided in the Regulations.

In accordance with N.J.A.C. 5:80-26.5, each restricted unit shall remain subject to the requirements of this subchapter, the "Control Period," until the municipality in which the unit is located elects to release the unit from such requirements. Prior to such a municipal election, a restricted unit must remain subject to the requirements of this subchapter for a period of at least 30 years; provided, however, that units located in high-poverty census tracts shall remain subject to these affordability requirements for a period of at least 10 years;

A. The Property may be conveyed only to a household who has been approved in advance and in writing by Montgomery Township administrative agent, the administrative agent appointed under the Regulations (hereinafter, collectively, the "Administrative Agent").

B. No sale of the Property shall be lawful, unless approved in advance and in writing by the Administrative Agent, and no sale shall be for a consideration greater than maximum permitted price ("Maximum Resale Price", or "MRP") as determined by the Administrative Agent.

C. No refinancing, equity loan, secured letter of credit, or any other mortgage obligation or other debt (collectively, "Debt") secured by the Property, may be incurred except as approved in advance and in writing by the Administrative Agent. At no time shall the Administrative Agent approve any such Debt, if incurring the Debt would make the total of all such Debt exceed Ninety-Five Percent (95%) of the applicable MRP.

D. The owner of the Property shall at all times maintain the Property as his or her principal place of residence.

E. Except as set forth in F, below, at no time shall the owner of the Property lease or rent the Property to any person or persons, except on a short-term hardship basis as approved in advance and in writing by the Administrative Agent.

F. If the Property is a two-family home, the Owner shall lease the rental unit only to income-certified low-income households approved in writing by the Administrative Agent, shall charge rent no greater than the maximum permitted rent as determined by the Administrative Agent, and shall submit for written approval of the Administrative Agent copies of all proposed leases prior to having them signed by any proposed tenant.

G. No improvements may be made to the Property that would affect its bedroom configuration, and in any event, no improvement made to the Property will be taken into consideration to increase the MRP, except for improvements approved in advance and in writing by the Administrative Agent.

H. The affordable housing covenants, declarations and restrictions implemented by this Declaration and by incorporation, N.J.A.C. 5:80-26.1 et seq., shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to the Affordable Unit so long as the Affordable Unit remains subject to the affordability controls being implemented by this Declaration.

I. The Affordable Units are subject to a **30-year** affordability control period that commenced on the date of first conveyance of title, which is **the** 11 **day of** FEBRUARY **2022**, of this Affordable Unit governed by this Declaration to a certified affordable purchaser who has executed the documents required by N.J.S.A. 5:80-26.1 et seq.

Article 5. REMEDIES FOR BREACH OF AFFORDABLE HOUSING COVENANTS

A breach of the Covenants will cause irreparable harm to the Administrative Agent and to the public, in light of the public policies set forth in the New Jersey Fair Housing Act, the Uniform Housing Affordability Control rules found at N.J.A.C. 5:80-26, and the obligation for the provision of low and moderate-income housing. Accordingly, and as set forth in N.J.A.C. 5:80-26.18:

A. In the event of a threatened breach of any of the Covenants by the Grantee, or any successor in interest or other owner of the Property, the Administrative Agent shall have all remedies provided at law or equity, including the right to seek injunctive relief or specific performance.

B. Upon the occurrence of a breach of any Covenants by the Grantee, or any successor in interest or other owner of the Property, the Administrative Agent shall have all remedies provided at law or equity including but not limited to forfeiture, foreclosure, acceleration of all sums due under any mortgage, recouping of any funds from a sale in violation of the Covenants, diverting of rent proceeds from illegal rentals, injunctive relief to prevent further violation of said Covenants, entry on the premises, those provided under Title 5, Chapter 80, Subchapter 26 of the New Jersey Administrative Code and specific performance.

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Fidelity National Title
Insurance Company

SCHEDULE A
LEGAL DESCRIPTION

Issuing Office File No. 38549

ALL THAT CERTAIN TRACT OR PARCEL OF LAND, SITUATED, LYING AND BEING IN THE TOWNSHIP OF MONTGOMERY, COUNTY OF SOMERSET, STATE OF NEW JERSEY AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING KNOWN AND DESIGNATED AS LOT NO. 5 AS SHOWN ON A CERTAIN MAP ENTITLED "MAP OF SECTION 1, PIKE BROOK VILLAGE", WHICH MAP WAS FILED IN THE SOMERSET COUNTY CLERK'S/REGISTER'S OFFICE ON 11-29-1961, AS MAP NO. 793.

BEGINNING AT A POINT IN THE SOUTHEASTERLY SIDELINE OF WILLOW ROAD, SAID POINT BEING DISTANT SOUTH 20 DEGREES 47 MINUTES 11 SECONDS WEST 230.00 FEET FROM THE PRODUCED INTERSECTION OF THE SOUTHWESTERLY SIDELINE OF TOWNSHIP LINE ROAD WITH THE SOUTHEASTERLY SIDELINE OF WILLOW ROAD; THENCE

(1) SOUTH 71 DEGREES 26 MINUTES 29 SECONDS EAST 300.00 FEET TO A POINT; THENCE

(2) SOUTH 20 DEGREES 47 MINUTES 11 SECONDS WEST 150.00 FEET TO A POINT; THENCE

(3) NORTH 71 DEGREES 26 MINUTES 29 SECONDS WEST 300.00 FEET TO A POINT IN THE SOUTHEASTERLY SIDELINE OF WILLOW ROAD; THENCE

(4) ALONG THE SOUTHEASTERLY SIDELINE OF WILLOW ROAD, NORTH 20 DEGREES 47 MINUTES 11 SECONDS EAST 150.00 FEET TO THE POINT AND PLACE OF BEGINNING.

FOR INFORMATION PURPOSES ONLY: BEING KNOWN AS 165 WILLOW ROAD, TAX LOT 5, TAX BLOCK 7002 ON THE OFFICIAL TAX MAP OF TOWNSHIP OF MONTGOMERY, NEW JERSEY 08502.

NOTE: LOT AND BLOCK SHOWN FOR INFORMATIONAL PURPOSES ONLY.

UNOFFICIAL COPY

RTF-1 (Rev. 7/14/10)
MUST SUBMIT IN DUPLICATE

STATE OF NEW JERSEY
AFFIDAVIT OF CONSIDERATION FOR USE BY SELLER
(Chapter 49, P.L.1968, as amended through Chapter 33, P.L. 2006) (N.J.S.A. 46:15-5 et seq.)
BEFORE COMPLETING THIS AFFIDAVIT, PLEASE READ THE INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM.

STATE OF NEW JERSEY } SS
COUNTY Somerset

County Municipal Code
1813

FOR RECORDER'S USE ONLY
Consideration $ 195,000.00
RTF paid by Seller $ 292.50A
Date 3-15-22 By SCP

MUNICIPALITY OF PROPERTY LOCATION; Township of Montgomery *Use symbol "C" to indicate that fee is exclusively for county use.

(1) PARTY OR LEGAL REPRESENTATIVE *(Instructions #3 and #4 on reverse side)*

Deponent, Melissa Flynn, being duly sworn according to law upon his/her oath,

deposes and says that he/she is the **Corporate Officer** in a deed dated 2/11/2022 transferring

(Grantee, Legal Representative, Corporate Officer, Officer of Title Company, Lending Institution, etc.)

real property identified as Block number 7002 Lot number 5 located at

185 Willow Road, Belle Mead and annexed thereto.

(2) CONSIDERATION $195,000.00 *(Instructions #1 and #5 on reverse side)* [ ] no prior mortgage to which property is subject.

(3) Property transferred is Class 4A 4B 4C (circle one). If property transferred is Class 4A, calculation in Section 3A below is required.

(3A) **REQUIRED CALCULATION OF EQUALIZED VALUATION FOR ALL CLASS 4A (COMMERCIAL) PROPERTY TRANSACTIONS:**
(Instructions #5A and #7 on reverse side)
Total Assessed Valuation ÷ Director's Ratio = Equalized Assessed Valuation
$ ÷ % = $

If Director's Ratio is less than 100%, the equalized valuation will be an amount greater than the assessed value. If Director's Ratio is equal to or in excess of 100%, the assessed value will be equal to the equalized valuation.

(4) FULL EXEMPTION FROM FEE *(Instruction #8 on reverse side)*
Deponent states that this deed transaction is fully exempt from the Realty Transfer Fee imposed by C. 49, P.L. 1968, as amended through C. 66, P.L. 2004, for the following reason(s). Mere reference to exemption symbol is insufficient. Explain in detail.

(5) PARTIAL EXEMPTION FROM FEE *(Instruction #9 on reverse side)*
NOTE: All boxes below apply to grantor(s) *only*. **ALL BOXES IN APPROPRIATE CATEGORY MUST BE CHECKED.** Failure to do so will void claim for partial exemption. Deponent claims that this deed transaction is exempt from State portions of the Basic, Supplemental, and General Purpose Fee, as applicable, imposed by **C. 176, P.L. 1975, C. 113, P.L. 2004** and **C. 66, P.L. 2004** for the following reason(s):

A. **SENIOR CITIZEN Grantor(s)** [ ] 62 years of age or over. * *(Instruction #9 on reverse side for A or B)* *

B. **(BLIND PERSON Grantor(s)** [ ] legally blind or; *

(DISABLED PERSON Grantor(s) [ ] permanently and totally disabled [ ] receiving disability payments [ ] not gainfully employed*

Senior citizens, blind persons, or disabled persons must also meet all of the following criteria:

[ ] Owned and occupied by grantor(s) at time of sale.
[ ] One or two-family residential premises.
[/] Resident of State of New Jersey.
[/] Owners as joint tenants must all qualify.

*IN THE CASE OF HUSBAND AND WIFE, PARTNERS IN A CIVIL UNION COUPLE, ONLY ONE GRANTOR NEED QUALIFY IF TENANTS BY THE ENTIRETY.

C. **LOW AND MODERATE INCOME HOUSING** *(Instruction #9 on reverse side)*

[x] Affordable according to H.U.D. standards.
[X] Meets income requirements of region.
[X] Reserved for occupancy.
[X] Subject to resale controls.

(6) NEW CONSTRUCTION *(Instruction #2, #10 and #12 on reverse side)*

[ ] Entirely new improvement.
[ ] Not previously used for any purpose.
[ ] Not previously occupied.
[ ] **"NEW CONSTRUCTION"** printed clearly at top of first page of the deed.

(7) RELATED LEGAL ENTITIES TO LEGAL ENTITIES *(Instruction #5, #12, #14 on reverse side)*
[ ] No Prior mortgage assumed or to which property is subject at time of sale.
[ ] No contributions to capital by either grantor or grantee legal entity.
[ ] No stock or money exchanged by or between grantor or grantee legal entities.

(8) Deponent makes this Affidavit to induce county clerk or register of deeds to record the deed and accept the fee submitted herewith in accordance with the provisions of Chapter 49, P.L. 1968, as amended through Chapter 33, P.L. 2006.

Subscribed and sworn to before me this 11 Day of FEB this 2022

Melissa Flynn
Signature of Deponent
165 Willow Road, Belle Mead
Deponent Address
xxx-xxx- 0871
Last 3 digits in Grantor's Social Security Number

Raritan Valley Habitat for Humanity, Inc.
Grantor Name
165 Willow Road, Belle Mead
Grantor Address at Time of Sale
Suburban Title Examiners, Inc.
Name/Company of Settlement Officer

KATHLEEN B. ESTEVES
A Notary Public of New Jersey
My Commission Expires July 11, 2022

FOR OFFICIAL USE ONLY
Instrument Number _____ County _____
Deed Number _____ Book _____ Page _____
Deed Dated _____ Date Recorded _____

County Recording Officers shall forward one copy of each RTF-1 form when Section 3A is completed to:

STATE OF NEW JERSEY- DIVISION OF TAXATION
PO BOX 251
TRENTON, NJ 08695-0251
ATTENTION: REALTY TRANSFER FEE UNIT

The Director of the Division of Taxation in the Department of the Treasury has prescribed this form as required by law, and may not be altered or amended without prior approval of the Director. For information on the Realty Transfer Fee or to print a copy of this Affidavit, visit the Division of Taxation website at: **www.state.nj.us/treasury/taxation/lpt/localtax.htm.**

GIT/REP-3
(2-21)
(Print or Type)

State of New Jersey
Seller's Residency Certification/Exemption

Seller's Information

Name(s)
Raritan Valley Habitat for Humanity

Current Street Address
285 US Hwy 202/206

City, Town, Post Office | State | ZIP Code
Bedminster | NJ | 07921

Property Information

Block(s) | Lot(s) | Qualifier
7002 | 5 |

Street Address
165 Willow Road

City, Town, Post Office | State | ZIP Code
Montgomery Twp | NJ | 08502

Seller's Percentage of Ownership	Total Consideration	Owner's Share of Consideration	Closing Date
100	$195,000.00	$195,000.00	2/11/2022

2/11/2022

Seller's Assurances (Check the Appropriate Box) (Boxes 2 through 16 apply to Residents and Nonresidents)

1. ☐ Seller is a resident taxpayer (individual, estate, or trust) of the State of New Jersey pursuant to the New Jersey Gross Income Tax Act, will file a resident Gross Income Tax return, and will pay any applicable taxes on any gain or income from the disposition of this property.
2. ☐ The real property sold or transferred is used exclusively as a principal residence as defined in 26 U.S. Code section 121.
3. ☐ Seller is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4. ☐ Seller, transferor, or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5. ☒ Seller is not an individual, estate, or trust and is not required to make an estimated Gross Income Tax payment.
6. ☐ The total consideration for the property is $1,000 or less so the seller is not required to make an estimated Income Tax payment.
7. ☐ The gain from the sale is not recognized for federal income tax purposes under 26 U.S. Code section 721, 1031, or 1033 (CIRCLE THE APPLICABLE SECTION). If the indicated section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey Income Tax return for the year of the sale and report the recognized gain.
   ☐ Seller did not receive non-like kind property.
8. ☐ The real property is being transferred by an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of this State.
9. ☐ The real property being sold is subject to a short sale instituted by the mortgagee, whereby the seller agreed not to receive any proceeds from the sale and the mortgagee will receive all proceeds paying off an agreed amount of the mortgage.
10. ☐ The deed is dated prior to August 1, 2004, and was not previously recorded.
11. ☐ The real property is being transferred under a relocation company transaction where a trustee of the relocation company buys the property from the seller and then sells the house to a third party buyer for the same price.
12. ☐ The real property is being transferred between spouses or incident to a divorce decree or property settlement agreement under 26 U.S. Code section 1041.
13. ☐ The property transferred is a cemetery plot.
14. ☐ The seller is not receiving net proceeds from the sale. Net proceeds from the sale means the net amount due to the seller on the settlement sheet.
15. ☐ The seller is a retirement trust that received an acknowledgment letter from the Internal Revenue Service that the seller is a retirement trust, and is therefore not required to make the estimated Gross Income Tax payment.
16. ☐ The seller (and/or spouse/civil union partner) originally purchased the property while a resident of New Jersey as a member of the U.S. Armed Forces and is now selling the property as a result of being deployed on active duty outside of New Jersey. (Only check this box if applicable and neither boxes 1 nor 2 apply.)

Seller's Declaration

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein may be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete. By checking this box ☐ I certify that a Power of Attorney to represent the seller(s) has been previously recorded or is being recorded simultaneously with the deed to which this form is attached.

Date	Signature (Seller)	Indicate if Power of Attorney or Attorney in Fact
2-11-2022	Melissa Flynn	MELISSA FLYNN, Executive Director
Date	Signature (Seller)	Indicate if Power of Attorney or Attorney in Fact

UNOFFICIAL COPY

EXECUTION BY GRANTOR

ATTEST:

GRANTOR:

RARITAN VALLEY HABITAT FOR HUMANITY, INC.

Melissa Flynn
Melissa Flynn, Executive Director

STATE OF NEW JERSEY:

COUNTY OF SOMERSET:

I CERTIFY that on the 11 day of FEBRUAR, 2022, Melissa Flynn, Executive Director of Raritan Valley Habitat for Humanity, Inc., a non-profit corporation of the State of New Jersey, personally came before me and acknowledged under oath, to my satisfaction that:

(a) this Deed was signed and delivered by him as their voluntary act and deed; and

(b) the full and actual consideration paid or to be paid for the transfer of title is **$195,000.00**. (Such consideration is defined in N.J.S.A. 46:15-5.)

Notary Public/Attorney at Law State of New Jersey

KATHLEEN B. ESTEVES
A Notary Public of New Jersey
My Commission Expires July 11, 2022

27. THIRD ROUND: MONTGOMERY MUNICIPAL CENTER SITE / CONVATEC INC. / RPM SITE

NJHMFA

January 31, 2022

Mr. Edward Martoglio
RPM Development LLC
77 Park Street
Montclair, NJ 07042

Re: Montgomery Senior Housing
Montgomery Twp/Somerset
LITC# 2116

Dear Mr. Martoglio:

On behalf of the New Jersey Department of Community Affairs ("DCA") and the New Jersey Housing and Mortgage Finance Agency ("HMFA"), we are pleased to inform you that on December 20, 2021, a reservation of 9% Low Income Housing Tax Credits, in an amount not to exceed **$1,281,826**, was awarded to the above-referenced project (the "Project") from the **2023** Tax Credit Authority.

This reservation is subject to satisfaction of the following conditions:

- The Allocation Fee for projects receiving a tax credit allocation and using Agency financing is 2% of the ten-year tax credit amount. The Allocation Fee for projects receiving a tax credit allocation and not using Agency financing is 3% of the ten-year amount. The allocation fee is paid in two installments **$128,183** is due on **March 15, 2022**. The balance is due upon issuance of the 8609. If you cannot meet this deadline, you may request an extension and, if approved, pay an extension fee of $1,000 for every week the submission is late. This fee cannot be waived.

- Re-evaluation by HMFA of the project's need for the reserved tax credit amount at the time of a carryover (if issued) and at the time the project is placed in service, as required by the Federal Tax Code;

- Any changes that may be imposed by changes to the Federal Tax Law or Federal regulations;

- Compliance with all conditions as set forth in Exhibit A annexed hereto and made a part hereof.

- With respect to projects that have received a 2022 reservation, Sponsors will receive an executed 2022 Carryover Allocation dated no later than December 31, 2022. With respect to projects that have received a 2023 reservation, Sponsors will receive a carryforward agreement prior to December 31, 2022 and a Carryover Allocation dated no later than December 31, 2023. With respect to these official allocations or binding agreements, submission to HMFA **no later than December 15, 2022 of** the following documents is required:
  a. Sponsor Certification. If you are aware of any changes that have been made to any aspect of the project since application, check the second box of item #9 and be sure to attach the appropriate documentation.
  b. Executed Carryover Allocation Form and/or Binding Agreement form. Please refer to our website for more information. http://www.nj.gov/dca/hmfa/developers/credits/allocations/carryover.shtml
  c. 15-Year Operating Proforma signed by your first mortgage lender that exclusively reflects the following language verbatim: "We acknowledge that this proforma substantially matches the assumptions used in our underwriting of the mortgage." A new proforma does not have to be submitted if there have been no changes to your operating proforma since application.
  d. Current Breakdown of Costs and Basis
  e. If available, a copy of the recorded deed conveying title to the final ownership entity. The deed book and page numbers should be clearly indicated so that NJHMFA tax credit staff can accurately complete the Deed of Easement and Restrictive Covenant for Extended Low-Income Occupancy.
  f. Tax Clearance Certificate from the New Jersey Division of Taxation
  g. Green Homes Pre-Construction approval letter

Please note that fully executed carryovers and/or binding commitments will not be issued until all items a-g above and the first half tax credit allocation fee are received by HMFA.

- Submission to HMFA no later than 6 months after the date the carryover allocation agreement is executed of the Independent Auditors' Report (with attachment) showing the 10% test has been met.

In order to evidence your willingness to proceed with the financing commitment as set forth herein, you are hereby required to countersign this letter. This original, countersigned letter must be returned to the attention of Joel Silver, Assistant Director of Tax Credit Services at HMFA, within 10 business days. This reservation is subject to your acceptance and will expire if not returned to HMFA within 10 business days.

If you have any questions regarding the above, please do not hesitate to contact Joel Silver at (609) 278-7428. Please address any questions regarding social services to Maria DiMaggio at (609) 278-7512.

Sincerely,

Melanie R. Walter

Melanie R. Walter
Executive Director

MRW/jp

Accepted and agreed to this 10 day of February, 2022.

By: _____ L.S.
Edward G. Martoglio, Sole Member of RPM Partners LVI, L.L.C., Managing General Partner of Headquarters Drive Urban Renewal Associates, L.P.
(Please Print Name and Title)

EXHIBIT A to December 20, 2021 RESERVATION

Montgomery Senior
LITC #2116

The conditions listed on this Exhibit A highlight some of the important *project-specific* issues directly affecting the continuing validity of this reservation and any subsequent allocation, including the issuance of the IRS Form 8609(s). We list these conditions here for your convenience as a "quick list" for those interested in partnering with you in some way and for those who will be drawing up the final partnership documents. Please remember: This is a partial list of conditions and you must also comply with the requirements set forth in the project application, the New Jersey State regulation at N.J.A.C. 5:80-33 et. seq. and Section 42 of the Internal Revenue Code.

1. The project shall have an overall applicable fraction of 100%.

2. The project will have a total of 70 LIHTC units distributed as follows:

_____	Eff	_____	3BR
70	1BR	Additional units:	
_____	2BR		

3. The term of low-income occupancy is a ~~45~~ 30-year compliance period plus a 15-year extended use period. EGM

4. At least 80% of the units will be occupied by one person at least 55 years of age or older.

5. The federal set-aside selected is 40% at ~~60%~~. All tax-credit units shall be rent restricted and income restricted to 60% percent of the area median income adjusted for family size. In addition 10% of the tax credit units must be rent restricted and income restricted to households earning 30% or less of area median income adjusted for family size.

6. As indicated by the checked services below, the allocatee has chosen to participate in the Age Friendly Senior Housing program, further described at N.J.A.C. 5:80-33.16(b)2. The services checked below shall be provided for the term of the compliance period.

   X On-site transportation at least once per week. EGM

   X Participation in the Services for Independent Living (SIL) program.

   X Regularly offered licensed and insured on-site healthcare provider with a private room.

   X On-site pharmacy, wellness clinic, satellite hospital office, Program of All-inclusive Care for the Elderly (PACE) program, medical day-care program, a licensed assisted living facility, or similar partnership with a hospital or managed care organization.

X Accessible outdoor spaces (for example, walkways, benches, gardens).

X Exercise room. EGM

7. A minimum of 15% of the original construction contract amount must be expended on Minority and/or Women Business Enterprises certified by the New Jersey Department of the Treasury.

8. A minimum of three unit amenities shall be provided to the tenants of the project for the term of the compliance period.

9. A minimum of two project amenities shall be provided to the tenants of the project for the term of the compliance period.

10. At least one community-policing or public-safety enhancement will be included as part of the scope of the project.

11. At minimum, all of the buildings in the project (unless exempt as outlined in the 2019-2020 QAP) will participate in the NJ Energy Star Homes V.3.1 program or the Energy Star Multifamily High Rise Program.

12. Successful participation in the Energy Benchmarking Initiative for at least three (3) years.

13. Successful participation in at least ONE of the following:

    a. Enterprise Green Communities Mandatory plus 35 points
    b. LEED Version 4.0 Silver or higher (Homes, Multifamily Midrise or New Construction)
    c. NGBS 2012 (National Green Building Standard) 2012 Version Silver or higher
    d. New Jersey Zero Energy Ready Home (Tier 3)
    e. Living Building Challenge
    f. Passive House

14. For the term of the compliance period, the property manager employed for the project will have successfully completed an NJHMFA approved tax credit certification course and meet a continuing education requirement of at least six hours annually by an approved provider.

15. A minimum of 5 units or 5% of the total units shall be restricted to "Individuals and families who are homeless" as defined in the 2019-2020 QAP.

16. The total compensation to the developer and general partner for the development of the project shall not exceed $1,750,000and the non-deferred portion of the developer fee shall not exceed eight percent. This shall include the developer fee, any "incentive" fee, "acquisition" fee, "syndication" fee, "broker's" fee, "clerk of the works" fee and any fee that can be classified as part of the developer's and general partner's profit and overhead compensation. In addition, the non-deferred portion of the developer fee shall not exceed eight percent of total development cost excluding land, working capital, marketing expenses, escrows, operating deficit reserves, step-in-the-shoes costs and costs associated with syndication.

17. Underwriting: This tax credit reservation is conditioned on the satisfaction of these underwriting criteria. More conservative or compensating changes may be allowed subject to Agency approval.

a. Total development costs (with permitted exclusions) shall not exceed $275,000 per unit.
b. Operating Budget: income trending at 2% annually; non-income related expenses trending at 3% annually; 7% vacancy; $300.00 per unit minimum replacement reserves.
c. Operating expenses shall not exceed the approved range set forth in the 2019-2020 QAP unless permitted by NJHMFA during the 2020 LIHTC application round.
d. All soft secondary financing should carry an interest rate of 1.00% or lower.

Accepted and agreed to this _____ day of February 10 ,2022.

By: _____ L.S.
Edward G. Martoglio, Sole Member of RPM Partners LVI, L.L.C., Managing General Partner of Headquarters Drive Urban Renewal Associates, L.P.
(Please Print Name and Title)

TAX CREDIT RENT QUALIFICATION CHART

The purpose of this chart is to show that the **rent charged for each tax credit eligible unit** is at or below the set-aside selected. See N.J.A.C. 5:80-33.12(c)(7)(i).

a	b	c	d	e	f	g = e + f	h = g x 12	i	j = i x 30%	k = h / j
# of Units	Studio, Eff, SRO or # of Bedrooms	Unit Square Footage	# of Bathrooms	Net Rent	Tenant Utility Allowances	Gross Rent	Annual Gross Rent	County Income Limit (100%) Adjusted for Family Size	30% of County Median Income	Affordability Percentage
5	1	650	1	$371.00	$94.00	$465.00	$5,580.00	$98,375.00	$29,512.50	18.91%
5	1	650	1	$616.00	$94.00	$710.00	$8,520.00	$98,375.00	$29,512.50	28.87%
25	1	650	1	$1,071.00	$94.00	$1,165.00	$13,980.00	$98,375.00	$29,512.50	47.37%
35	1	650	1	$1,316.00	$94.00	$1,410.00	$16,920.00	$98,375.00	$29,512.50	57.33%
Provide information for Superintendent's Unit(s) below:										
1	2	850	2	$0	$0					

Column A: Show the number of units for each bedroom size. If you need more lines, you may duplicate this chart. Show all units in the project on this chart, including market rate units.

Column B: 1BR, 2BR, 3BR, etc.

Column C: Unit Square Footage

Column D: 1 Bath, 1.5 Baths, 2 Baths, etc.

Column E: Show the amount of rent charged for each unit. This is the actual rent a non-subsidized tenant will pay. If the unit will be a Section 8 Project Based Assistance unit, you may show Fair Market Rent (FMR). Only Project Based Section 8 may show FMRs. Even if you anticipate renting to Section 8 Certificate holders, you must still reflect rents at or below 50% or 60% (depending on elected set-aside).

Column F: Calculate the utility allowance for each tax credit unit using the chart provided. Refer to IRS Final Regulation TD 8520 for requirements relating to the calculation of utility allowances.

Column G: Add the utility allowance to the monthly rent to find the Gross Rent.

Column H: Multiply the Gross Rent by 12 to get the Annualized Gross Rent.

Column I: List the county median income limit for the appropriate size household. Assume 1.5 persons per bedroom. Refer to the chart titled "New Jersey Income Limits by County Adjusted by Family Size".

Column J: Multiply the County Median Income Limit by 30%.

Column K: Divide the number in Column H by the number in Column J. The Code does not allow for the rounding down of affordability percentages.

AVG AFFORDABILITY
49.00%

In allocating the units in a project which shall be occupied by individuals of low and moderate income, the distribution must reflect low and moderate income units among the different sized units to reflect the same percentage distribution as the number of different sized units bears to the total number of units. A greater percentage of the low and moderate income units may, however, be allocated to the larger units. Additionally, low and moderate income units shall be distributed throughout the project such that the tenants of such units will have equal acess to and enjoyment of all common facilities of the project. N.J.A.C. 5:80-8.3.

MONTGOMERY TOWNSHIP PLANNING BOARD
COUNTY OF SOMERSET

Application No. PB-01-24

RPM Development LLC-Applicant
Somerset County Improvement Authority- Owner
Block 20001, Lot 10.05

FINDINGS OF FACT, CONCLUSIONS AND RESOLUTION GRANTING SECOND AMENDED PRELIMINARY AND FINAL MAJOR SITE PLAN AND PRELIMINARY AND FINAL MAJOR SUBDIVISION APPROVAL

WHEREAS, the Applicant, RPM Development, LLC (the "Applicant") received preliminary major site plan and preliminary major subdivision approval with waivers from the Montgomery Township Planning Board ("the Board") by adoption of Resolution of Memorialization PB-01-21 adopted on August 16, 2021, and amended preliminary and final major site plan and major subdivision approval with variance from the Board by Resolution of Memorialization PB-02-23 adopted on July 10, 2023 (collectively "the Prior Approvals") to allow construction of 71 total units, of which 70 are residential age-restricted 100% affordable income rental apartment units with one (1) manager unit, for a portion of the property located at the intersection of Orchard Road and Community Drive, Montgomery Township, New Jersey (being Block 20001, Lot 10.05 on the Montgomery Township Tax Map), in the Municipal Center Redevelopment Zone (MCRZ) zoning district; and

WHEREAS, the Applicant has now applied for a second amended preliminary and final major site plan approval; and

WHEREAS, the Board held a public hearing on the application on March 11, 2024; and

WHEREAS, the Board entertained jurisdiction over the application pursuant to *N.J.S.A.* 40:55D-37and the Montgomery Township municipal ordinances; and

WHEREAS, the Applicant has complied with the notification and publication requirements of the Municipal Land Use Law. All property taxes due and owing for the subject property are paid in full as are the current professional fees/escrow account in connection with the within application; and

WHEREAS, the Applicant was represented by Luke Pontier, Esq., Day Pitney, LLP; and

WHEREAS, the Board considered the application, the amended preliminary and final site plan and related documents, testimony and exhibits presented at the hearings as follows:

Exhibits and Witnesses

(A) Applicant's Testimony and Exhibits

Testimony was provided by Kevin E. Shelly, P.E., Shore Point Engineering.

The Applicant placed the following exhibit into evidence:

Exhibit A-1: Survey of existing site conditions (Sheet 2), Utility Plan (Sheet 7), Landscaping plan (Sheet 9) and Lighting (Sheet 10), all contained in Amended Preliminary and Final Major Site Plan and Subdivision plan, prepared by Shore Point Engineering, Dated December 23, 2022, revised to February 13, 2024.

Testimony of Kevin Shelly, PE

Mr. Shelly advised that he is a licensed professional engineer in the State of New Jersey, serves as a project engineer and has previously been accepted as an expert witness in land use engineering before numerous land use boards. The Board accepted him as an expert witness in land use engineering.

Mr. Shelly testified regarding the proposed project amendment and Exhibit A-1. He explained that the Applicant seeks to eliminate the condition of the Prior Approvals which required conversion of the existing detention basin to a bio-retention basin. Mr. Shelly identified the location of the basin in question. He explained that the project will contain a new bio-retention basin and underground basin in addition to the basin in question.

In response to Board questions, Mr. Shelly advised that the basin in question is fully compliant with state and municipal stormwater management requirements. He explained that the Applicant has determined that there as been a very significant increase in the cost of retrofitting the basin since the Applicant originally proposed the retrofit in 2021 which in turn will cause a large increase in construction costs for the project. Mr. Shelly noted that the project is a 100% senior affordable housing development being sponsored by the Township. During colloquy with Board members, Mr. Shelly confirmed that water flows will be appropriately attenuated by the system of the new bio-retention basin, underground basin and existing basin and that he believes allowing the existing drainage basin to remain without retrofitting will not have a negative impact on water flows. In response to public comments, Mr. Shelly testified that he had provided an analysis in the stormwater management report submitted with the application which indicates no change in impact if the existing basin is retained in its current condition. He explained that the soils in the area of the Property do not allow for natural infiltration and accordingly, retaining the existing basin will not allow introduction of additional water into the water table.

Mr. Shelly confirmed that the Applicant will comply with the recommendations made in the review memo provided by Lauren A. Wasilauski, Open Space and Stewardship Director, dated March 11, 2024, that the development sign should have downward facing lighting and that the color temperature for the lighting should be no greater than 3000Kelvin.

Comment by Applicant's Attorney

Mr. Pontier noted that the Applicant had initially intended to convert the existing detention basin to a bio-retention basin. However, he explained that the basin conversion is not required by applicable storm water management regulations and that the Applicant has now determined that due to increases in construction costs, the conversion will be cost-generative for the project. Mr. Pontier noted that the Township is contributing funds for the construction of the project, which is a 100% senior affordable housing project, and that the conversion will generate extra costs for the Township. He confirmed that the Applicant seeks relief only from the condition requiring retrofitting of the existing drainage basin and will comply with all other conditions of approval in the Prior Approvals. Mr. Pontier further confirmed that the Applicant will be responsible for maintenance of the basin in question.

(B) The Application, Plans and related documents

The Applicant applied for a second amended preliminary and final major subdivision and site plan approval with related documents as follows:

1. Land Development Application, dated February 21, 2024.
2. Response Letter, prepared by Shore Point Engineering, dated February 21, 2024.
3. Amended Preliminary and Final Major Site Plan and Subdivision, prepared by Shore Point Engineering, dated December 23, 2022, revised to February 13, 2024 (17 Sheets).
4. Stormwater Management Report, prepared by Shore Point Engineering, dated May 31, 2021, last revised to November 13, 2023.
5. Stormwater Management Addendum, Existing Detention Basin, dated February 13, 2024.
6. Stormwater Management Operations and Maintenance Manual, prepared by Shore Point Engineering, dated December 23, 2022, last revised to February 13, 2024.
7. Tier B MS4 NJPDES Attachment D – Major Development Stormwater Summary, dated December 21, 2023.
8. NJDEP Temporary Authorization to Discharge, dated December 21, 2023.
55165 01 – March 7, 2024, revised March 8, 2024.

(C) Staff and Professional Consultant Memos

The Board considered the following review and comment memos provided by the Township staff and Board consultants:

Michael Sullivan, ALSA, AICP and James Clavelli, PP, AICP dated March 5, 2024; Rakesh Darji, P.E., P.P. C.M.E. of Environmental Resolutions, Inc. dated March 7, 2024, revised March 8, 2024; Lauren A. Wasilauski, Township Open Space Coordinator, dated March 11, 2024.

(D) Testimony of Board Professionals

Rakesh R. Darji, PE, PP, CME

Mr. Darji testified regarding his review memo of March 7, 2024, revised March 8, 2024. Mr. Darji noted that the Property once contained two office buildings which were demolished in 2018 and remaining improvements include a parking lot, curbing, signage along with stormwater improvements including the drainage basin in question. Mr. Darji confirmed that conversion of the existing basin in question to a bio-retention basin is not required by state or local stormwater management standards. He opined that allowing the existing basin to be used will not affect peak flows but noted that a bio-retention basin would allow improved water quality. However, Mr. Darji noted that the costs for conversion to a bio-retention basin have skyrocketed in recent years and believes likely that cost would now be at least double the initial costs anticipated by the Applicant. During colloquy with the Board, Mr. Darji advised that allowing use of the existing detention basin as opposed to a bio-retention basin would have minimal impact on water flows during a 100-year storm.

James Clavelli, PP, AICP

James Clavelli, PP, AICP, Clarke Caton Hintz, reviewed his firm's review memo dated March 5, 2024and responded to Board questions.

Comment by Township Attorney

Wendy Quiroga, Esq., the Township Attorney, was in attendance. Ms. Quiroga briefly noted that the proposed project was a municipally sponsored 100% affordable housing project and is part of the Township's affordable housing plan. She explained that the Township is working in partnership with the Applicant to develop this affordable housing project. Ms. Quiroga noted that retrofitting the basin would increase the cost of the project. This cost increase would require additional Township funding without which the project could not be built. In that event, the Township would not be in compliance with its affordable housing obligations.

(E) Public Comment

The application was opened to the public for comment and the following comment was provided:

Anna Goshinka, Montgomery Township resident, expressed concern regarding the existing water table in light of current flooding issues being experienced by her neighborhood. She inquired as to whether appropriate modelling was conducted regarding the impacts of retaining the existing basin.

Gary Stefanski, Red Fox Court, Montgomery Township expressed concern regarding the impact using the existing basin will have on the water table for his neighborhood. In response to Mr. Stefanski's comments,

Board member Keenan noted that the Township had performed an audit of all municipal detention basins in accordance with NJ Department of Environmental Protection stormwater management regulations. She explained that the Township has received grant funding to allow retrofitting of a municipally owned basin close to Red Fox Court and the project is in the process of being scheduled for future construction.

Evotka Katrina, Montgomery Township resident, advised that she lives adjacent to the subject sit. She testified that her property currently experiences flooding during rain events and expressed concern regarding how the runoff for the project will be accommodated.

AND WHEREAS, based upon review of the foregoing testimony, exhibits and the application, plans and related documents, the Planning Board makes the following findings of facts and conclusions:

(1) RPM Development LLC is the Applicant for the proposed project and Somerset County Improvement Authority is the owner of the subject property, being located at the intersection of Orchard Road and Community Drive, Montgomery Township, New Jersey (being Block 20001, Lot 10.05 on the Montgomery Township Tax Map), in the Municipal Center Redevelopment Zone (MCRZ) zoning district. Pursuant to an agreement between the Township and the Applicant, the Township will purchase the Property from the Somerset County Improvement Authority. The Property will be subdivided into two new parcels with one newly created lot of approximately 4.21 acres being conveyed to the Applicant for location of the proposed affordable housing project.

(2) The Property previously received preliminary major site plan and preliminary major subdivision approval with waivers from the Montgomery Township Planning Board by adoption of Resolution of Memorialization PB-01-21 adopted on August 16, 2021, and amended preliminary and final major site plan and major subdivision approval with variance from the Board by Resolution of Memorialization PB-02-23 adopted on July 10, 2023 (collectively "the Prior Approvals") to allow construction of 71 total units, of which 70 are residential age-restricted 100% affordable income rental apartment units with one (1) manager unit, for a portion of the property located at the intersection of Orchard Road and Community Drive, Montgomery Township, New Jersey (being Block 20001, Lot 10.05 on the Montgomery Township Tax Map), in the Municipal Center Redevelopment Zone (MCRZ) zoning district.

(3) The site is also identified in the Township's Settlement Agreement with Fair Share Housing Center which was approved by the Court on February 20, 2018.

(4) The Applicant now seeks a second amended preliminary and final major site plan and subdivision approval to remove a condition of approval requiring the Applicant to convert an existing drainage basin to a bio-retention basin.

(5) The proposed project will be serviced by three basins, consisting of a new bio-retention basin, new underground basin and the existing basin. This proposed system of basins complies with local and state stormwater management requirements.

(6) Due to increases in construction costs, the cost of retrofitting the existing drainage basin to a bio-retention basin will add significant cost to the proposed project which is being sponsored by the Township as part of its affordable housing settlement agreement with the Fair Share Housing Center. The

Board finds that continuing to require retrofitting of the existing basin will be cost-generative for the affordable housing project and that allowing use of the existing detention basin should not affect peak water flows.

(7) The Applicant has agreed to direct and shield lighting downward for its proposed development sign and will use a color temperature no greater than 3000Kelvin for the sign lighting and any other exterior lighting.

(8) The Municipal Land Use Law authorizes the Board to grant amended preliminary and final major site plan and subdivision approval pursuant to N.J.S.A 40:55D-37. The Board finds that conversion of the basin in question to a bio-retention basin is not required by the state or municipal stormwater management requirements and that, accordingly, based on the foregoing, the revised project, as conditioned by the Board, will comply with municipal site plan and subdivision ordinance standards.

NOW, THEREFORE, BE IT RESOLVED based upon the foregoing findings of fact and conclusions, the Montgomery Township Planning Board does hereby grant to the Applicant RPM Development LLC second amended preliminary and final major site plan and subdivision approval to eliminate a condition of approval requiring retrofitting of the existing drainage basin to a bio-retention basin to allow construction of 71 total units, of which 70 are residential age-restricted 100% affordable income rental apartment units with one (1) manager unit. The project also includes common amenity space, surface parking, stormwater management facilities, lighting, and signs as set forth in the testimony, exhibits, and application and plans:

The above approval is subject to the Applicant's compliance with the following conditions:

(1) Compliance with all conditions set forth in the Prior Approvals unless specifically addressed herein.

(2) Compliance will all subsequent comments in connection with conformance review by staff.

(3) Compliance with the recommendations set forth in the memorandum of the Lauren A. Wasilauski, Open Space Coordinator, dated March 11, 2024, with respect to directing lighting downward and shielding lighting for the proposed development sign and using a color temperature no greater than 3000K for the sign lighting and any other exterior lighting.

ROLL CALL VOTE ON MOTION TO GRANT SECOND AMENDED PRELIMINARY AND FINAL MAJOR SITE PLAN AND SUBDIVISION APPROVAL
(March 11, 2024)

Moved by: Glockler

Seconded by: Singh

Those in Favor: Battle, Blodgett, Glockler, Keenan, Khan, Singh

Those Opposed: Hamilton

Those Absent: Campeas, Mani, Roberts

ROLL CALL VOTE ON MOTION TO APPROVE
RESOLUTION OF MEMORIALIZATION (April 8, 2024)

Moved by: Glockler

Seconded by: Blodgett

Those in Favor: Blodgett, Glockler and Kahn

LORI SAVRON
PLANNING BOARD SECRETARY
TOWNSHIP OF MONTGOMERY
STATE OF NEW JERSEY

MONTGOMERY
TOWNSHIP, NEW JERSEY

Lisa Fania, RMC
Township Clerk
(908) 359-8211 ext.2240
lfania@montgomerynj.gov

OFFICE OF THE TOWNSHIP CLERK

June 24, 2024

Mr. Luke Pontier
Attorney at law
Day Pitney, LLP
One Jefferson Road
Parsippany, NJ 07054-2891

Mr. Pontier:

Enclosed please find one originally executed copy of a first amendment to redevelopment agreement between RPM Development, LLC and the Township of Montgomery. Please note that there were no Exhibits provided with the amended agreement.

Also enclosed is a certified copy of Resolution #24-4-138 approving and authorizing the execution of an amended redevelopment agreement between the Township of Montgomery and RPM Development LLC for property located at Orchard Road and Headquarters Park Drive, Block 20001, Lot 10.05.

Please reach out to me if you have any questions.

Warm regards,

Lisa Fania, RMC
Township Clerk

Lf/m
Enc.
cc: M. Herrmann, Township Engineer
L. Savron, Township Administrator
W. Rubinstein Quiroga, Township Attorney

FIRST AMENDMENT TO REDEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT TO REDEVELOPMENT AGREEMENT (this "Amendment") dated as of June 24, 2024 between RPM DEVELOPMENT, L.L.C. ("Redeveloper"), a New Jersey limited liability company with an office at 77 Park Street, Montclair, New Jersey 07042, and THE TOWNSHIP OF MONTGOMERY, a body corporate and politic of the State of New Jersey (the "Township"), with an office at 100 Community Drive, Skillman, New Jersey 08558. Redeveloper and the Township are collectively referred to as the "Parties".

RECITALS

WHEREAS, Redeveloper and the Township are parties to that certain Redevelopment Agreement, dated June 28, 2021 (the "Agreement"), pursuant to which Redeveloper agreed to redevelop a portion of that property designated as Block 20001, Lot 10.05 on the official tax map of the Township of Montgomery, as more particularly described in the Agreement; and

WHEREAS, among other respective rights and obligations, the Agreement requires the Township to contribute certain funds towards the cost of the Project and the Redeveloper to provide and/or apply for all other funds necessary for the development and construction of the Project; and

WHEREAS, Redeveloper and the Township now desire to modify certain terms of the Agreement, including the manner of the Township's contribution of funds and other terms, as more fully set forth herein.

NOW, THEREFORE, in consideration of the covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Capitalized Terms. Capitalized terms not otherwise defined herein shall have the meanings assigned to such terms in the Agreement.

2. Amendments.

a) The definition of "Construction Schedule" shall be amended to mean the schedule attached hereto as **Exhibit 1** for the development, construction and completion of the Project. Any references within the Agreement to the Construction Schedule shall be modified to refer to **Exhibit 1** attached hereto.

b) The phrase "Finance Schedule" shall be added and shall mean the schedule provided by the Redeveloper in accordance with Section 2.01(i) identifying the anticipated sources and approximate funding amounts that the Redeveloper will obtain and utilize for the development, construction, operation and maintenance of the Project.

c) Section 2.01 shall be amended to include the following:

1) Within thirty (30) days of the full execution of this First Amendment to Redevelopment Agreement, the Redeveloper shall submit to the Township the Finance Schedule defined earlier herein. The Parties acknowledge and understand that the funding figures and/or sources will initially be estimated or anticipated as the case may be. The Redeveloper shall make reasonable good faith efforts to provide the Township with updated information as same becomes available.

d) Section 2.03(a) shall be amended to add the following at the end: "In the event that any funds distributed to Redeveloper in accordance with this Agreement were generated from the issuance of bonds by the Township, such funds will not be used by Redeveloper towards the costs of any construction, reconstruction, demolition, alteration, or repair work, or maintenance work, including painting and decorating. Redeveloper acknowledges that all or a portion of the funds comprising the Affordable Housing Payment may be proceeds from a tax-exempt bond issuance, and that Redeveloper may need to remove the full amount of the Affordable Payment from the project's Low Income Housing Tax Credit eligible basis calculation at cost certification in order to remain eligible for 9% tax credits."

e) Section 3.01 shall be amended to read as follows: "The Redeveloper covenants and agrees for itself, its transferees, successors and assigns that the following covenants and restrictions shall be imposed upon the Redeveloper, its transferees, successors and assigns, and shall constitute, for all purposes of law, "covenants running with the land" and with the exception of subsections (h) – (l) shall prevail as such until the Project is completed as evidenced by the issuance of a Certificate of Completion (collectively the "Redeveloper Covenants")."

f) Section 3.01(i) shall be amended to read as follows: "Prior to issuance of a Certificate of Completion, the Redeveloper shall promptly notify the Township of any material adverse change in its financial condition from the information provided by Redeveloper indicating Redeveloper's financial capability to develop, finance and construct the Project in furtherance of the Township's appointment of the Redeveloper; and following the issuance of a Certificate of Completion, Redeveloper's shall notify the Township of any material adverse change to its financial condition indicating Redeveloper's financial capability to operate, maintain and manage the Project."

g) Sections 3.02(g) and (h) shall be deleted in their entirety and replaced with the following: "The Township acknowledges in accordance with the provisions of N.J.S.A. 40A:12A-8(f), that the Project would not be undertaken but for the provision of financial assistance or would not be undertaken in its intended scope without the provision of financial assistance. As such, the Township shall provide as part of an arrangement or contract for capital grants to Redeveloper a total of $1,759,536 including $288,750 for affordability assistance and $1,470,786 for housing activity in accordance with the Township's updated spending plan, endorsed December 17, 2020, which, at Redeveloper's election, may be in the form of a non-recourse loan with a nominal interest rate that is forgivable at the election of Redeveloper at the end of the loan term (the "Affordable Payment"). The Affordable Payment shall be paid to Redeveloper one-third at the closing of Redeveloper's acquisition of the Property, one-third upon fifty percent (50%)

completion of the Project, and one-third upon issuance of the Certificate of Completion for the Project.

h) Section 3.05(b) (erroneously labeled Section 3.4 in the Redevelopment Agreement) shall be amended to read as follows: "The Redeveloper's Covenants contained in Article 3 and in Article 6 shall run with the land and be referenced in any deeds, leases, or other documents of conveyance for the Project and with the exception of Sections 3.01 (h) – (1) shall cease and terminate upon the issuance of a Certificate of Completion for the Project."

i) Section 4.01, the second sentence shall be amended to read as follows: "The purchase contract shall be by and between the Somerset County Improvement Authority, as Seller; the Township as Lessee/Optionee and the Redeveloper (or the Project Owner Entity) as Buyer for the consideration of One Dollar ($1.00)."

j) Section 4.02(f) shall be deleted in its entirety and shall read as follows: "Subject to all terms, covenants and conditions of this Agreement, the Property shall be subdivided from the Redevelopment Area and following or simultaneously with the perfection of same, the Somerset County Improvement Authority as Owner/Seller and the Township as Lessee/Optionee shall convey all right, title and interest in the Property to the Redeveloper as Buyer."

k) The second sentence of Section 4.02(g) shall be deleted in its entirety and replaced with the following: "Township and Redeveloper shall execute and record a deed restriction against the Property, in the form required by the NJHMFA, restricting the use of the Property as an affordable housing development for a term set forth by the NJHMFA."

l) Section 4.30(c) shall be amended to add the following sentence at the end of this subsection: "Nothing set forth in this Section 4.20(c) shall prevent the Township from issuing to the Redeveloper a Notice to Cure regarding any failure of the Redeveloper to abide by the Construction Timetable."

m) Section 4.04(b) shall be amended such that the third sentence shall read as follows: "The Redeveloper and the Township shall prepare the agenda for the requested quarterly progress meeting in advance of the meeting and shall share all relevant information regarding the overall planning development and construction of the Project including, but not limited to, Governmental Approval submissions, financial application process and commitments, construction of the Improvements and marketing/advertising efforts, etc."

n) Section 13.06 of the Agreement shall be amended to add the following at the end: "Notwithstanding the foregoing, the Township shall consider in good faith any reasonable, non-material modifications to this Agreement that are requested by the Redeveloper's tax credit investor or lender (including a Mortgagee)."

o) Section 13.07 shall be amended to provide as follows:

Township Attorney: Wendy Rubinstein Quiroga, Esq.
Weiner Law Group LLP

629 Parsippany Road
Parsippany, New Jersey 07054
Tel: (973) 403-1100

In addition, either party may provide additional notice recipients or addresses by providing notice to the other party as set forth in this Section 13.07.

3. New Provisions.

a) The Township hereby grants to Redeveloper the non-exclusive right to access and use the parking lot within the Redevelopment Area to the north of the Property, as depicted on **Exhibit 2** attached hereto, as a staging area during construction of the Project up until the Completion Date. Throughout the term of its use of the aforementioned parking lot within the Redevelopment Area to the north of the Property, the Redeveloper shall hold the Township harmless from any and all claims, damages or other potential loss arising as a result of the Redeveloper's use and occupancy of the parking lot. With regard to its use and occupancy of the subject parking lot the Redeveloper shall arrange with its insurance carrier to identify the Township as an "additional insured" party for such time as it utilizes the parking lot for the development and construction of the Project.

b) Redeveloper and the Township acknowledge that the Governmental Approvals for the Project include the rehabilitation of an existing stormwater basin within the Township's portion of the Redevelopment Area, and the conversion of that basin into a bioretention basin (the "Basin Upgrades"). Redeveloper, in its discretion, may make application to the Land Use Board and other governmental agencies having jurisdiction thereon, including the Delaware and Raritan Canal Commission, to amend the Governmental Approvals to eliminate the Basin Upgrades. The Township shall cooperate with Redeveloper on the amended application submission, including as required under Section 2.02(d), Section 3.02(a) and Section 12.01(b) of the Agreement.

c) In the event Redeveloper may construct the Project without the Basin Upgrades, by following the process set forth in Section 3(b) herein, Redeveloper agrees that the Township may defer up to $686,687 of the affordable housing monies owed to Redeveloper under the Agreement, which deferral is already reflected in the amounts set forth in Sections 3.02(g) and (h) of the Agreement, as same are modified by this Amendment.

4. Miscellaneous.

(a) As amended hereby, the Agreement is hereby ratified and confirmed to be in full force and effect. In the event any provisions of the Agreement are inconsistent with this Amendment, the provisions of this Amendment shall control.

(b) This Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

(c) If any term of this Amendment, or the application thereof to any person or circumstances, shall to any extent be invalid or unenforceable, the remainder of this Amendment, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Amendment shall be valid and enforceable to the fullest extent permitted by law. The titles for the articles and sections are for convenience only and not to be considered in construing this Amendment. This Amendment contains all of the agreements of the parties with respect to the subject matter hereof, and supersedes all prior dealings between them with respect to such subject matter.

(d) This Amendment may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document. The parties shall be entitled to sign and transmit an electronic signature of this Amendment (whether by facsimile, PDF or other e-mail transmission), which signature shall be binding on the party whose name is contained therein and shall serve as an original.

SIGNATURE PAGE TO FOLLOW.

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the day and year first above written.

REDEVELOPER:

RPM DEVELOPMENT, L.L.C.

By:_____
Name: Edward G. Martoglio
Title: Sole Member

TOWNSHIP:

THE TOWNSHIP OF MONTGOMERY,
a body corporate and politic

By:_____
Name: Neena Singh
Title: Mayor

EXHIBIT 1

EXHIBIT 2

TOWNSHIP OF MONTGOMERY
SOMERSET COUNTY, NEW JERSEY

RESOLUTION #24-4-138

A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF AN AMENDED REDEVELOPMENT AGREEMENT BETWEEN THE TOWNSHIP OF MONTGOMERY AND RPM DEVELOPMENT LLC FOR PROPERTY LOCATED AT ORCHARD ROAD AND HEADQUARTERS PARK DRIVE, ALSO KNOWN AS BLOCK 20001, LOT 10.05, LOCATED IN AN AREA IN NEED OF REDEVELOPMENT FOR DEVELOPMENT OF AN AFFORDABLE HOUSING PROJECT

WHEREAS, on May 6, 2021, the Township Committee of the Township of Montgomery ("Township") adopted Resolution No.: 21-5-125, conditionally designating RPM Development, LLC)"RPM") as the Redeveloper of a subdivided portion of the Redevelopment Area to be known as Block 20001, Lot 10.07 (the "Property"); and

WHEREAS, on June 17, 2021, the Township Committee authorized the execution of a Redevelopment Agreement between the Township and RPM; and,

WHEREAS, the Township now wishes to enter into the attached Amended Redevelopment Agreement with RPM; and,

WHEREAS, a draft of the proposed Amended Redevelopment Agreement between the Township and RPM has been prepared and is attached hereto; and,

WHEREAS, Township professionals have reviewed the proposed Amended Redevelopment Agreement and have determined that the terms and conditions set forth therein are feasible, reasonable, and in accordance with sound planning principles.

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Montgomery, County of Somerset, State of New Jersey, as follows:

Section 1. The above WHEREAS paragraphs are hereby incorporated herein by reference as though specifically set forth herein below.

Section 2. The Township Committee hereby approves and authorizes the execution of an amendment to the Redevelopment Agreement between the Township of Montgomery and RPM Development Group LLC, 77 Park Street, Montclair, New Jersey 07042 for the redevelopment of a portion of Orchard Road and Headquarters Park Drive, also to be known as Block 20001, Lot 10.07 for the Project.

Section 3. The Mayor and Township Clerk are hereby authorized to execute the Amended Redevelopment Agreement, substantially consistent with the form of agreement attached hereto, to effectuate the completion and implementation of the Project, subject to final review by Township counsel as to legal form and content. between the Township of Montgomery and RPM Development Group LLC, 77 Park Street, Montclair, New Jersey 07042 for the redevelopment of a portion of Orchard Road and Headquarters Park Drive, also to be known as Block 20001, Lot 10.07 for the Project.

BE IT FURTHER RESOLVED that if any part(s) of this resolution shall be deemed invalid, such part(s) shall be severed and the invalidity thereby shall not affect the remaining parts of this resolution; and,

BE IT FURTHER RESOLVED that this resolution shall take effect immediately, and that a notice of this action shall be published in the official newspaper authorized to publish legal notices for the Township as required by law and that a copy of this resolution shall be filed in the Office of the Township Clerk.

CERTIFICATION

I, Lisa Fania, Clerk of the Township of Montgomery, County of Somerset, do hereby certify that the foregoing is a true and correct copy of a resolution duly adopted by the Township Committee at a Regular Meeting held on April 4, 2024.

Lisa Fania, RMC
Township Clerk

REDEVELOPMENT AGREEMENT

BY AND BETWEEN

MONTGOMERY TOWNSHIP

AND

RPM DEVELOPMENT, L.L.C.

Dated:

June 28, 2021

THIS REDEVELOPMENT AGREEMENT (this "Agreement") entered into and dated as of the 28 day of June, 2021 (the "Effective Date"), by and between the Montgomery Township (the "Township") a body corporate and politic of the State of New Jersey, having its office at 2261 Route 206, Belle Mead, New Jersey 08502 and RPM Development, L.L.C. ("RPM" or "Redeveloper"), a New Jersey limited liability company having its office at 77 Park Street, Montclair, New Jersey 07042, collectively referred to herein as the "Parties."

WITNESSETH

WHEREAS, the Township is a political subdivision of the State of New Jersey, located in the County of Somerset; and

WHEREAS, the Redeveloper is a limited liability company formed under the laws of the State of New Jersey; and

WHEREAS, the Township has an obligation to provide a realistic opportunity for affordable housing to its residents; and

WHEREAS, the Township has included RPM in their Third Round Housing Element and Fair Share Plan as the Redeveloper of the Property (as hereinafter defined); and

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.* (the "Redevelopment Law") authorizes municipalities to determine whether certain parcels of land located therein constitute an area in need of redevelopment; and

WHEREAS, the Township Committee of the Township of Montgomery (the "Township Committee"), by Resolution No. 20-2-45 dated February 6, 2020, directed the Montgomery Planning Board (the "Planning Board" or "Board") to undertake a preliminary investigation pursuant to the Redevelopment Law to determine whether certain property, including the property identified as Block 20001, Lot 10.05, as shown on the official Tax Map of the Township of Montgomery (the "Redevelopment Area") constitutes an area in need of redevelopment in accordance with the criteria set forth in N.J.S.A. 40A:12A-5; and

WHEREAS, at a public hearing of the Planning Board, the Planning Board reviewed the proposed redevelopment area, a report prepared by the Township's professional planner, and heard testimony on the proposed redevelopment area, and pursuant to a Resolution adopted on November 2, 2020, the Planning Board found that the Redevelopment Area met the statutory criteria for an area in need of redevelopment under N.J.S.A. 40A:12A-5; and

WHEREAS, the Township Committee accepted the Planning Board's recommendation and designated the Redevelopment Area as a redevelopment area on November 5, 2020 pursuant to Resolution No. 20-11-209; and

WHEREAS, the Township Committee directed the Township's professional planning consultant to prepare that certain redevelopment plan entitled "Orchard Road + Headquarters Park Drive Redevelopment Area Redevelopment Plan, Township of Montgomery, Somerset

County, New Jersey", prepared by Clarke Caton Hintz, dated November 2, 2020 (the "Redevelopment Plan"); and

WHEREAS, on December 17, 2020, the Township Committee adopted Ordinance No. Ordinance 20-1648 and the Redevelopment Plan after conducting the requisite hearings therefor and referral of same to the Planning Board for consistency review pursuant to N.J.S.A. 40A:12A-7(e); and

WHEREAS, the Township currently leases the Redevelopment Area pursuant to a Lease Agreement with the Somerset County Improvement Authority, which Lease Agreement provides the Township with an option to purchase the Redevelopment Area; and

WHEREAS, the Township intends to purchase the Redevelopment Area from the Somerset County Improvement Authority; and

WHEREAS, the Township has determined to convey to RPM a subdivided portion of the Redevelopment Area, which subdivided portion shall be known and designated as Block 20001, Lot 10.07 (the "Property"), as further described in the metes and bounds description attached hereto as **Exhibit A**; and

WHEREAS, the Township has determined that RPM is an experienced and highly regarded Redeveloper of affordable housing and commercial properties throughout the State of New Jersey and has the necessary expertise, skill, ability and financial resources to carry out and guarantee completion of the Project (as hereinafter defined in Article 4), and by Resolution #21-5-125 adopted on May 6, 2021, conditionally designated RPM as the Redeveloper of the Property; and

WHEREAS, the Township has determined that the development of the Property as proposed by the Redeveloper is in the best interest of the Township and the health, safety, morals and welfare of the residents thereof and in accordance with the public purposes and provisions of the applicable federal, State and local laws and requirements under which the Project will be undertaken and assisted; and

WHEREAS, the Redeveloper acknowledges that all uses to which the Property may be devoted are to be controlled by this Agreement, and that under no circumstances shall the Redeveloper undertake any construction on or development of the Project unless it is in accordance with this Agreement and the Redevelopment Plan, as same may be amended from time to time; and

WHEREAS, so as to defray the costs and expenses incurred by the Township for the development process, the Redeveloper agrees to reimburse the Township for all reasonable costs and expenses incurred as a result of those professional consulting services necessary in the course of the development process; and

WHEREAS, the Township has determined that it is in the best interests of the Township to enter into this Agreement with the Redeveloper to set forth the principles of agreement between the Township and the Redeveloper for the development of the Property and to set forth in greater detail their respective undertakings, rights and obligations in connection with the

construction of the Project, all in accordance with Applicable Law and the terms and conditions of this Agreement,

NOW, THEREFORE, in consideration of the mutual promises, representations, covenants and agreements contained herein and the undertakings of the Parties to each other and such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound hereby and to bind their successors and assigns, do mutually promise, covenant and agree as follows:

ARTICLE 1
DEFINITIONS

SECTION 1.01 **Definitions**. Words that are capitalized, and which are not the first word of a sentence, are defined terms. The following terms shall have the meanings assigned to such term in the preambles hereof:

Agreement
Effective Date
Parties
Project
Property
Redeveloper
Redevelopment Law
Redevelopment Area
Redevelopment Plan
Township

Unless specifically provided otherwise or the context otherwise requires, the following terms when used in this Agreement shall mean:

"Affiliate" shall mean with respect to any Person, (as hereinafter defined) any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such Person. For purposes of this definition, the term "control" (including the correlative meanings of the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person, whether through the ownership of voting securities, or by contract or otherwise.

"Applicable Laws" shall mean all federal, State and local laws, ordinances, approvals, rules, regulations and requirements applicable to the Redeveloper and/or the Project including, but not limited to, the Redevelopment Law, the MLUL, relevant construction codes including construction codes governing access for people with disabilities and such zoning, sanitary, pollution and other environmental safety ordinances, laws and such rules and regulations thereunder, including all applicable environmental laws.

"Township Costs" shall be as defined in Section 5.02.

"Building Permit" shall mean a building permit issued by or on behalf of the Township pursuant to Applicable Law.

"Certificate of Completion" shall mean a certificate in the form attached hereto as **Exhibit B** issued by the Township at such time as all work related to the Project has been completed, acquired and/or installed in accordance with this Agreement.

"Certificate of Occupancy" shall mean a temporary or permanent certificate of occupancy as defined in the New Jersey Uniform Construction Code, N.J.S.A. 52:27D-133.

"Code" shall mean Section 42 of the Internal Revenue Code, as amended.

"Commencement of Construction," "Commence Construction" or "Commencement Date" shall mean the date on which the construction force and machinery is mobilized for construction on the Project to commence the Construction Schedule.

"Completion Date" shall be as defined in Section 4.03(d).

"Compliance Period" shall be as defined in Section 4.01.

"Construction Schedule" shall mean the schedules, attached hereto as **Exhibit C** for the development, construction and completion of the Project.

"Declaration" shall be as defined in Section 3.03.

"Environmental Due Diligence Period" shall be as defined in Section 11.01.

"Environmental Laws" shall mean any and all common law, statutes, regulations, codes, directives, orders, or ordinances of any federal, state, or local government entity, authority, agency, and/or department with authority dealing with Environmental Matters at the Property (whether heretofore, now in effect or hereinafter enacted or promulgated or amended) including but not limited to: the Spill Compensation and Control Act, *N.J.S.A.* 58:10-23. 11, *et seq.*; the Industrial Site Recovery Act, *N.J.S.A.* 13:1k-6, *et seq.* ("ISRA"); the Brownfield and Contaminated Site Remediation Act, *N.J.S.A.* 58:1OB-1, NJ Water Pollution Control Act, *N.J.S.A.* 10A-1, *et seq.*; the Solid Waste Management Act, *N.J.S.A.* 13:1E-1, *et seq.*; and any amendments to the foregoing.

"Environmental Matters" shall mean all matters, conditions, liabilities, obligations, damages, losses, claims, requirements, prohibitions, and restrictions arising out of or relating to the environment, including the safety, or sanitation, or the production, storage, handling, use, emission, release, discharge, dispersal, or disposal of any substance, product or waste which is hazardous or toxic or which is regulated by any Environmental Law whatsoever to the air, soil, surface water or groundwater.

"Escrow" shall be as defined in Section 5.02.

"Event of Default" shall be as set forth in Section 8.01.

"Force Majeure" shall be as defined in Article 9.

"Governmental Applications" shall mean the applications including all plans, drawings, documentation and presentations necessary and appropriate for the purpose of obtaining any and all Governmental Approvals required to complete the Project.

"Governmental Approvals" shall mean all approvals needed from a Governmental Body having jurisdiction thereof to the extent necessary to implement the Project in accordance with this Agreement, including, without limitation: the site plan approval with respect to the Building Permit; environmental approvals; sewerage capacity approvals and any and all other necessary permits, licenses, consents and approvals required for construction and operation of the Project under Applicable Law.

"Governmental Body" shall mean any federal, State, county or local Township, department, commission, authority, court or tribunal and any designee or successor thereto, exercising executive, legislative, judicial or administrative functions of or pertaining to government, including without limitation, the Township and the State.

"Hazardous Materials" Shall mean any substance which is or contains (i) any "hazardous substance" as now or hereafter defined in §101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. §9601, *et seq.*) ("CERCLA") or any regulations promulgated under CERCLA; (ii) any "hazardous waste" as now or hereafter defined in the Resource Conservation and Recovery Act (42 U.S.C. §6901, *et seq.*) ("RCRA") or regulations promulgated under RCRA; (iii) any substance regulated by ISRA or any regulations promulgated under ISRA, the Spill Compensation and Control Act (N.J.S.A. 58:10-23.11, *et seq.*) (the "Spill Act"), or any regulations promulgated under the Spill Act, the Solid Waste Management Act (N.J.S.A. 13:1E-1, *et seq.*), or any regulations promulgated under the Solid Waste Management Act; (iv) any substance regulated by the Toxic Substances Control Act (15 U.S.C. §2601, *et seq.*); (v) gasoline, diesel fuel, or other petroleum hydrocarbons; (vi) asbestos and asbestos containing materials, in any form, whether friable or non-friable; (vii) polychlorinated biphenyls; (viii) radon gas; and (ix) any additional substances or materials which are now or hereafter classified or considered to be hazardous or toxic under any Environmental Law, ordinance, rule or regulation, now or hereinafter enacted, or the common law, or any other applicable laws relating to the Land and Improvements. Hazardous Materials shall not include customary construction, maintenance, janitorial and cleaning supplies in reasonable quantities to be used in the ordinary course of construction and operation of the Project and which are used and disposed of in accordance with all applicable Environmental Laws.

"Impositions" shall mean all taxes, assessments (including all assessments for public improvements or benefits), water, sewer or other rents, rates and charges, license fees, permit fees, inspection fees and other authorization fees and charges, in each case, whether general or special, which are levied upon any portion of the Property or on any of the Improvements constructed thereon.

"Improvements" or "Project" shall mean all new buildings, structures, parking and appurtenances and all other on-site improvements constructed on or installed upon the Residential Property in in accordance with this Agreement, all ancillary agreements, Governmental Approvals and Applicable Laws, including without limitation approximately

seventy-one (71) units of affordable age-restricted rental housing units. Improvements also comprise all facilities, amenities, on- and off-street parking, landscaping and fencing and enhancements required to be made to the Property and the streets abutting and surrounding the Property as shall be shown on the site plan approved by the Township Land Use Board and required pursuant to this Agreement.

"Institution" shall mean any savings and loan association, savings bank, commercial bank or trust company (whether acting individually or in any fiduciary capacity, an insurance company, a real estate investment trust, an educational institution or a state, municipal or similar public employee's welfare, pension or retirement system or any other corporation or organization subject to supervision and regulation by the insurance or banking departments of the State or of the United States Treasury, or any successor department or departments hereafter exercising the same functions as said departments.

"Land Use Board" or "Township Land Use Board" shall mean the Township of Montgomery Planning Board or any successor thereto exercising similar functions in accordance with the Township ordinance or the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

"LIHTC" shall mean Low Income Housing Tax Credits.

"MLUL" shall mean the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq.

"Mortgagee" shall mean an Institution that holds a mortgage on the Property.

"NJDEP" shall mean the State of New Jersey Department of Environmental Protection.

"NJHMFA" means the New Jersey Housing and Mortgage Finance Agency.

"Permitted Transfers" shall be as defined in Section 6.02.

"Person" means any individual, sole proprietorship, corporation, partnership, joint venture, limited liability company or partnership, trust, unincorporated association, institution, public or Governmental Body or any other entity including, without limitation, any form of entity whether or not in good legal standing.

"Pre-Construction Meeting" shall be as defined in Section 4.04.

"Progress Reports" shall be as defined in Section 4.03(a).

"Project Costs" shall be as defined in Section 5.01.

"Project Owner Entity" shall mean that single purpose entity to be created by Redeveloper and which shall own the interest in the Project.

"Public Improvements" shall mean Project-related "off-tract" or "off-site" improvements or infrastructure as defined in the MLUL, required by the terms of this Agreement or the Governmental Approvals to be constructed or installed by Redeveloper and offered for

dedication, contributed or conveyed to the Township or to the appropriate utility purveyor upon Completion of the Project

"Release(s)" shall mean any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing, or migration into the indoor or outdoor environment or into or out of any property, including the movement of Hazardous Materials through or in the air, soil, surface water, or groundwater.

"State" shall mean the State of New Jersey.

"Transfers" shall be as defined in Section 6.01.

SECTION 1.03 Term. The term of this Agreement (the "Term") shall, unless otherwise extended in accordance with the terms of this Agreement or unless terminated sooner in accordance with the terms of this Agreement, be the later of (a) the period of time from the Effective Date of this Agreement until five (5) years thereafter, or (b) the issuance of the final Certificate of Completion and Compliance for the portion of the Project located within the Township in accordance with this Agreement.

SECTION 1.04 Interpretation and Construction. In this Agreement, unless the context otherwise requires:

(a) The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms, as used in this Agreement, refer to this Agreement, and the term "hereafter" means after, and the term "heretofore" means before the Effective Date.

(b) Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa.

(c) Unless otherwise noted, the terms "include," "includes" and "including" when used in this Agreement shall be deemed to be followed by the phrase "without limitation."

(d) Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

(e) The recitals to this Agreement and the Definitions contained within this Agreement are hereby incorporated by reference into this Agreement, as if set forth at length.

(f) All Exhibits referred to in this Agreement and attached hereto are incorporated herein and made part hereof.

(g) Each right or obligation of a Party to review or approve any actions, plans, specifications, or other obligations hereunder shall be made by a person with legal authority to conduct such review or grant such approvals. Any review contemplated by this Agreement shall be made in a prompt and timely manner.

(h) Unless otherwise indicated, any "costs, fees and expenses" shall be required to be actual, out of pocket, necessary, customary and reasonable.

(i) Any reference to Applicable Laws or any Applicable Law shall be read to mean as the Applicable Law is amended or supplemented from time to time.

(j) All Block and Lot references used in this Agreement shall refer to Block and Lot numbers appearing on the official tax maps of the Township.

ARTICLE 2
REPRESENTATIONS AND WARRANTIES

SECTION 2.01 **Representations and Warranties by the Redeveloper**. The Redeveloper hereby makes the following representations and warranties, understanding that the Township has relied thereon as a material element in entering into this Agreement and consummating the transactions contemplated herein, all of which shall be true as of the Effective Date:

(a) The Redeveloper is a duly organized and a validly existing limited liability company organized under the laws of the State, is in good standing under the laws of the State and has all requisite right, power and authority to carry on its business as now and whenever conducted, and to enter into this Agreement and the instruments and documents referenced herein to which the Redeveloper is a party, to consummate the transactions contemplated hereby, to take any steps or actions contemplated hereby, and to perform its obligations hereunder. The ownership structure of the Redeveloper is set forth in **Exhibit D**.

(b) This Agreement has been duly authorized, executed and delivered by the Redeveloper, and is valid and legally binding upon the Redeveloper and enforceable in accordance with its terms.

(c) No receiver, liquidator, custodian or trustee of the Redeveloper shall have been appointed as of the Effective Date, and no petition to reorganize the Redeveloper pursuant to the United States Bankruptcy Code or any similar statute that is applicable to the Redeveloper shall have been filed as of the Effective Date.

(d) No adjudication of bankruptcy of the Redeveloper or a filing for voluntary bankruptcy by the Redeveloper under the provisions of the United States Bankruptcy Code or any other similar statue that is applicable to the Redeveloper shall have been filed.

(e) No indictment has been returned against the Redeveloper or any official, principal or member of the Redeveloper.

(f) To Redeveloper's actual knowledge, there is no action, proceeding or investigation now pending, nor any basis therefor, known or believed to exist which questions the authority of the Redeveloper to enter into this Agreement or any action or act taken or to be taken by the Redeveloper pursuant to this Agreement, or that would have a material adverse

effect on the financial condition of the Redeveloper or that would prevent the Redeveloper from performing its duties and obligations hereunder.

(g) The Redeveloper's execution and delivery of this Agreement and its performance hereunder will not constitute a violation of any operating, partnership and/or stockholder agreement of the Redeveloper or of any agreement, mortgage, indenture, instrument or judgment, to which the Redeveloper is a party.

(h) The Redeveloper is financially and technically capable of developing, designing, financing, constructing, operating, and maintaining the Project and has the necessary expertise, qualifications, staff and resources to undertake and complete the Project and perform all of its obligations under this Agreement.

(i) The Redeveloper shall make commercially reasonable efforts in good faith when awarding contracts and/or subcontracts, wherever reasonably feasible, to local and/or minority business enterprises, where competitive bids and prices are offered by such enterprises, which may have a limited record of such activity, but which, in the judgment of Redeveloper, can competently provide the goods and services required by Redeveloper. Redeveloper shall further make commercially reasonable efforts in good faith when utilizing local and/or minority employees on the Project, and shall use commercially reasonable efforts to ensure that contractors and subcontractors retained by the Redeveloper make similar efforts, including cooperation with the Township as set forth in (k) immediately below.

(j) The Redeveloper shall incorporate and utilize green building technologies into all aspects of the project design and construction wherever feasible. Green building (also known as green construction or sustainable building) is the practice of creating structures and using processes that are environmentally responsible and resource-efficient throughout a building's life-cycle; from siting to design, construction, operation, maintenance, renovation and demolition.

(k) All information and statements included in any information, documents or materials submitted by Redeveloper and/or Redeveloper's agents to the Township and/or Township's agents (including but not limited to all law firms serving as outside counsel) are complete, true and accurate in all material respects. Redeveloper acknowledges that the facts and representations contained in the information submitted by Redeveloper, incorporated herein by reference, are being relied upon by the Township and are a material factor in the decision of the Township to enter into this Agreement.

SECTION 2.02 **Representations and Warranties by the Township**. The Township hereby makes the following representations and warranties, understanding that the Redeveloper has relied thereon as a material element in entering into this Agreement and consummating the transactions contemplated hereby, all of which shall be true as of the Effective Date:

(a) Upon the approval of this Agreement by the Township Committee, all requisite action will have been taken by the Township, and after all due and diligent investigation by the Township, the Township represents that (i) all requisite consents have been obtained in connection with the entering into this Agreement and the instruments and documents referenced

herein to which the Township is party, (ii) the consummation of the transaction contemplated hereby are permitted and/or authorized by all Applicable Laws, and (iii) there are no writs, injunctions, orders or decrees of any court or governmental body that would be violated by the Township entering into or performing its obligations under this Agreement.

(b) This Agreement is duly executed by the Township, and is valid and legally binding upon the Township and enforceable in accordance with its terms on the basis of laws presently in effect, and the execution and delivery thereof shall not, with due notice or the passage of time, constitute a default under or violate the terms of any indenture, agreement or other instrument to which the Township is a party.

(c) To the best of the Township's knowledge, there is no action, proceeding or investigation now pending, nor any basis therefor, known or believed to exist which questions the validity of this Agreement or the authority of the Township to enter into the Agreement or any action or act taken or to be taken by the Township pursuant to this Agreement, nor any writs, injunctions, orders or decrees of any court or governmental body that would be violated by the Township entering into or performing its obligations under this Agreement.

(d) The Township agrees to support any application by the Redeveloper for Governmental Approvals that are consistent with the terms of this Agreement, and to execute any documents required to obtain such approvals and otherwise to cooperate with the Redeveloper with respect to the Governmental Approvals, provided that nothing contained in this Section 2.02 shall be deemed: (i) to constitute an approval of all or any portion of the Project for which Governmental Applications have been submitted or are required or (ii) a waiver of the ability of the Land Use Board, or any other Governmental Body, from exercising its statutorily authorized responsibilities with respect to the Governmental Applications or Governmental Approvals.

(e) To the best of the Township's knowledge, there are no Environmental Matters affecting the Property, and the Township has not received any notice of a violation or threatened violation of any Environmental Laws for the Property.

SECTION 2.03 Mutual Representations.

(a) The Parties agree that the Project as defined herein does not constitute a "Public Works Contract" as defined in N.J.S.A. 10:5-31 and the completion of the Project does not constitute a "Public Work" as defined in N.J.S.A. 34:11-56.26.

(b) In the event that any contractual provisions that are required by Applicable Laws have been omitted, then the Parties agree that this Agreement shall be deemed to incorporate all such clauses by reference and such requirements shall become a part of this Agreement. If such incorporation occurs and results in a change in the obligations or benefits of one of the Parties, the Parties agree to act in good faith to mitigate such changes in position.

(c) The Parties each acknowledge and agree that the Redeveloper's obligations under this Agreement are specifically contingent upon (i) the Redeveloper obtaining at its sole expense satisfactory results of any and all inspections, tests, surveys appraisals and other evaluations of the Property, that it elects to undertake, including environmental inspections and economic

feasibility assessments (as more fully set forth in Section 4.01(e)), (ii) the Redeveloper's receipt of all required Governmental Approvals necessary for the development of the Project including municipal site plan approval with all required variances and waivers, and (iii) the Redeveloper's receipt of financing.

ARTICLE 3
COVENANTS AND RESTRICTIONS

SECTION 3.01 **Redeveloper Covenants and Restrictions**. The Redeveloper covenants and agrees for itself, its Transferees, successors and assigns that the following covenants and restrictions shall be imposed upon the Redeveloper, its Transferees, successors and assigns, and shall constitute, for all purposes of law, "covenants running with the land" until such time as the Project, or specific portions thereof, shall be completed as evidenced by the issuance of a Certificate of Completion (collectively, "Redeveloper Covenants"):

(a) The Redeveloper shall not use the Property, the Improvements, or any part thereof in a manner that is materially inconsistent with the Redevelopment Plan or this Agreement.

(b) The Redeveloper shall comply with all applicable statutes and ordinances dealing with wage scales and compensation.

(c) The Redeveloper shall undertake with due diligence (i) the financing of the Project, including construction loans, permanent loans, investor financing and a NJHMFA LIHTC allocation; (ii) construction and development of the Project; and (iii) to begin and complete each item in the Construction Schedule on or prior to the date set forth in the Construction Schedule (and for those items for which commencement dates only are given, such items shall be completed in a commercially reasonable period). All activities performed under this Agreement shall be performed in accordance with the level of skill and care ordinarily exercised by Redevelopers of first class developments of the same type and nature as the Project.

(d) The Redeveloper shall not seek a material change to the Project without the written approval of the Township, such approval not to be unreasonably withheld, conditioned or delayed provided the Project remains an affordable housing project.

(e) The Redeveloper shall use diligent efforts to obtain all Governmental Approvals requisite to the construction, development, use and occupancy of the Project, including evidence reasonably satisfactory to the Township that the Project is in compliance with all Applicable Laws and shall construct, improve, operate and maintain the Project in substantial compliance with all Governmental Approvals, and other laws, ordinances, approvals, rules, regulations and requirements applicable thereto including, but not limited to, such zoning, sanitary, pollution and other environmental safety ordinances, laws, and such rules and regulations thereunder as shall be binding upon the Redeveloper under Applicable Laws.

(f) The Redeveloper shall not suspend or discontinue the performance of its obligations under this Agreement (other than in the manner provided for herein or in Section 4.04) for any reason, including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, commercial frustration of purpose, or any damage to or destruction of the Project.

(g) Until a Certificate of Completion has been issued for the Project, the Redeveloper will not sell, convey, lease, or otherwise transfer all or any portion of the Project without written consent from the Township, except as otherwise permitted by this Agreement.

(h) The Redeveloper shall not discriminate against any Person, or group of Persons, on the basis of age, race, color, religion, creed, national origin, ancestry, physical handicap, familial status, sex, or sexual orientation in the sale, lease, sublease, rental, transfer, use, or occupancy of any Property, or any part thereof.

(i) The Redeveloper shall promptly notify the Township of any material adverse change in its financial condition from the information provided by Redeveloper indicating Redeveloper's financial capability to develop, finance and construct the Project in furtherance of the Township's appointment of the Redeveloper.

(j) The Redeveloper shall pay, in a timely manner, any and all taxes and utility charges incident to the conduct and operation of its business upon the Property, including all charges for heat, light, power, telephone, and other utilities, as well as all water, sewer and other charges.

(k) The Redeveloper shall not encumber, hypothecate or otherwise use the Project, or any part thereof, as collateral for an unrelated transaction.

(l) The Redeveloper shall keep and maintain in good condition any improvements required under the Governmental Approvals, including but not limited to any landscaping required to be planted or cause an entity in control of the Project (i.e., condominium or homeowner association) to maintain such improvements.

(m) At all times during construction of the Project, the Redeveloper shall keep debris and/or waste materials containerized and/or stored and disposed of within normal industry standards.

SECTION 3.02 **Township Covenants**. The Township hereby covenants and agrees that:

(a) The Township shall fully cooperate with the Redeveloper to expedite and obtain all Governmental Approvals required for the Project.

(b) The Township shall undertake and complete, with due diligence, all obligations under this Agreement.

(c) The Township shall convey the Property to the Redeveloper for a nominal amount at a mutually agreeable closing date after or simultaneously with the Redeveloper's receipt of construction financing for the Project.

(d) The Township shall support all reasonable efforts by the Redeveloper with regard to grant applications and zoning applications and all municipal approvals that may be needed for the Property for the purpose of completing the Project.

(e) The Township shall provide on-site transportation at least one day per week to the Property in a manner in which satisfies the requirements of the New Jersey Qualified Allocation Plan.

(f) The Township shall enter into the Financial Agreement with the Redeveloper for a PILOT at a rate not to exceed 6.28% on the residential income in accordance with Section 12.02(f) and subject to required approvals pursuant to Applicable Laws.

(g) The Township shall provide a minimum of $211,023.53 for affordability assistance in accordance with their Spending Plan adopted by Resolution #18-7-175 on July 19, 2018, which will be the subject of a separate affordability assistance agreement between the Township and Redeveloper.

(h) The Township shall provide a minimum of $2,719,317.12 to subsidize the predevelopment, construction and other related costs of this development in accordance with their Spending Plan adopted by Resolution #18-7-175 on July 19, 2018, which shall be in the form of a non-recourse loan with a nominal interest rate that is forgivable, at the election of Redeveloper, at the end of the loan term. This non-recourse loan will be memorialized in a note and mortgage on the Property to be funded at the time of construction.

(i) The Township shall grant any easements to the Redeveloper that are reasonably necessary in connection with the Project, including, without limitation, (1) an easement to use the stormwater basin located within the Redevelopment Area; (2) any easements for the installation, relocation, maintenance and operation of utilities; and (3) an access easement to provide ingress and egress to and from the Property through the remainder of the Redevelopment Area.

SECTION 3.03 **Declaration of Covenants and Restrictions.** The Redeveloper shall execute and record a Declaration of Covenants and Restrictions in the form attached hereto as **Exhibit F** (the "Declaration").

SECTION 3.04 **Effect and Duration of Covenants**. It is intended and agreed, and the Declaration shall so expressly provide, that the covenants and restrictions contained in the Declaration shall be effective until the Project, or portion thereof, shall be completed as evidenced by the issuance of a Certificate of Completion, and such agreements and covenants shall, in any event, and without regard to technical classification or designation, legal or otherwise, be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the Township, its successors and assigns, against the Redeveloper, its successors and assigns, every successor in interest therein, and any party in possession or occupancy of the Project, the Improvements, or any part thereof. Once the Project, or portion thereof, shall be completed as evidenced by the issuance of a Certificate of Completion, the Township shall execute any reasonably necessary documentation manifesting that the applicable agreements, covenants, and/or restrictions contained herein shall cease, and will no longer be applicable to the Property, or portion thereof, except as otherwise noted herein.

SECTION 3.04 **Enforcement by the Township**. (a) In amplification, and not in restriction, of the provisions of this Article 3, it is intended and agreed that the Township and its

successors and assigns shall be deemed beneficiaries of the terms and covenants set forth in this Agreement, both for and in their own right but also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants have been provided. Such agreements and covenants shall run in favor of the Township for the entire period during which such agreements and covenants shall be in force and effect, without regard to whether the Township has at any time been, remains, or is an owner of any land or interest therein. The Township shall have the right, in the event of any material breach of any such agreement or covenant beyond any applicable notice and cure period, to exercise all the rights and remedies and to maintain any actions or suits at law or in equity or other lawful proceedings to enforce the curing of such breach of agreement or covenant, to which it or any other beneficiaries of such agreement or covenant may be entitled.

(b) The covenants and restrictions contained in this Article 3 and in Article 6 shall run with the land and be referenced in any deeds, leases, or other documents of conveyance for the Project but shall cease and terminate upon issuance of a Certificate of Completion for the Project, unless otherwise noted herein.

ARTICLE 4
THE PROJECT

SECTION 4.01 **Property Purchase; Due Diligence**. (a) The Township shall convey the Property to the Redeveloper for a nominal fee pursuant to a bargain and sale deed, subject to the Redeveloper's receipt of a Low Income Housing Tax Credit Award. The purchase contract shall be between the Township as Seller and the Redeveloper (or the Project Owner Entity) as Buyer for consideration of One Dollar ($1.00). The Township and the Redeveloper and their respective professionals will work collaboratively to cause the sale to occur at or before the financial closing of the Project.

(b) In addition to the Environmental Due Diligence Period herein provided under Article 11, Redeveloper shall have until 120 days after the Effective Date (the "Due Diligence Period") to conduct such due diligence investigations of the Property as it may undertake in its sole discretion and at its sole expense, including, but not limited to, title reports, surveys, environmental inspections, geotechnical inspections, and economic feasibility assessments. In connection with Redeveloper's undertaking of environmental inspections and feasibility studies and seeking Governmental Approvals, Redeveloper agrees to provide, or cause to be provided, a certificate of insurance with respect to any contractor or consultant retained to perform investigations upon the Property and agrees to hold Township harmless from liability for personal injury or property damage arising from such investigations, studies or examinations.

(c) Upon the reasonable request of the Township, the Redeveloper agrees to promptly deliver to the Township copies of any surveys, reports, analyses, test results and other written reports or documents prepared for the Redeveloper by any third-party consultant with respect to any portion of the Property, including but not limited to, wetlands investigations, environmental assessments, soil tests, surveys, title commitments, engineering analyses, utility capacity analyses and the like.

SECTION 4.02 **Description of the Project**. (a) The Redeveloper agrees, at its sole cost and expense, to implement and complete the development of the Property which shall consist of the following: (i) purchase of the Property; (ii) procurement of all applicable

Governmental Approvals; (iii) financing, design, construction and completion of the Project; and (iv) payment of the Township Costs in accordance with the terms of this Agreement.

(b) The project will involve the construction of approximately seventy-one (71) units of age-restricted affordable housing in accordance with the estimated timelines made a part of the Construction Schedule attached hereto as **Exhibit C** (the "Project"). Such affordable rental housing units shall be restricted to households earning 80% or less of Somerset County area median income.

(c) The Project shall be constructed consistent with this Agreement, all Governmental Approvals and Applicable Laws. The Redeveloper acknowledges and agrees that it must submit detailed site plans for review and approval by the Land Use Board and Township Committee.

(d) The Redeveloper shall have the exclusive right to develop the Project in accordance with the terms and conditions of this Agreement.

(f) Subject to all the terms, covenants and conditions of this Agreement, the Township or the Redeveloper shall subdivide the Property from the Redevelopment Area, and following the subdivision, the Township shall convey the Property to the Redeveloper pursuant to Section 4.01. The Property shall be transferred to the Redeveloper in an "as is" condition and free of all tenants. The Redeveloper shall indemnify and hold the Township harmless from any and all liability arising out of the Redeveloper's occupancy, ownership, construction activities and operation of the Property.

(g) The Township will sell the Redeveloper the Property, insurable by a title company at regular rates. Township and Redeveloper shall execute and record a deed restriction against the Property, in a form reasonably agreeable to the Township, restricting the use of the Property as an affordable housing development for a term set forth by the NJHMFA. Such transfer and title shall be subject to all other conditions, covenants and restrictions set forth and referred to elsewhere in this Agreement and to the reservation, exceptions and encumbrances, if any and the standard printed exceptions set forth in the title policy.

(h) The Redeveloper, in conjunction with the Township, shall provide to the Township engineering drawings for each Public Improvement included within the Project. The Redeveloper shall generally construct and install the Public Improvements, and construct and install, or repair or replace, as the case may be (and/or contribute its fair share towards the cost of construction, installation, repair or replacement of) those Public Improvements required to be installed or upgraded to accommodate the Project. The Township shall be responsible for the repair or replacement of sewer, water or other utility lines within the Development Area that are not directly impacted by the Project.

(i) The Redeveloper agrees to directly or indirectly provide all performance and maintenance bonds as required by law.

SECTION 4.03 **Construction Schedule**. (a) The Construction Schedule shall control the Commencement of Construction, progress and Completion of the Project. The Redeveloper will diligently implement and complete all aspects of construction of the Project in accordance with the completion dates provided in the Construction Schedule, subject only to

relief resulting from events of Force Majeure and Tolling. The Parties agree and acknowledge that adherence to the Construction Schedule is of the essence, provided, however, that notwithstanding the Construction Schedule, the Redeveloper may attempt to implement any aspect of construction whenever possible earlier than the timeframes as set forth in the Construction Schedule.

(b) The Redeveloper may modify the Construction Schedule from time to time with notice to the Township of any such modification; provided that, (i) any such modification shall not change the Completion Date for the Project without the prior written consent of the Township, which consent shall not be unreasonably withheld, and being subject to extensions for Force Majeure events in accordance with Section 4.05; and (ii) any material changes to the Construction Schedule shall be subject to the Township's review and approval, which shall not be unreasonably withheld and being subject to extensions for Force Majeure events in accordance with Section 4.05.

(c) If, subject to the provisions of Section 4.05, the Redeveloper fails to meet any completion timeframe for any reason or determines that it will fail to meet any such timeline for any reason, the Redeveloper shall promptly provide notice to the Township stating: (i) the reason for the failure or anticipated failure to complete the applicable task, (ii) the Redeveloper's proposed method and schedule for correcting such failure, and (iii) the method or methods by which the Redeveloper proposes to achieve subsequent tasks by the relevant extended timeframe.

(d) Upon completion of the construction of the Project containing residential units in accordance with the Governmental Approvals, the Redeveloper shall apply for and obtain a Certificate of Occupancy from the Township Department of Buildings or from the relevant Township official. The Certificate of Occupancy, when issued, shall constitute evidence that the Redeveloper has fully performed its obligations to construct the building containing residential units be and has done so in accordance with all rules and regulations governing the construction of similarly situated facilities and improvements.

(e) If the Redeveloper has performed all of its duties and obligations under this Agreement and completed the Project in its entirety, and the last Certificate of Occupancy has been issued (the "Completion Date"), the Township shall, as applicable, within thirty (30) days of the Completion Date and receipt of a written request from the Redeveloper and payment of the balance of any fees, issue a Certificate of Completion. The Certificate of Completion shall constitute a recordable, conclusive determination of the satisfaction and termination of the agreements and covenants in this Agreement with respect to the obligations of the Redeveloper to construct the Project.

(f) Upon the issuance and recording of the Certificate of Completion, the conditions determined to exist at the time the Property was determined to be an area in need of redevelopment shall be deemed to no longer exist with respect to the Project and Property. The Project and Property shall no longer be subject to any covenant running with that portion of the land covered by the applicable Certificate of Completion.

SECTION 4.04 **Project Oversight**. (a) The Redeveloper shall schedule a pre-construction meeting prior to the start of the construction (the "Pre-Construction Meeting"). The Redeveloper shall arrange for the Township Engineer, Township Superintendent of Public

Works, Township Police Chief or his designee, and a representative of each of the required utility companies to be in attendance at the Pre-Construction Meeting, as well as the Redeveloper's designated construction manager for the Project. The Pre-Construction meeting shall take place at least ten (10) days prior to the start of construction.

(b) At the request of the Township, the Redeveloper agrees to attend and participate in progress meetings at least quarterly, to be noticed no later than one week in advance to Redeveloper with representatives of the Township to report on the status of the Project and to review the progress under the Construction Schedule. Prior to the meeting, subject to the terms of Section 4.05 below, representatives of the Township may visit the Property to inspect the progress of the work on the Project. The Redeveloper shall prepare the agenda for the requested quarterly progress meeting in advance of the meeting (which shall include, inter alia, any agenda items reasonably requested by the Township) and shall provide information to the Township at the meetings regarding the progress of the Project including but not limited to Governmental Approval submissions, financial commitments, and construction of Improvements. At the meeting, this information will be evaluated by the Township to determine compliance with the terms and conditions of this Agreement and the Construction Schedule.

(c) The Township reserves the right to enter upon the Property, upon reasonable notice to the Redeveloper and during business hours, to visually inspect the site for informational purposes, subject to the Township's acknowledgment that the Property will be an active construction site and the Redeveloper shall not be liable or responsible to the Township, its employees, agents or invitees for damages arising from injury to person or property sustained in connection with such inspections except to the extent that the Redeveloper violates the standard of due care owed to invitees. In no event shall the Township's inspection of the Project under this Section 4.04(c) be deemed acceptance of the work or deemed to waive any right the Township has under this Agreement. Permit officials shall be permitted to enter the Property at any time.

SECTION 4.05 Tolling. The Redeveloper shall diligently adhere to the Construction Schedule and the provisions set forth in this Article 4; provided that such obligations shall be extended on a day-for-day basis for each day that the Redeveloper's performance hereunder is delayed by (a) the occurrence of an event of Force Majeure or (b) an extension of the Completion Date of any portion of the Project granted by the Township, in its sole but reasonable discretion. If a delay only affects a portion of the Project, the extension granted hereunder shall only apply to the obligations so affected and the Redeveloper shall continue to perform its obligations with respect to the balance of the Project.

SECTION 4.06 Prohibition Against Suspension, Discontinuance or Termination . The Redeveloper shall not suspend or discontinue its performance of its obligations under this Agreement or terminate this Agreement (other than in the manner provided for herein) for any reason except to the extent and for the period of time permitted in this Article 4. Subject to the Redeveloper's rights under this Article 4, if the Redeveloper shall abandon or suspend construction activities for a period of more than ninety (90) days, and Redeveloper has not begun to cure, end, or remedy the suspension or abandonment within sixty (60) days after receipt of written demand to do so by the Township, then the Township shall have the right to declare the Redeveloper in default under this Agreement and to seek all remedies available to the Township under this Agreement and all Applicable Laws. Notwithstanding

anything to the contrary contained herein, so long as Redeveloper is using commercially reasonable efforts to cure, end or remedy the suspension, discontinuance, abandonment or termination, the Township shall not declare Redeveloper in default under this Agreement.

SECTION 4.07 **Cooperation**. The Parties shall fully cooperate with each other as necessary and desirable to accomplish the Project, including entering into additional agreements that may be required; provided, however, that such actions shall not result in a material increase in the Parties' respective obligations hereunder or material decrease in the Parties' respective rights hereunder.

SECTION 4.08 **Performance Guarantees**. The Redeveloper shall post with the Township performance guarantees in the form of performance bonds or letter(s) of credit ("Performance Guarantees") as well as a cash deposit for the Improvements in accordance with the Township Code and requirements of the Township Engineer. Said Performance Guarantees and cash deposit may be posted with respect to portions of the Project in a manner reasonably consistent with the Construction Schedule and as determined by the Township Engineer. The Performance Guarantees and cash deposit shall be available for use by the Township to complete or correct any Improvements deemed incomplete or unsatisfactory by the Township. Upon the full and proper completion of each portion of the Project or Project Improvements, the Performance Guarantees and cash deposit shall be released in accordance with the terms and conditions set forth in the Township Code and the requirements of the Township Engineer. In addition, all taxes, assessments, escrows and fees applicable to any Improvements must be paid prior to the release of the Performance Guarantees. Any dispute regarding the technical specifications of the Improvements shall be referred to the Township Engineer, whose decision shall be final and binding with respect to the Township.

ARTICLE 5
COSTS ASSOCIATED WITH THE PROJECT

SECTION 5.01 **Project Costs**. All costs of implementing and completing the Project, including but not limited to the cost of obtaining all Governmental Approvals, the cost of designing and constructing (including the costs of any construction observation services) the Improvements, all financing costs, all marketing and leasing costs for the Project and the Township's Costs (collectively, the "Project Costs") shall be borne by the Redeveloper. Except if otherwise specifically set forth herein, the Township shall not be responsible for any Project Costs associated with the Project.

SECTION 5.02 **Township's Costs**. The Redeveloper shall reimburse the Township for all reasonable out of pocket costs incurred by the Township in connection with the Project. Such out of pocket costs shall include, but are not limited to, all fees and costs of any outside professional consultant, legal, engineering or financial advisory services retained by the Township related to the Project (the "Township Costs"). The Redeveloper shall also be responsible to pay for the cost of the Township's police officers for traffic control during construction when there is construction in the road way, i.e., a lane closure, road closure or detour.

The Redeveloper shall establish with the Township an escrow account (the "Escrow"), having an initial minimum balance of Ten Thousand Dollars ($10,000.00), to cover the

Township Costs. Prior to the Township's withdrawal of funds from the Escrow, the Township shall provide the Redeveloper with a copy of each invoice reflecting the Township Costs to be paid. Unless the Redeveloper promptly (within ten (10) days of its receipt of any such copy) provides a written objection to any invoiced item as not being a Township Cost, the Township shall be free to withdraw funds from the Escrow for payment of such invoiced services. From time to time during the implementation of the Project and until its completion, the Redeveloper agrees to maintain, and if necessary, replenish the Escrow to Ten Thousand Dollars ($10,000.00) if and when the Escrow is drawn down to or below Two Thousand Dollars ($2,000), upon the request of the Township to provide for the requisite minimum balance, to cover anticipated costs as provided in this Agreement. Any dispute concerning payment of the Township Costs shall be resolved in accordance with the procedures set forth in N.J.S.A. 40:55D-53.2a. Upon the issuance of the Certificate of Completion, or upon termination of this Agreement, except in the event of a termination caused by a default of the Redeveloper, any money remaining in the Escrow shall be disbursed to the Redeveloper, except that the Township may retain an amount sufficient to cover reasonably anticipated expenses.

ARTICLE 6
PROHIBITION AGAINST ASSIGNMENT AND TRANSFER

SECTION 6.01 **Prohibition Against Transfers and Speculative Development**. The Redeveloper recognizes the importance of the Project to the general welfare of the community and the public aids that have been made available by the Applicable Laws for the purpose of making such development possible, and that the identity of the Redeveloper and its qualifications are critical to the Township in entering into this Agreement. As such, the Redeveloper represents and agrees that its undertakings prescribed by this Agreement are, and will be used, for the purpose of the development of the Property and not for speculation in land holding, and further acknowledges and agrees that a change in ownership of the Redeveloper from that which is noted in **Exhibit D** attached hereto, or any other act or transaction involving or resulting in a significant change with respect to the identity of the parties in control of the Redeveloper is, for practical purposes, a transfer or disposition of the Project then owned by the Redeveloper.

Except for Permitted Transfers, prior to the issuance of a Certificate of Completion, the Redeveloper shall not, without the prior written consent of the Township, which consent shall not be unreasonably withheld: (a) effect or permit any change, directly or indirectly, in the majority ownership or control of the Redeveloper (except in the case of death of an individual(s) having or affecting such ownership or control), (b) assign or attempt to assign this Agreement or any rights herein or in the Property, or (c) make any total or partial sale, lease, transfer or conveyance of the whole or any part of its interest in the Property or the Project (collectively a "Transfer").

SECTION 6.02 **Permitted Transfers**. The following Transfers are exceptions to the prohibitions of this Article 6 and the Township's consent is deemed given hereby (the "Permitted Transfers"); provided that notice of same is given to the Township as required below: (a) mortgages, leases, and other liens and encumbrances for the purpose of financing the costs associated with, or incurred in connection with the acquisition, development and construction of the Project; (b) admission of a tax credit investor; (c) utility, environmental and other development easements; (d) a lease to a tenant occupying premises in the Project for the purpose

of operating a permitted business of that tenant as a part of the intended use of the Project; (e) to an Affiliate of the Redeveloper; (f) to an urban renewal entity created and controlled by the Redeveloper or an Affiliate of the Redeveloper as required by the Long Term Tax Exemption Law, *N.J.S.A.* 40A:20-1 et. seq.; and (g) transfers of the direct or indirect ownership or control of the Redeveloper among the existing owners, family members of the owners, and/or trusts established for estate planning purposes.

SECTION 6.03 **Conditions of Transfer**. If the Redeveloper proposes a Transfer, other than a Permitted Transfer, the Redeveloper will promptly provide to the Township for its consideration information concerning the proposed transferee, including, but not limited to, current audited financial statements for the proposed transferee and any other documentation reasonably requested by the Township pertaining to the transferee's identity, principals, qualifications, reputation and financial condition. If a Transfer is approved by the Township, the transferee, by written document acceptable in form and substance to the Township, for itself and its successors and assigns, and for the benefit of the Township, shall expressly assume all of the obligations of the Redeveloper under this Agreement applicable to the property interest conveyed with such Transfer and shall agree to be subject to all the conditions and restrictions to which the Redeveloper is subject hereunder, including the restrictions regarding the right to subsequent Transfers. All relevant instruments and other legal documents proposed to affect any such Transfer shall be submitted to the Township, and if the transferee is approved by the Township, such approval shall be indicated to the Redeveloper in writing. This covenant shall remain in effect during construction and throughout the term of any Financial Agreement executed by and between the Township and Redeveloper pertaining to the Project.

SECTION 6.04 **Notice of Permitted Transfers**. With respect to any Permitted Transfer under Section 6.02, the Redeveloper shall, to the extent practical, provide to the Township written notice at least ten (10) days prior to such Permitted Transfer, including a description of the nature of such Permitted Transfer, and the name(s) and address(es) of the parties and any parties, individuals and/or entities comprising such parties.

SECTION 6.05 **Transfers Void.** Any transfer of the Redeveloper's interest in violation of this Article 6 shall be an Event of Default of the Redeveloper and shall be null and void ab initio. Such Event of Default shall entitle the Township to seek all remedies available under the terms hereof, and those available pursuant to law or equity, including termination of this Agreement. The deed restriction shall contain a restriction against transfers as set forth in this Article 6 and, in addition, shall provide that in the event of any attempted transfer in violation of the restrictions in this Article 6 the Township shall be entitled to the ex parte issuance of an injunction restraining such Transfer, and the award of legal fees and related expenses of the Township in connection with any such legal action.

ARTICLE 7
MORTGAGE FINANCING

SECTION 7.01 **Limitation Upon Encumbrance of Property**. (a) Prior to the completion of the Project as certified by the Township, neither the Redeveloper nor any successor in interest to the Property or any part thereof shall engage in any financing or any other transaction creating any mortgage or other encumbrance or lien upon the Property, whether by express agreement or operation of law or suffer any encumbrance or lien to be made on or

attached to the Property, except for the purposes of obtaining funds necessary for completing the Project; provided, however, that upon the issuance of a Certificate of Completion for the Project, such prohibition shall no longer apply with respect to the Improvements.

(b) The Redeveloper (or successor in interest) shall notify the Township in advance of any financing, secured by any mortgage or similar lien instrument, it proposes to enter into with respect to the Property, or any part thereof (the mortgagee thereunder or its affiliate, a "Mortgagee"), and in any event shall promptly notify the Township of any encumbrance or lien that has been created on or attached to the Property whether by voluntary act of the Redeveloper or otherwise.

(c) To the extent reasonably requested by the Redeveloper, the Township shall execute such other agreements and/or documents as may be requested or required by any Mortgagee; provided, however, that any such agreement or document shall not materially and adversely alter any of the rights or obligations of the Redeveloper or the Township under this Agreement.

SECTION 7.02 Obligations of Mortgagee. Notwithstanding any of the provisions of this Agreement, a Mortgagee authorized by this Agreement shall in no way be obligated by the provisions of this Agreement to construct or complete the Project or to guarantee such construction or completion; provided that nothing in this Article 7 shall be deemed or construed to permit or authorize any such Mortgagee to devote the Project or any part thereof to any uses, or to construct any project thereon, other than those uses provided or permitted under all Governmental Approvals, Applicable Laws and this Agreement.

SECTION 7.03 Notice of Default to Mortgagee and Right to Cure. Whenever the Township shall deliver any notice or demand to the Redeveloper with respect to any breach or default by the Redeveloper under this Agreement, the Township shall at the same time deliver to each Mortgagee a copy of such notice or demand; provided that the Redeveloper has delivered to the Township a written notice of the name and address of the Mortgagee and equity participant. Each Mortgagee shall (insofar as the rights of the Township are concerned) have the right at its option within ninety (90) days after the receipt of such notice, to cure or remedy, or to commence to cure or remedy, any such default with respect to that portion of the Project which is being financed by such Mortgagee and which is subject to being cured and to add the cost thereof to the debt and the lien which it holds, or to the obligations of the lessees under any lease-back or of the guarantor under any other conveyance for financing.

SECTION 7.04 Mortgagee's Option to Cure Defaults. As to any breach or default in regard to any such mortgage such Mortgagee shall (in so far as the rights of the Township are concerned) have the right, at its option, to cure or remedy such breach or default (or such breach or default to the extent that it relates to the part of the Property covered by its mortgage) and to add the costs thereof to be mortgaged at and the lien of its mortgage.

SECTION 7.05 Township's Option to Pay Mortgage Debt or Purchase Property. In any case where, subsequent to default or breach by the Redeveloper (or successor in interest) under this Agreement, the holder of any mortgage on the Property or part thereof,

(1) Does not exercise the option to construct or complete the Project or part thereof covered by its mortgage or to which it has obtained title, and such failure continues for a period of ninety (90) days if the holder has been notified or informed of the default or breach; or

(2) Undertakes construction or completion of the Project but does not complete such construction within the period as agreed upon by the Township and such holder (which period shall in any event be at least as long as the period prescribed for such construction or completion in this Agreement), and such default shall not have been cured within ninety (90) days after written demand by the Township to do so,

then the Township, in its sole and absolute discretion, may (and every mortgage instrument made prior to completion of the Project by the Redeveloper or any successor in interest shall so provide) pay to the holder the amount of the mortgage debt or obtain an assignment of the mortgage and the debt secured thereby, or, in the event ownership of the Property (or part thereof) has vested in such holder by way of foreclosure or action in lieu thereof, the Township shall be entitled, at its option, to a conveyance to it of the Property or part thereof (as the case may be) upon payment to such holder of any amount equal to the sum of: (i) the mortgage debt at the time of foreclosure or action in lieu thereof (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings), (ii) all reasonable expenses with respect to the foreclosure; (iii) the net expense, if any (exclusive of general overhead), incurred by such holder in and as a direct result of the subsequent management of the Property; (iv) the cost of any improvements made by such holder; (v) an amount equivalent to the interest that would have accrued on the arrogate of such amounts had all such amounts been come a part of the mortgage debt and such debt had continued in existence.

SECTION 7.06 **Township's Option to Cure Mortgage Default**. In the event of a default or breach prior to the completion of the Project by the Redeveloper, or any successor in interest, in or of any of its obligations under and to the holder of, any mortgage or other instrument creating an encumbrance or lien upon the Property or part thereof, the Township may at its sole option cure such default or breach in which case the Township shall be entitled, in addition to and without limitation upon any other rights or remedies to which it shall be entitled by this Agreement, operation of law, or otherwise, to reimbursement from the Redeveloper or successor in interest of all costs and expenses incurred by the Township incurring such default or breach and to lien upon the Property (or the part thereof to which the mortgage, encumbrance, or lien relates) for such reimbursement; provided that any such liens shall be subject always to the lien of (including any lien contemplated, because of advances yet to be made, by) any then-existing mortgages on the Property authorized by this Agreement.

SECTION 7.07 **Mortgage and Holder**. For the purpose of this Agreement, the term "Mortgage" shall include a Deed of Trust or other instrument creating an encumbrance or lien upon the Property or any part thereof as security for a loan. The term "Holder" in reference to a mortgage shall include any insurer or guarantor of any obligation or condition secured by such mortgage or deed of trust, including a tax credit investor.

SECTION 7.08 **Estoppel Certificate**. Within thirty (30) days following written request therefor by the Redeveloper, or of any lender, purchaser or other party having an interest in the Project, the Township shall issue a signed estoppel certificate either stating this Agreement

is in full force and effect and that there is no default or breach under this Agreement, or stating the nature of the default or breach or event, if any. In the event the estoppel certificate discloses such a default, breach or event, it shall also state the manner in which such default, breach and/or event may be cured. No more than a reasonable number of estoppel certificates may be requested per year.

SECTION 7.09 **Financial Arrangement with Public Entity**. This Agreement, as a financial arrangement made by a Governmental Body or agency of the State pursuant to statutes in connection with a project for development, renewal or rehabilitation, shall continue in full force and effect beyond any default in or foreclosure of any mortgage loan made to finance the Project, as though such default or foreclosure had not occurred, subject to the provision of N.J.S.A. 55:17 et seq.

ARTICLE 8
EVENTS OF DEFAULT

SECTION 8.01 **Events of Default**. Any one or more of the following shall constitute an "Event of Default" hereunder, subject to Section 4.05 (with none of the following to be construed as a limitation on any other):

(a) Except as otherwise set forth in the below provisions of this Article 8, failure of the Redeveloper or the Township to observe and perform any covenant, condition, representation, warranty or agreement hereunder, and continuance of such failure for a period of thirty (30) days, after receipt by the defaulting Party of written notice from the non-defaulting Party specifying the nature of such failure and requesting that such failure be remedied; provided, however, if the breach of any such covenant, condition or agreement is one which cannot be completely remedied within the thirty (30) days after such written notice has been given, it shall not be an Event of Default as long as the defaulting Party is proceeding with due diligence to remedy the same as soon as practicable but in no event later than one hundred twenty (120) days after such written notice.

(b) (i) The Redeveloper shall have applied for or consented to the appointment of a custodian, receiver, trustee or liquidator of all or a substantial part of its assets; (ii) a custodian shall have been legally appointed with or without consent of the Redeveloper; (iii) the Redeveloper, (A) has made a general assignment for the benefit of creditors, or (B) has filed a voluntary petition in bankruptcy or a petition or an answer seeking an arrangement with creditors or has taken advantage of any insolvency law; (iv) the Redeveloper has filed an answer admitting the material allegations of a petition in any bankruptcy or insolvency proceeding; or (v) the Redeveloper shall take any action for the purpose of effecting any of the foregoing; (vi) a petition in bankruptcy shall have been filed against the Redeveloper, and shall not have been dismissed for a period of ninety (90) consecutive days; (vii) an order for relief shall have been entered with respect to or for the benefit of the Redeveloper, under the bankruptcy code; (viii) an order, judgment or decree shall have been entered, without the application, approval or consent of the Redeveloper, by any court of competent jurisdiction appointing a receiver, trustee, custodian or liquidator of the Redeveloper, or a substantial part of its assets and such order, judgment or decree shall have continued unstayed and in effect for any period of ninety (90) consecutive days; or (ix) the Redeveloper shall have suspended the transaction of its usual business.

(c) The Redeveloper shall default in or violate its obligations with respect to the construction of the Project in accordance with this Agreement, the Construction Schedule, the Governmental Approvals or Applicable Laws or, including but not limited to, failure to comply with the Commencement of Construction and Completion of Construction, shall abandon or substantially suspend construction work (unless such suspension arises out of a delay set forth in Article 9 or is permitted in accordance with Section 4.03), and any such default, violation, abandonment or suspension shall not be cured, ended, or remedied within ninety (90) days after written demand by the Township to do so (provided that it shall not be an event of default if the Redeveloper is proceeding with due diligence to remedy the same as soon as practicable).

(d) The Project shall not be complete, as evidenced by a Certificate of Completion, on the Completion Date, which date is subject to extension pursuant to Sections 4.03 and 4.05 or as otherwise provided in this Agreement.

(e) The Redeveloper, its successor or assigns shall fail to pay any real estate taxes, assessment on the Property or any part thereof when due, shall fail to pay any payments required under this Agreement, including without limitation, the Township Costs, or shall place on the Property any encumbrance or lien unauthorized by this Agreement, or shall suffer any levy or attachment to be made, or any materialmen's or mechanics' lien, or any other unauthorized encumbrance or lien to attach and such real estate taxes or assessments, including any accrued interest and penalties, shall not have been paid, or the encumbrance or lien removed or discharged or provision satisfactory to the Township made for such payment, removal, or discharge, within sixty (60) days after written demand by the Township to do so.

(f) There is a Transfer or assignment or a lien placed against the Property in violation of this Agreement, and any such default, or violation shall not be cured, ended, or remedied within forty-five (45) days after written demand by the Township to do so.

(g) The filing of a complaint in foreclosure against the Redeveloper or the issuance of a deed in lieu of foreclosure for any financing in connection with the Project.

(h) A final and unappealable determination is issued by a court of competent jurisdiction that the Redeveloper is insolvent.

(i) A notice to the Township by the Redeveloper that it has determined not to proceed with the Project, unless the Redeveloper has the right not to proceed, under the terms of this Agreement.

SECTION 8.02 **Remedies Upon Default; Termination**. (a) Upon an Event of Default by the Township which is continuing and remains uncured beyond any applicable notice and cure dates, the Redeveloper may take whatever action at law or in equity, as may appear necessary or desirable to enforce the performance or observance of any rights under this Agreement, including, without limitation, the right to terminate this Agreement upon ninety (90) days' written notice to the Township.

(b) Upon an Event of Default by the Redeveloper which is continuing and remains uncured beyond applicable notice and cure dates, the Township shall have the right, in its sole

and absolute discretion, upon ninety (90) days' written notice to the Redeveloper, to: (i) terminate this Agreement, (ii) terminate the designation of the Redeveloper, or its successor or assignee, as the Redeveloper of the Project; (iii) withhold the issuance of any Certificate of Occupancy and/or Certificate of Completion as to the relevant portion of the Project until the default has been corrected; (iv) declare and enforce the forfeiture of any performance guarantees in the amount to be determined by the Township Engineer if the default is with respect to an obligation for which such guarantee was furnished; and (v) all other remedies available to it elsewhere in this Agreement and at law or in equity, including an action for specific performance or damages.

SECTION 8.03 **Remedies Cumulative**. No remedy conferred by any of the provisions of this Agreement is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies.

SECTION 8.04 **Mitigation**. The Parties shall act reasonably to mitigate any damages that may be incurred as the result of an Event of Default hereunder.

SECTION 8.05 **Failure or Delay**. Except as otherwise expressly provided in this Agreement, any failure or delay by either party in asserting any of its rights or remedies as to any default, shall not operate as a waiver of any default, or of any such rights or remedies, or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

SECTION 8.06 **Continuance of Obligations**. The occurrence of an Event of Default shall not relieve the defaulting party of its obligations under this Agreement unless this Agreement is terminated as a result of such Event of Default, as and to the extent permitted hereunder.

ARTICLE 9
DELAYS

SECTION 9.01 **Force Majeure**. Performance by either Party hereunder shall not be deemed to be in default where delays or failure to perform are the result of the following acts, events or conditions or any combination thereof that has had or may be reasonably expected to have a direct, material, adverse effect on the rights or obligations of the Parties to this Agreement; provided, however, that such act, event or condition shall be beyond the reasonable control of the Party relying thereon as justification for not performing an obligation or complying with any condition required of such Party under the terms of this Agreement ("Force Majeure"):

(a) An act of God, lightning, blizzards, hurricane, tornado, earthquake, acts of public enemy, war (whether or not declared), terrorism, blockade, insurrection, riot or civil disturbance, sabotage or similar occurrence, pandemic or epidemic, but not including reasonably anticipated weather conditions for the geographic area of the Project, other than those set forth above (such events being required to physically affect a Party's ability to fulfill its obligations hereunder; the consequential effect of such events (e.g., impact on market conditions) shall not be considered a Force Majeure event);

(b) A landslide, fire, explosion, flood or release of nuclear radiation not created by an act or omission of either Party;

(c) The order, judgment, action or inaction and/or determination of any Governmental Body (other than the Township when acting in conformance with this Agreement) with jurisdiction within the Township, excepting decisions interpreting federal, State and local tax laws generally applicable to all business taxpayers, adversely affecting the construction of the Project; provided, however, such order, judgment, action and/or determination shall not be the result of the willful, intentional or negligent action or inaction of the Party relying thereon and that neither the contesting of any such order, judgments, action and/or determination, in good faith, nor the reasonable failure to so contest, shall constitute or be construed as a willful, intentional or negligent action or inaction by such Party;

(d) The suspension, termination, interruption, denial or failure of or delay in renewal or issuance of any other Governmental Approval, provided, however, such suspension, termination, interruption, denial or failure of or delay in renewal or issuance shall not be the result of the willful, intentional or negligent action or inaction of the Party relying thereon and that neither the contesting of any such suspension, termination, interruption, denial or failure of renewal or issuance, in good faith, nor the reasonable failure to so contest, shall constitute or be construed as a willful, intentional or negligent action or inaction by such Party. Delay in issuance of a Governmental Approval resulting from the Redeveloper's failure to make an administratively complete submission for a Governmental Approval shall not be an event of Force Majeure; or

(e) Strikes, lockouts, slowdowns or similar labor action by trade unions or any of their members, equipment manufacturers, suppliers of material and/or transporters of same.

The Parties acknowledge that the acts, events or conditions set forth in paragraphs (a) through (e) above are intended to be the only acts, events or conditions that may (upon satisfaction of the conditions specified above) constitute Force Majeure. Notice by the Party claiming such extension shall be sent to the other Party within thirty (30) calendar days of the commencement of the cause. During any Force Majeure that affects part of the Project, the Redeveloper shall continue to perform its obligations for the rest of the Project. The existence of an act of Force Majeure shall not prevent a Party from declaring the occurrence of an Event of Default by the Party relying on such Force Majeure; provided that the event that is the basis of the Event of Default is not a result of the Force Majeure. Except for acts of Force Majeure resulting from acts or omissions of the Township, all acts of Force Majeure will be deemed to have ceased to exist as of a date eighteen (18) months from its initial occurrence.

ARTICLE 10
INSURANCE

SECTION 10.01 General Requirements. From and after the date of property closing, the Redeveloper shall provide and maintain, or cause to be maintained, insurance for the Project as provided below until the Certificate of Completion has been issued with regard to the Project.

The Redeveloper shall furnish the Township with satisfactory proof that it has obtained the insurance described below from insurance companies or underwriters reasonably satisfactory to the Township. The Township shall be named as an additional insured parties under all such insurance policies, except the insurance for workers compensation. The Redeveloper shall furnish to the Township certificates and policy endorsements demonstrating the Township has been named as an addition insured for following types of insurance showing the type, amount, and class of operations insured, and the effective and expiration dates of the policies. The certificates and policy endorsements shall be submitted promptly upon execution of this Agreement, and the Redeveloper shall not be entitled to exercise any rights hereunder until the certificate has been received and verified. Specific reference to this Agreement shall be made in all policies.

SECTION 10.02 Insurance Required.

(a) (i) All insurance policies required by this Article 10 shall be obtained from insurance companies authorized to conduct business in the State and rated at least A- in Best's Insurance Guide.

(ii) All insurance policies required by this Section 10.02 shall be non-assessable and shall contain language to the effect that (1) the policies are primary and noncontributing with any insurance that may be carried by the Township, (2) the policies cannot be canceled or materially changed except after thirty (30) days' written notice by the insurer to the Township, and (3) the Township shall not be liable for any premiums or assessments. All such insurance shall have deductibility limits reasonably satisfactory to the Township. The Redeveloper shall be responsible to pay any deductible amount under all insurance policies.

(b) The Redeveloper shall furnish or cause to be furnished to the Township evidence satisfactory to the Township of Commercial General Liability Insurance and Umbrella Excess Liability Coverage, insuring the Redeveloper against losses, costs, liabilities, claims, causes of action and damages for bodily injury, property damage and personal injury on the Property or in the Property, or related to the construction thereon, including claims made by subcontractor personnel. Such insurance shall include blanket contractual liability coverage. All such policies shall be written to apply to all bodily injury, property damage, personal injury and other customary covered losses, however occasioned, occurring during the policy term, and shall be endorsed to add the Township as an additional insured and to provide that such coverage shall be primary and that any insurance maintained by the Township shall be excess insurance only. Such coverage shall be endorsed to waive the insurer's rights of subrogation against the Township.

(c) The Redeveloper shall furnish or cause to be furnished to the Township evidence satisfactory to the Township of Builder's Risk Insurance for the benefit of the Redeveloper (subject to the interests of any lender or Mortgagee), during the term of construction, sufficient to protect against loss or damage resulting from fire and lightning, the standard extended coverage perils, vandalism, and malicious mischief.

(d) The Redeveloper shall furnish or cause to be furnished to the Township evidence satisfactory to the Township of workers' compensation insurance as required by law, and an employer's liability insurance endorsement with customary limits, and shall be endorsed with a

waiver of subrogation clause for the Township.

(e) The Redeveloper shall furnish or cause to be furnished to the Township evidence reasonably satisfactory to the Township that any consultant with whom it has contracted for the design of the Project carries errors and omissions insurance, naming the Township as an additional insured, with limits reasonably acceptable to the Township.

ARTICLE 11
ENVIRONMENTAL

SECTION 11.01 **Environmental Due Diligence.** The Redeveloper shall have 120 days after the Effective Date to conduct, at its sole cost and expense, any and all inspections, measurements, engineering studies, subsurface sampling, tests, surveys, appraisals and other evaluations of the Property, that it elects to undertake, including a geotechnical investigation, Preliminary Assessment, Phase I or II, or Site Investigation (as such terms are defined under Environmental Law) of the Property (the "Environmental Due Diligence Period"). If Redeveloper shall find such inspections, investigations, or testing to be unsatisfactory for any reason whatsoever, then Redeveloper shall have the right to terminate this Agreement by delivering written notice of such termination to the Township before the expiration of the Environmental Due Diligence Period (the "Termination Notice"), after which time the Redeveloper shall no longer have the right to terminate this Agreement based upon environmental considerations.

SECTION 11.02 **Site Access.** During the Environmental Due Diligence Period, the Township agrees to provide or shall request that the Somerset County Improvement Authority to provide the Redeveloper and its designated consultants or professionals (collectively the "Entrants") a limited, non-transferable, non-assignable right of access to the Property for the sole purpose of conducting the activities described in this Article 11. The access provided by this Agreement does not create any interest in, title to, or right of possession of the Property, or any rights as a tenant by Entrants. All entry onto the Property pursuant to this Section, shall be upon no less than two (2) business days' advance notice ("Notification of Planned Access"), by contacting the Township's designated representative to receive such notices identified herein. Any Notification of Planned Access provided by Entrants shall set forth the proposed date(s) and time(s) of entry, identify all persons and entities who shall enter upon the Property, the estimated duration of the entry, the type of equipment to be used and the location of any subsurface sampling.

Entrants shall conduct all activities on the Property in a workmanlike manner. Entrants shall not cause any release, spill, or discharge of any hazardous substances on the Premises or cause any permanent damage to the Property. Entrants shall exercise that degree of care and skill ordinarily exercised under similar circumstances by members of their respective professions, as applicable, performing the kind of activities being performed hereunder and practicing in the same or similar locality during the same general period of time. Redeveloper shall pay for all activities performed and shall cause its authorized consultants, agents, contractors, and subcontractors, as the case may be, to pay for all activities, free and clear of all mechanic's and construction liens and encumbrances. While on the Property, Entrants shall take necessary precautions for the safety of their officers, employees, contractors and agents. All Entrants shall comply with all Environmental Laws or other applicable federal, state, county and

local statutes, regulations, ordinances, rules, orders, or requirements (including occupational safety statutes and regulations) in performing hereunder and shall comply with any directions of governmental agencies relating to safety, security, traffic or other like matters.

Entrants shall take reasonable precautions to minimize damage to the Property during the access provided herein. It is understood that any test pits, holes or other damage that are created during the environmental testing will be repaired and the areas will be returned to their original condition by Entrants, normal wear and tear excepted. Redeveloper, at its own cost and expense, shall obtain all governmental approvals (local, state and federal) and any other approvals necessary for the activities contemplated in this Section 11.02, including obtaining applicable permits from the Township or NJDEP. Upon termination of access under this Section, Entrants, at their sole cost and expense, shall remove all equipment, fixtures, vehicles and objects used on the Property and shall dispose of any and all wastes or materials generated during their access.

The Redeveloper hereby indemnifies, protects and holds the Township and Somerset County Improvement Authority harmless from and against any and all liability, loss, costs, damages, claims, judgments or expenses, including reasonable attorneys fees, engineering fees, or other professional or expert fees, arising or alleged to arise from or in connection with the exercise of such right of entry and access; provided that such losses are not the result of any negligence or willful misconduct of the Township or the Somerset County Improvement Authority or their agents. Entrants shall release and hold the Township harmless for any bodily injury, loss of or damage to property and equipment of Entrant while exercising this right of access.

During the Environmental Due Diligence Period, the Township agrees to provide to the Redeveloper access to all environmental reports or other reports of any type in its possession pertaining to the operation and condition of the Property at no cost to the Township.

ARTICLE 12
PROJECT APPROVALS

SECTION 12.01 **Governmental Approvals and Third Party Approvals**. (a) The Redeveloper shall use all commercially reasonable effort to secure, or cause to be secured, any and all Governmental Approvals and Third Party Approvals for the Project in order to cause the Commencement and Completion of the Project and Property in accordance with the Construction Schedule.

(b) The Township agrees to reasonably cooperate with the Redeveloper and to support any application for and to obtain any Governmental Approvals and Third Party Approvals that are consistent with the terms of this Agreement, the Redevelopment Plan and Applicable Laws and the approved site plan, and at the request of the Redeveloper to execute any documents required to obtain such approvals that the Township deems reasonable, provided that, nothing in this Section shall be deemed: (i) to constitute an approval of all or any portion of the Project for which applications have been submitted or are required; or (ii) a waiver of the ability of the Planning Board or any other Governmental Body having jurisdiction thereof from exercising its statutorily authorized responsibilities with respect to any applications or Governmental Approvals required by Applicable Law.

(c) No Governmental Approval shall be deemed "final" until (i) the time for all appeals has run without the filing of an appeal or (ii) in the event an appeal is filed, all such appeal(s) have been resolved fully in favor of the Project and/or the Redeveloper and the time for filing any further appeal has expired without the filing of any such appeals.

(d) The Redeveloper shall have the right to contest any unsatisfactory requirement or condition with respect to the Project imposed on the Redeveloper as a condition to a Governmental Approval including, without limitation, the imposition of any off-site improvements; provided that the Redeveloper shall have no obligation to comply with any such requirement or condition if the Redeveloper is unsuccessful in contesting same and such requirement is not commercially reasonable (including, without limitation commercially unreasonable fees or payments) as reasonably determined by the Redeveloper or is materially inconsistent with the Redeveloper's building and site plans, in which event, the Redeveloper may terminate this Agreement, as the Redeveloper's sole remedy. In such instance, the Parties may agree to consider a modification of this Agreement in a manner similar to that provided for in Section (e) below, but the Township shall not be obligated to do so.

(e) In the event that the Redeveloper's application for any Governmental Approval is denied or any Person brings an action that contests or challenges the grant of any Governmental Approval, then the Redeveloper shall have the right in its discretion to (i) modify and resubmit such application, if applicable, in order to secure such Governmental Approval; provided that such modification does not have a material adverse impact on (1) the financial condition of the Project; (2) the Project, or its intended uses; or (3) either Party, and/or (ii) appeal or defend against such action. In the event of a final, adverse, nonappealable decision, the Parties shall during the sixty (60) day period immediately following receipt by both Parties of such decision, use diligent, reasonable efforts and good faith negotiations to modify the Project and amend this Agreement (and any Governmental Approval, including the Redevelopment Plan) in order to assist the Redeveloper in obtaining the required Governmental Approvals. If, at the end of such sixty (60) day period, there is no agreement between the Parties as to how to modify the Project and amend this Agreement (and any Governmental Approval, including the Redevelopment Plan), either Party may terminate this Agreement by providing written notice to the other Party in accordance with the terms of this Agreement.

(f) The Redeveloper intends to apply to the Township for approval of a financial agreement for the Project (the "**Financial Agreement**") providing for, among other things, payments in lieu of taxes pursuant to either *N.J.S.A.* 40A:20-1 *et seq.* or N.J.S.A. 55:14K-1 *et seq.* (the "**PILOT**"). In the event that the Township fails to duly approve and execute a Financial Agreement for the Project in a form satisfactory to the Redeveloper, within sixty (60) days following the Effective Date, or at such time as otherwise reasonably agreed upon by the Parties, then the Redeveloper may elect to terminate this Agreement by providing notice to that effect to the Township. Upon such termination, this Agreement shall be void and of no further force and effect and neither party hereto shall have any rights, liabilities and/or obligations hereunder.

SECTION 12.02 **Township Approval**. The Township agrees to provide its recommendations to the Planning Board for consideration by the Planning Board in connection with the Redeveloper's site plan application(s).

ARTICLE 13
MISCELLANEOUS

SECTION 13.01 **Conflict of Interest**. No member, official or employee of the Township shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to this Agreement that is prohibited by law.

SECTION 13.02 **No Consideration For Agreement**. The Redeveloper warrants it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement, other than normal costs of conducting business and costs of professional services such as architects, engineers, financial consultants and attorneys. The Redeveloper further warrants it has not paid or incurred any obligation to pay any officer or official of the Township, any money or other consideration for or in connection with this Agreement.

SECTION 13.03 **Non-Liability of Officials and Employees of the Township**. No member, official or employee of the Township shall be personally liable to the Redeveloper, or any successor in interest, in the event of any default or breach by the Township, or for any amount which may become due to the Redeveloper or its successor, or on any obligation under the terms of this Agreement.

SECTION 13.04 **Non-Liability of Officials and Employees of the Redeveloper**. No member, officer, shareholders, director, partner or employee of the Redeveloper, and no member, officer, shareholders, director, partner or employee of the members of the Redeveloper shall be personally liable to the Township, or any successor in interest, in the event of any default or breach by the Redeveloper for any amount which may become due to the Township, or their successors, on any obligation under the terms of this Agreement.

SECTION 13.05 **Inspection of Books and Records**. The Township shall have the right at all reasonable times to inspect the books and records of the Redeveloper pertinent to the purposes of this Agreement, including but not limited to construction contracts, books and records, leases, insurance policies, and agreements, provided that, such inspections must be performed at a time and in a manner as to not unreasonably interfere with the Redeveloper's business operations and be for a legitimate business purpose affecting the material interest of the Township.

SECTION 13.06 **Modification of Agreement**. No modification, waiver, amendment, discharge, or change of this Agreement shall be valid unless the same is in writing, duly authorized, and signed by each of the Parties.

SECTION 13.07 **Notices and Demands**. A notice, demand or other communication under this Agreement by any Party to the other shall be sufficiently given or delivered if dispatched by United States Registered or Certified Mail, postage prepaid and return receipt requested, or delivered by overnight courier or delivered personally (and receipt acknowledged) to the Parties at their respective addresses set forth herein, or at such other address or addresses with respect to the Parties or their counsel as any party may, from time to time, designate in

writing and forward to the others as provided in this Section 12.07. Notice shall be effective upon the earlier of receipt or refusal.

MONTGOMERY TOWNSHIP
2261 Van Horne Road – Route 206 North
Montgomery, New Jersey 08502
Attn: Lori Savron

with copies to:

Township Attorney
DeCotiis, FitzPatrick, Cole & Giblin, LLP
61 South Paramus Road, Suite 250
Paramus, New Jersey 07652
Attn: Francis X. Regan, Esq.

RPM DEVELOPMENT, L.L.C.
77 Park Street
Montclair, New Jersey 07042
Attn: Edward G. Martoglio

With a copy to:

RPM Development, L.L.C.
77 Park Street
Montclair, NJ 07042
Attn: Frank Casciano, Esq., General Counsel

SECTION 13.08 **Severability**. The validity of any Articles, clause or provision of this Agreement shall not affect the validity of the remaining Articles, clauses or provisions hereof.

SECTION 13.09 **Successors Bound**. This Agreement shall be binding upon the respective Parties hereto and their successors and assigns.

SECTION 13.10 **Governing Law; Dispute Resolution**. This Agreement shall be governed by and construed by the laws of the State of New Jersey; any disputes arising hereunder shall be resolved in the Superior Court, State of New Jersey, Somerset County Vicinage.

SECTION 13.11 **Counterparts**. This Agreement may be executed in counterparts. All such counterparts shall be deemed to be originals and together shall constitute but one and the same instrument.

SECTION 13.12 **Entire Agreement**. This Agreement constitutes the entire agreement between the Parties and supersedes all prior oral and written agreements between the Parties with respect to the subject matter hereof.

SECTION 13.13 **Review by Counsel**. This Agreement shall be construed and enforced in accordance with the laws of the State of New Jersey without regard to or any presumption or other rule requiring construction against the party drawing or causing this Agreement to be drawn since counsel for each of the Parties have combined in their review and approval of same.

SECTION 13.14 **Right of Entry For Utility Service**. The Township reserves for itself and any public utility company, as may be appropriate, the right to enter upon the Property at any reasonable time for the purpose of reconstructing, maintaining, repairing, or servicing the public utilities located within the Property boundary lines. No written approval shall be required in the case of an emergency occurring on or around the Property, the conditions of which would require immediate or emergency entry.

SECTION 13.15 **Redeveloper Not To Construct Over Utility Easements**. The Redeveloper shall not construct any building or other structure or improvement on, over, or within the boundary lines of any easement for public utilities, unless such construction is provided for in such easement or has been approved by the Township. If approval for such construction is requested by the Redeveloper, the Township shall use its best efforts to assure that such approval shall not be withheld unreasonably.

SECTION 13.16 **Illumination, Noise and Pollution**. The Redeveloper commits to comply with all applicable construction laws, regulations and standards in the industry to address concerns relating to illumination, noise and pollution.

SECTION 13.17 **Security and Safety**. The Redeveloper further commits to address all traffic safety issues by complying with all applicable traffic safety provisions both during and after construction of the Project.

SECTION 13.18 **Maintenance and Landscaping**. The Redeveloper shall keep the Property free from any substantial accumulation of debris or waste materials and shall maintain in good condition any landscaping and amenities required under any applicable approved final site plan.

SECTION 13.19 **Equal Employment Opportunity**. The Redeveloper agrees that, during the construction of Improvements, it will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. The Redeveloper further agrees that it shall comply in all respects with the provisions of N.J.S.A. 10:5-31, et seq., and the regulations promulgated thereunder, the terms and conditions of which are set forth in the documentation attached hereto as **Exhibit E** and expressly made a part hereof. All subcontractors and suppliers to the Project shall, to the extent reasonably possible, include qualified and certified minority enterprises. Additionally, to the extent possible, the obligations in this Section 13.19 shall be binding on all contractors and subcontractors performing work in connection with construction of the Project, and any contract entered into by the Redeveloper shall include this requirement.

SECTION 13.20 **Casualty**. In the event that all or any substantial portion of the Property is damaged or destroyed by casualty prior to commencement of construction, the

Redeveloper may, at its option, terminate this Agreement by written notice to the Township within thirty (30) days after the Redeveloper is notified of the damage or casualty. For purposes of this provision, "substantial portion" shall be defined as any portion which is equal to or in excess of fifty percent (50%) of the developable portion of the Property or that portion which, in the sole opinion of the Redeveloper, would prevent the successful completion of the Project as envisioned by this Agreement.

SECTION 13.21 **Withholding of Approvals**. All approvals, consents and acceptances required to be given or made by any person or party hereunder, shall not be unreasonably withheld or delayed unless specifically stated otherwise.

SECTION 13.22 **No Brokerage Commission**. The Township and the Redeveloper each represent one to the other that no real estate broker initiated, assisted, negotiated or consummated this Agreement as broker, agent, or otherwise acting on behalf of either the Township or the Redeveloper, and the Township and the Redeveloper shall indemnify each other with respect to any claims made by any person, firm or organization claiming to have been so employed by the indemnifying party.

SECTION 13.23 **No Restriction on Police Powers**. Nothing in this Agreement will in any way limit or affect the right of the Township or any municipal board, department, agency, authority, official, or representative to enforce any generally applicable municipal ordinance, regulation, rule, procedure or other requirement, including, but not limited to, with respect to the Project, the Property or the Redeveloper.

SECTION 13.24 **Indemnification**. It is mutually agreed by the Redeveloper and the Township that neither the Township, nor its officials, agents, servants or employees shall be liable in any event for any action performed under this Agreement and that the Redeveloper shall indemnify fully, save and hold harmless the Township, its officers, employees, agents and representatives from and against all losses, damages, claims, liabilities, and cause of action of every kind or character and nature, as well as reasonable costs and reasonable fees, including reasonable attorney's fees engineering fees, or other professional or expert fees, connected therewith, and the reasonable expense of investigation thereof, based upon, or arising out of, the Redeveloper's obligations under this Agreement, except for any claim or suit to the extent that said claim arises out of the gross negligence or criminal actions of the Township, its officials, agents, servants, or employees.

The Redeveloper, at its own cost and expense, shall defend any and all such claims, suits and actions which may be brought or asserted against the Township, its officials, agents, servants or employees, as described in this Section, but shall not be deemed to relieve any insurance company which has issued a policy of insurance as may be provided for in this Agreement from its obligation to defend the Redeveloper or the Township in connection with such claims, suits or actions which are covered by such policy(ies).

The obligations of the Redeveloper under this Section 13.24 shall survive termination of this Agreement.

SIGNATURE PAGE TO IMMEDIATELY FOLLOW

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be properly executed and their corporate seals affixed and attested as of the date first written above.

MONTGOMERY TOWNSHIP

By: _____
Name: Devra Keenan
Title: Mayor

RPM DEVELOPMENT, L.L.C.

By: _____
Name: Edward G. Martoglio
Title: Managing Member

ACKNOWLEDGMENTS

STATE OF NEW JERSEY)
) ss.
COUNTY OF SOMERSET)

I certify that on June 28, 2021, Donna Kuhla personally came before me and she acknowledged under oath to my satisfaction that (a) she is the municipal clerk of the Montgomery Township, the municipal corporation named in this document; (b) she is the attesting witness to the signing of this document by the proper municipal officer who is Devra Keenan, Mayor of Montgomery Township, the municipal corporation; (c) this document is signed and delivered by the Township as its voluntary act duly authorized by a proper resolution of the Township; and (d) she knows the proper seal of the Township which was affixed to the document.

Notary Public of the State of New Jersey

PATRICIA ANN GRAVATT
NOTARY PUBLIC OF NEW JERSEY
Commission # 50105792
My Commission Expires 6/5/2024

STATE OF NEW JERSEY)
) ss.
COUNTY OF ESSEX)

I certify that on June 24, 20, 2021, Edward G. Martoglio personally came before me and acknowledged under oath to my satisfaction that (a) he is the Managing Member of RPM Development, L.L.C., the company named in this document; and (b) this document is signed and delivered by the company as its voluntary act duly authorized by the company.

Notary Public of the State of New Jersey

JULIA A HATHAWAY-MAIORIELLO
NOTARY PUBLIC - STATE OF NEW JERSEY
MY COMMISSION EXPIRES SEPTEMBER 8, 2022
No. 50067482

EXHIBIT A

DESCRIPTION OF PROPERTY

DPK CONSULTING
LAND SURVEYORS
Service Without Boundaries®

Date: June 23, 2021
Job No. 21-9191

Description of Proposed Lot 10.05A in Block 20001 situated in Montgomery Township, Somerset County, New Jersey

BEGINNING at a point in Tax Lot 10.05 Block 20001, said point being located on the dividing line between Tax Lot 10.05 and 21.02 Block 20001 where the same is intersected by the dividing line between Tax Lot 10.05 and 11 Block 20001:

a. Along the dividing line between Tax Lot 10.05 and 21.02 Block 2001, North 19 degrees 36 minutes 50 seconds East 307.12 feet to a point; thence
b. Across Tax Lot 10.05 Block 20001, South 70 degrees 23 minutes 33 seconds East 100.00 feet to the point and place of BEGINNING; and runs thence

1. Across Tax Lot 10.05 Block 20001, North 19 degrees 36 minutes 27 seconds East 338.23 feet to a point; thence
2. Still across Tax Lot 10.05 Block 20001, South 70 degrees 23 minutes 33 seconds East 141.38 feet to a point; thence
3. Still across Tax Lot 10.05 Block 20001, South 19 degrees 36 minutes 27 seconds West 19.76 feet to a point; thence
4. Still across Tax Lot 10.05 Block 20001, South 70 degrees 23 minutes 33 seconds East 12.58 feet to a point; thence
5. Still across Tax Lot 10.05 Block 20001, South 80 degrees 53 minutes 08 seconds East 108.25 feet to a point; thence
6. Still across Tax Lot 10.05 Block 20001, North 10 degrees 26 minutes 15 seconds East 95.21 feet to a point; thence
7. Still across Tax Lot 10.05 Block 20001, South 86 degrees 41 minutes 00 seconds East 36.07 feet to a point; thence
8. Still across Tax Lot 10.05 Block 20001, North 84 degrees 31 minutes 49 seconds East 24.24 feet to a point; thence
9. Still across Tax Lot 10.05 Block 20001, South 88 degrees 42 minutes 51 seconds East 40.00 feet to a point; thence
10. Still across Tax Lot 10.05 Block 20001, North 73 degrees 49 minutes 54 seconds East 24.99 feet to a point; thence
11. Still across Tax Lot 10.05 Block 20001, North 89 degrees 01 minutes 46 seconds East 40.01 feet to a point; thence
12. Still across Tax Lot 10.05 Block 20001, North 87 degrees 09 minutes 09 seconds East 29.99 feet to a point; thence
13. Still across Tax Lot 10.05 Block 20001, South 18 degrees 06 minutes 31 seconds East 55.33 feet to a point; thence
14. Still across Tax Lot 10.05 Block 20001, South 11 degrees 06 minutes 59 seconds West 225.96 feet to a point; thence
15. Still across Tax Lot 10.05 Block 20001, southwesterly along a curve to the right, not tangent to the previous course, having a radius of 277.92 feet, a central angle of 59 degrees 30 minutes 36 seconds, a chord of South 49 degrees 58 minutes 27 seconds West 275.86 feet for an arc length of 288.67 feet to a point; thence
16. Still across Tax Lot 10.05 Block 20001, North 70 degrees 23 minutes 33 seconds West 352.97 feet to the point and place of BEGINNING

Containing 183,234 square feet/4.2065 acres of land.

This description is written in accordance with a map entitled "Preliminary Major Site Plan, Montgomery Senior Affordable Housing, Block 20001, Lot 10.05, situated in Montgomery Township, Somerset County, New Jersey" Prepared By Shore Point Engineering, dated May 31, 2021, Sheet 3 of 15.

JAMES J. HEISER, PLS
NJ PROFESSIONAL LAND SURVEYOR
LICENSE # 24GS04331100

DPK Consulting, LLC
220 Old New Brunswick Rd., Suite 201, Piscataway, NJ 08854
P: 732-764-0100 F: 732-764-0990
www.dpkconsulting.net

EXHIBIT B

CERTIFICATE OF COMPLETION

Record and Return to:

Pursuant to Section 4.02 of the Development Agreement by and between the Montgomery Township (the "Township") and RPM Development, L.L.C. (the "Redeveloper") dated as of _____, (the "Development Agreement"), the undersigned, as of the date hereof, certifies that (all undefined terms used herein shall have the same meaning ascribed to them in the Development Agreement):

(i) the Project in its entirety has been completed, acquired and/or installed as of [_____], in accordance with the Development Agreement and in compliance with Applicable Laws so that the Project in its entirety may, in all material respects, be used and operated under the applicable provisions of the Development Agreement;

(ii) all permits, licenses and approvals that are required in order for Redeveloper to Complete the Project or such other work or action to which such term is applied are, to the extent so required, in full force and effect;

(iii) such Completion has been further evidenced by a written certificate of Redeveloper and a certificate of Redeveloper's architect evidencing completion and certification of the Project, which certificate is attached hereto as **Exhibit 1**:

(iv) the Project is being operated in accordance with the terms and provisions of the Development Agreement and Applicable Laws; and

(v) a copy of the Certificate of Occupancy issued with respect to the Project is attached hereto as **Exhibit 2**.

This certificate is given without prejudice to any rights against third parties which exist on the date hereof or which may subsequently come into being.

EXHIBIT C

CONSTRUCTION SCHEDULE

RPM Designated as Redeveloper

Council Adopts Option to Sell Resolution

Council Adopts Resolution of Need

RPM Applies for NJHMFA Permanent Debt

Tax Abatement Approval

Preliminary Site Plan Approval

RPM Submits LIHTC Application

NJHMFA Awards LIHTCs

Final Site Plan Approval

Construction Drawings Commence

Full Construction Building Permits

RPM Purchases Property from Township

Construction Loan Closing

Construction Commencement

Marketing & Leasing Begins

Construction Completion

Full Occupancy

EXHIBIT D

REDEVELOPER OWNERSHIP

The Redeveloper entity is owned 100% by Edward G. Martoglio, 77 Park Avenue, Montclair, NJ 07042.

EXHIBIT E

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

EXHIBIT F

DECLARATION

28. FOURTH ROUND: KENVUE

EKAHN DEVELOPMENT

June 10, 2025

VIA email: nsingh@montgomerynj.gov

The Honorable Neena Singh, Mayor of Montgomery Township and Township Committee
Township of Montgomery
100 Community Drive
Skillman, NJ 08558

RE: 199 Grandview Road Property

Dear Mayor Singh and Township Committee Members:

Please accept this letter in my capacity as Managing Member of 199 Grandview Partners, LLC that it does hereby commit to working with the Township Committee, the Administrator, Planner, Affordable Housing Counsel and other required professionals to secure all necessary entitlements required to redevelop that certain property identified as 199 Grandview Road (Lots 2 and 15 in Block 140001) currently comprised of a total of 382.73 acres of land on both sides of Grandview Road (the "Property").

199 Grandview Partners, LLC intends to construct 417 total multi-family dwelling units as roughly depicted on that certain Concept Plan prepared by Heuser Design entitled "Concept Plan, Kenvue Skillman Campus Mixed Use Community", Township of Montgomery, Somerset County, New Jersey, dated May 12, 2025, last revised on May 31, 2025 (the "Project"). The Project includes the dedication to the Township of approximately 125 acres of land on the easterly side of Grandview Road, leaving approximately 256 acres of land on the westerly side of Grandview Road for the improvements comprising the Project. 70 Affordable Housing Units are included within the 417 dwelling unit count and [Entity] agrees, subject to the receipt of all approvals for the Project, to the payment to the Township for the extension of affordability controls on 54 affordable units located elsewhere within the Township of Montgomery.

The Project will be undertaken as a redevelopment site in accordance with the Local Redevelopment and Housing Law.

I trust this will be sufficient to include with your Housing Element and Fair Share Plan as 199 Grandview Partners LLC commitment to secure all entitlements and approvals to construct the Project.

Very truly yours,

Eli Kahn
199 Grandview Partners, LLC
Managing Member

Cc: Mr. Matt Adams
Jeffrey Silberman, Esq.
Jeffrey B. Lehrer, Esq.

120 Pennsylvania Avenue • Malvern, PA 19355 • 610.873.5585 • Fax 610.873.7560

42238-030-01
RKW, BRP, SWG
See Attached LOI for resource value classification that was not modified.

RECEIVED
JAN 20 2015
VAN NOTE-HARVEY ASSOCIATES, P.C.

State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Division of Land Use Regulation
Mail Code 501-02A, P. O. Box 420
Trenton, New Jersey 08625-0420
www.state.nj.us/dep/landuse

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

BOB MARTIN
Commissioner

JAN 12 2015

Johnson & Johnson Consumer Products Co.
199 Grandview Road
Skillman, NJ 08858

RE: Authorization for Freshwater Wetlands Letter of Interpretation - Extension
File No.: 1813-02-0006.2
Activity Number: FWW140001
Applicant: Johnson & Johnson Consumer Products
Block: 13001 Lot: 15
Block: 14001 Lots: 2 & 34
Montgomery Twp., Somerset County

Dear Sir/Madam:

The Division issued an original Freshwater Wetlands Letter of Interpretation (LOI) for the referenced site on October 2, 2009. You have requested that this LOI be extended in accordance with the requirements at N.J.A.C. 7:7A-3.6.

After review of the most recently updated resource value information and site conditions, the Division hereby extends the original LOI **with** modification to October 1, 2009, five years from expiration of the original LOI. Please be advised that wetland resource value of the wetlands on the property has changed due to new information is received by the Division.

Based on current information, the Division has determined that the resource classification has changed since October 2, 2009. Field points identified as A755-788; A900-909; A700-711; A742-754; and A223-226 are now suitable habitat for E &T species and are considered to be of exceptional resource value. The standard transition area required adjacent to Exceptional Resource Value wetlands is 150 feet. **All other wetland classifications remain without modification.**

Any activities regulated under the Freshwater Wetlands Protection Act proposed within the wetlands or transition areas or the deposition of any fill material into any water area, will require a permit from this office unless exempted under the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 *et seq*, and implementing rules, N.J.A.C. 7:7A

Appeal Process

In accordance with N.J.A.C. 7:7A-1.7, any person who is aggrieved by this decision may request a hearing within 30 days after notice of the decision is published in the DEP Bulletin by writing to: New Jersey Department of Environmental Protection, Office of Legal Affairs, Attention: Adjudicatory Hearing Requests, 401 East State Street, P.O. Box 402, Trenton, NJ 08625-0402. This request must include a completed copy of the Administrative Hearing Request Checklist which can be downloaded at www.state.nj.us/dep/landuse/forms. The DEP bulletin is available through the Department's website at www.state.nj.us/dep/bulletin.

Please contact Tina Wolff of our staff by e-mail at tina.wolff@dep.nj.gov or (609) 777-0454 should you have any questions regarding this letter. Be sure to indicate the Department's file number in all communication.

Sincerely,

Andrew Clark
Northeast Region Supervisor
Division of Land Use Regulation

c: Township Clerk
Township Construction Official
Agent

Mike Connelly w/3 SETS OF PLANS
Rich Strucker w/1 SET of PLANS
JCE, SWG, BCB
"APPROVED" PLANS FILED
IN 146-B-3

RECEIVED
OCT - 7 2009
VAN NOTE-HARVEY
ASSOCIATES, P.C.

State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Division of Land Use Regulation
P.O. Box 439
Trenton, New Jersey, 08625
www.state.nj.us/dep/landuse

JON S. CORZINE
Governor

MARK N. MAURIELLO
Acting Commissioner

Steven W. Gardner
Van Note-Harvey Associates
777 Alexander Road
Princeton, New Jersey 08540

OCT 0 2 2009

RE: Letter of Interpretation/Line Verification
File No.: 1813-02-0006.2 FWW 080001
Applicant: Johnson & Johnson Consumer Products Company
Blocks: 13001 / 14001; Lots: 15 / 2 & 34
Montgomery Township; Somerset County

Dear Mr. Gardner:

This letter is in response to your request for a Letter of Interpretation to verify the jurisdictional boundary of the freshwater wetlands and waters on the referenced property.

In accordance with agreements between the State of New Jersey Department of Environmental Protection, the U.S. Army Corps of Engineers Philadelphia and New York Districts, and the U.S. Environmental Protection Agency, the NJDEP, Division of Land Use Regulation is the lead agency for establishing the extent of State and Federally regulated wetlands and waters. The USEPA and/or USACOE retain the right to reevaluate and modify the jurisdictional determination at any time should the information prove to be incomplete or inaccurate.

Based upon the information submitted, and upon site inspections conducted on February 26, 2009, and March 18, 2009, the Division of Land Use Regulation has determined that the wetlands and waters boundary lines as shown on the plan maps entitled "**Plan Showing Freshwater Wetlands And State Open Waters At Lot 15 Block 13001 And Lot 2 Block 14001 Prepared For Johnson & Johnson Services, Inc. Montgomery Twp. Somerset Co., N.J.", Sheet 1 last revised August 10, 2009, Sheets 2 and 3 last revised August 25, 2009, and "Plan Showing Freshwater Wetlands And State Open Waters At Lot 15 Block 13001 And Lots 2 & 34 Block 14001 Prepared For Johnson & Johnson Services, Inc. Montgomery Twp. Somerset Co., N.J.", Sheet 4 last revised August 25, 2009, all sheets dated September 18, 2006 and all sheets prepared by Van Note-Harvey Associates, P.C., are accurate as shown.**

Any activities regulated under the Freshwater Wetlands Protection Act proposed within the wetlands or transition areas or the deposition of any fill material into any water area, will require a permit from this office unless exempted under the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq., and implementing rules, N.J.A.C. 7:7A. A copy of this plan, together

require a permit from this office unless exempted under the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq., and implementing rules, N.J.A.C. 7:7A. A copy of this plan, together with the information upon which this boundary determination is based, has been made part of the Division's public records.

Pursuant to the Freshwater Wetlands Protection Act Rules (N.J.A.C. 7:7A-1 et seq.), you are entitled to rely upon this jurisdictional determination for a period of five years from the date of this letter.

The freshwater wetlands and waters boundary lines, as determined in this letter, must be shown on any future site development plans. The lines should be labeled with the above Division file number and the following note:

"Freshwater Wetlands/Waters Boundary Line as verified by NJDEP, File # 1813-02-0006.2 FWW 080001"

The Department has determined that the wetlands on the subject property are of ordinary and intermediate resource value. A standard transition area or buffer is not required adjacent to ordinary resource value wetlands. A standard transition area or buffer of 50 feet is required adjacent to intermediate resource value wetlands. In addition, the Department has determined that State open waters are present on the subject property. Please note that pursuant to the Flood Hazard Area Control Act Rules (FHACAR) N.J.A.C. 7:13, adopted November 5, 2007, a riparian zone is required along every regulated water with few exceptions (see 7:13-4.1). In order to determine the limits of any riparian zone on site, the applicant may obtain a Flood Hazard Area Verification (see 7:13-6.1) that determines all areas regulated under the FHACAR. Specifically, the wetland/State open water designations are as follows:

Sheet 1

Ordinary Resource Value Ditches

1. A788 to A795 / A909 to A916
2. features parallel to Grandview Road and labeled as "Ordinary Resource Value Wetlands Ditch"

Ordinary Resource Value Swales

1. A666 to A676
2. NJDEP-16 through NJDEP-19

State open waters

1. A923 to A944, A944 to A754 / A923-A through A926 to A298, A298 to A930 through A952, A952 to A945
2. A711 through A719; A720 to A742

Please note that the pond features labeled as "Non-Jurisdictional, Man-Made Ornamental Ponds" have been determined by the Department to be artificial ponds constructed for aesthetic reasons. Therefore, these ponds are not considered regulated features by the Department.

Intermediate Resource Value Wetlands

The remainder of the flags denote intermediate resource value wetlands.

Sheet 2

Ordinary Resource Value Ditches

1. B636 to A637 to A638 / A639 to A641
2. features parallel to Grandview Road and labeled as "Ordinary Resource Value Wetlands Ditch"
3. A910 to A916 / A789 to A795

Ordinary Resource Value Swales

1. A642 to A648 / A643 to A649

State open waters

1. A923 through A933 / A923-A to A924, A924 through A934
2. feature labeled as "State Open Water" and located along the easterly property boundary

Intermediate Resource Value Wetlands

The remainder of the flags denote intermediate resource value wetlands.

Sheet 3

Ordinary Resource Value Ditches

1. B520 to B520-A / B520-B to B521
2. B507 to B511 / B512 to B516
3. A300 to A305 / B300 to B305
4. A500 through A519
5. A520 to A524, continuing from A539 to A547 / A576 to A582
6. A600 to A606 / A601 to B607
7. WB01 to WB-14 / WB-79 to WB89

Ordinary Resource Value Swales

1. A558A to A558B / A559 to A560
2. A560 to A565
3. A554 to A555, continuing east from A555 through A566 to A568, and continuing from A569 to A571
4. SOW-35 through WB36 to WB37 / WB38 through WB-39 to SOW-40
5. SOW-31 through WB32 to WB33, continuing from WB33 to SOW-34
6. A408 to A411

Ordinary Resource Value Detention Facilities

1. A525 through A539

State open waters

1. SOW-24 to SOW-31, SOW-34 to SOW-35, SOW-40 to SOW-50 / SOW-51 to SOW-68
2. WB-14 to SOW-15, SOW-15 to SOW-24, SOW-68 through SOW-78 to WB-79; labeled as "Man-Made Pond"
3. feature labeled as "State Open Water Channel Along Property Boundary" and "State Open Water", located along easterly property boundary

Intermediate Resource Value Wetlands

The remainder of the flags denote intermediate resource value wetlands.

Sheet 4

Ordinary Resource Value Ditches

1. WB01 to WB-14 / WB-79 to WB89
2. A600 to A606 / A601 to B607

Ordinary Resource Value Swales

1. SOW-31 through WB32 to WB33, continuing from WB33 to SOW-34
2. SOW-35 through WB36 to WB37 / WB38 through WB-39 to SOW-40

State Open Waters

1. SOW-24 to SOW-31, SOW-34 to SOW-35, SOW-40 to SOW-50 / SOW-51 to SOW-68
2. WB-14 to SOW-15, SOW-15 to SOW-24; SOW-68 through SOW-78 to WB-79; labeled as "Man-Made Pond"

3. feature labeled as "State Open Water Channel Along Property Boundary" and "State Open Water"; located along easterly property boundary

4. SOW600 through SOW618

Intermediate Resource Value Wetlands

The remainder of the flags denote freshwater wetlands of intermediate resource value.

It should be noted that the above determination of wetland classification is based on the best information presently available to the Department. The classification is subject to change if this information is no longer accurate, or as additional information is made available to the Department, including, but not limited to, information supplied by the applicant. Under N.J.S.A. 13:9B-7a(2), if the Department has classified a wetland as exceptional resource value, based on a finding that the wetland is documented habitat for threatened and endangered species that remains suitable for use for breeding, resting, or feeding by such species, an applicant may request a change in this classification. Such requests for a classification change must demonstrate that the habitat is no longer suitable for the documented species because there has been a change in the suitability of this habitat. Requests for resource value classification changes and associated documentation should be submitted to the Division of Land Use Regulation, P.O. Box 439, Trenton, New Jersey 08625.

This letter in no way legalizes any fill that may have been placed, or other regulated activities that may have occurred on-site. Also this determination does not affect your responsibility to obtain any local, State, or Federal permits which may be required.

In accordance with N.J.A.C. 7:7A-1.7, any person who is aggrieved by this decision may request a hearing within 30 days after notice of the decision is published in the DEP Bulletin by writing to: New Jersey Department of Environmental Protection, Office of Legal Affairs, Attention: Adjudicatory Hearing Requests, 401 East State Street, P.O. Box 402, Trenton, NJ 08625-0402. This request must include a completed copy of the Administrative Hearing Request Checklist. If a person submits the hearing request after this time, the Department shall deny the request. The DEP Bulletin is available through the Department's website at www.state.nj.us/dep.

Please contact Mark Harris of our staff at (609) 777-0454 should you have any questions regarding this letter. Be sure to indicate the Division's file number in all communication.

Sincerely,

Andrew Clark
Northeast Supervisor
Bureau of Inland Regulation

c: Montgomery Township Clerk and Planning Board

29. Fourth Round: 23 Orchard

30. Fourth Round: Thrive at Montgomery

Country Club Meadows Senior Living
Redevelopment Plan



ADOPTED APRIL 17, 2025

Montgomery Township, Somerset County, New Jersey

Clarke Caton Hintz | 100 Barrack Street | Trenton, NJ | 08608

Country Club Meadows Senior Living
Redevelopment Plan
Montgomery Township, Somerset County, New Jersey

Adopted by the Montgomery Township Committee on April 17, 2025 for the Area in Need of Redevelopment (Non-Condemnation) designated pursuant to N.J.S.A. 40A:12A-1, *et. seq.*, *The New Jersey Local Redevelopment and Housing Law*.

Prepared for Montgomery Township by:

Clarke Caton Hintz

Michael F. Sullivan, ASLA, AICP
Principal
NJPP License #5153

With the assistance of **Isabel Rodriguez, AICP**

A signed and sealed copy is available at the municipal building.

All aerial photography source: Nearmap Aerial Imagery, October 25, 2024.

TOWNSHIP COMMITTEE

Neena Singh, *Mayor*

Vincent P. Barragan, *Deputy Mayor*

Patricia Taylor Todd, Esq.

Dennis Ahn

TOWNSHIP PLANNING BOARD

David Campeas, *Chair*

Arun Mani, *Vice-Chair*

Neena Singh, *Mayor*

Patricia Taylor Todd, Esq.

AI-Tereek Battle

Paul Blodgett

Brian Hamilton

Donald Matthews

Sarah Roberts

Anthony Glockler, *Alternate #1*

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Landscape Architect

Michael F. Sullivan, ASLA, AICP
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Clarke Caton Hintz

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APPENDIX A - TOWNSHIP COMMITTEE RESOLUTION #24-6-221 DESIGNATING AN AREA IN NEED OF REDEVELOPMENT

APPENDIX B - TOWNSHIP ORDINANCE #25-1750 ADOPTING THIS REDEVELOPMENT PLAN

INTRODUCTION

The Township Committee of Montgomery, pursuant to Resolution #24-6-221, adopted on June 20, 2024 (Appendix A), has designated approximately 11.9 acres of the predominantly undeveloped portion of the property known as Country Club Meadows as an Area in Need of Redevelopment (Non-Condemnation), pursuant to the criteria established at N.J.S.A. 40A:12A-1 *et seq.*, the "Local Redevelopment and Housing Law" (LRHL). The Country Club Meadows Area consists of a portion of one tax lot located at 22 Scarborough Road and identified on the Montgomery Township Tax Map as Block 4020, Lot 1.

As adopted by resolution, the Township Committee directed this office to assist the Planning Board to prepare a redevelopment plan for the Country Club Meadows Senior Living Redevelopment Area. The purpose of this Redevelopment Plan is to establish the goals, regulations, and standards for redevelopment within the Redevelopment Area.

Pursuant to the statutory requirements of the LRHL, this plan includes the following components:

- Redevelopment Goals and Objectives;
- Proposed Land Uses and Design Concepts;
- Redevelopment Regulations and Standards; and
- Relationship of the Redevelopment Plan to Other Plans.

Redevelopment Plan Process

The formal process for redevelopment of the Country Club Meadows Senior Living Redevelopment Area began when the Township Committee directed the Planning Board to conduct a preliminary investigation of the study area to determine whether the undeveloped portion of Lot 1 in Block 4020, consisting of approximately 11.9 acres, met the statutory criteria for designation as an Area in Need of Redevelopment (Resolution #24-2-95, February 15, 2024). The Planning Board held a public hearing on June 10, 2024 on the findings of the investigation and recommended that the Township Committee designate the Study Area as an Area in Need of Redevelopment (Non-Condemnation). The Planning Board's decision was memorialized by resolution on June 10, 2024. The Township Committee accepted the Planning Board's recommendation and designated the site as a non-condemnation redevelopment area by Township Resolution #24-6-221 on June 20, 2024.

GOALS AND OBJECTIVES

This Redevelopment Plan provides a framework of regulations within the Country Club Meadows Senior Living Redevelopment Area to advance the following goals and objectives:

1. Foster the implementation of the overall Country Club Meadows General Development Plan.
2. Promote the development of a senior living facility that contributes to the satisfaction of Montgomery's, and the region's fair share obligation for affordable housing, in accordance with a court settlement which outlines provisions for same.
3. Provide the framework for a more robust and diverse range of living options for senior citizens in an integrated complex containing necessary support uses and services that benefits the Township and relevant senior citizen cohorts, including:
    a. Independent living
    b. Assisted living
    c. Memory care
4. Encourage the sound utilization of land within the Redevelopment Area;
5. Provide for safe and efficient movement of pedestrians and vehicles;
6. Require comprehensive planning for redevelopment.
7. Provide appropriate spatial and visual relationships between the new uses in the Redevelopment Area and adjacent properties;
8. Promote architecture and site design that contributes to the visual character of the redevelopment area and the Township; and
9. Ensure that the capacity of all utility systems serving the Redevelopment Area is adequate to support any proposed development.

EXISTING CONDITIONS

The Redevelopment Area is located consists of a portion of a single tax lot located at 22 Scarborough Road and identified on the Township Tax Map as Block 4020, Lot 1. The property consists of 23.7 acres of land located in the northern central portion of the Township and is bordered by NJSH Route 206 to the north and northeast and Scarborough Road to the east. The portion of the property which comprises the Redevelopment Area is the northern, undeveloped half of the site. A summary of the property within the Redevelopment Area is shown in Table 1.

Table 1. Redevelopment Area Parcel Summary

Block / Lot	Street Address	Owner	Property Class	Acres
4020/1	22 Scarborough Road	Country Club Meadows, LLC	4C – Apartment (≥5 units)	23.7

Sources: MOD-IV Tax Assessment Records

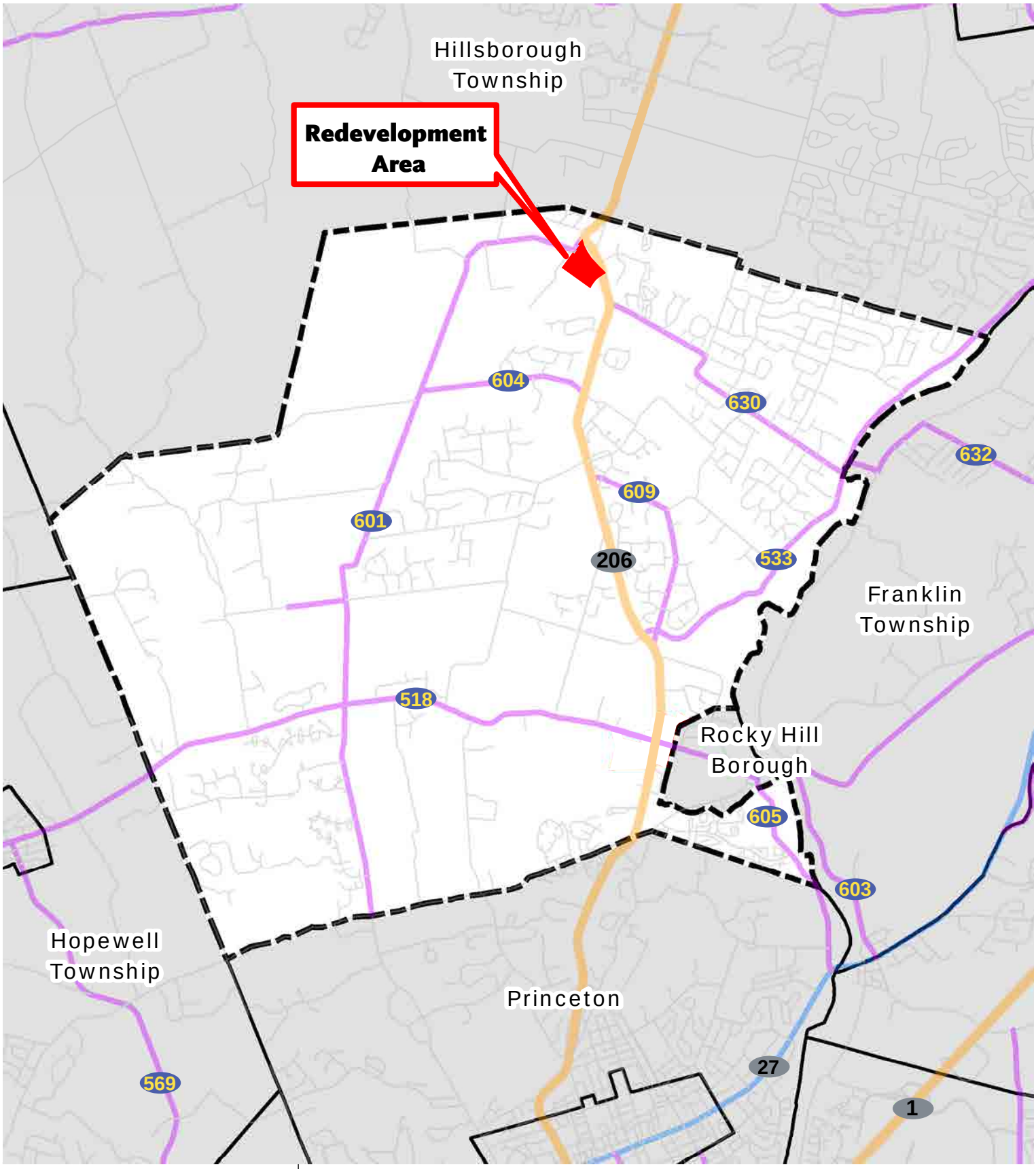
The Redevelopment Area consists of 11.9 acres of predominantly undeveloped land in the northern portion of Block 4020, Lot 1. The only existing improvements in the Redevelopment Area consist of an outdoor storage area and associated parking area with access to Scarborough Road. The outdoor storage area is fenced and contains dumpsters, construction equipment, and construction material. The previously existing one-story building serving as a temporary sales trailer has been removed as of the most recent aerial dated October 25, 2024.

The remaining 11.8 acres of Block 4020, Lot 1 to the south are developed with the Meadows at Montgomery senior living community. The senior living community consists of two three-story buildings containing age-restricted apartments. A driveway leading from Scarborough Road accesses the site, which contains a looping driveway, three parking areas, and recreational and stormwater facilities which serve the site.

Properties surrounding the Redevelopment Area contain a mix of residential and non-residential uses. The Meadows at Montgomery senior living community is located to the south, and a single-family residential development is located beyond that. A single-family dwelling and commercial properties are located to the west across the railroad tracks. Vacant land is located to the northeast across NJSH Route 206. A detention basin and forested land is located to the east across Scarborough Road.

Despite various attempts to develop the site throughout the years, several factors in connection with the location of the site precluded its development. While the surrounding areas have experienced development, the Redevelopment Area itself has remained vacant and undeveloped. The most recent development is the senior living community south of the Redevelopment Area, which consists of the developed portion of Block 4020, Lot 1. The site received preliminary and final site plan approval in February of 2020 to create 96 age-restricted rental apartments. A detailed summary of the development activity, attempts to develop the site, and factors precluding the development of the Redevelopment Area are found in the Preliminary Investigation of the Site.[1]

[1] *Block 4020, Lot 1 Redevelopment Study Area: Preliminary Investigation of an Area in Need of Redevelopment*, Endorsed June 20, 2024.



0 0.5 1 Miles

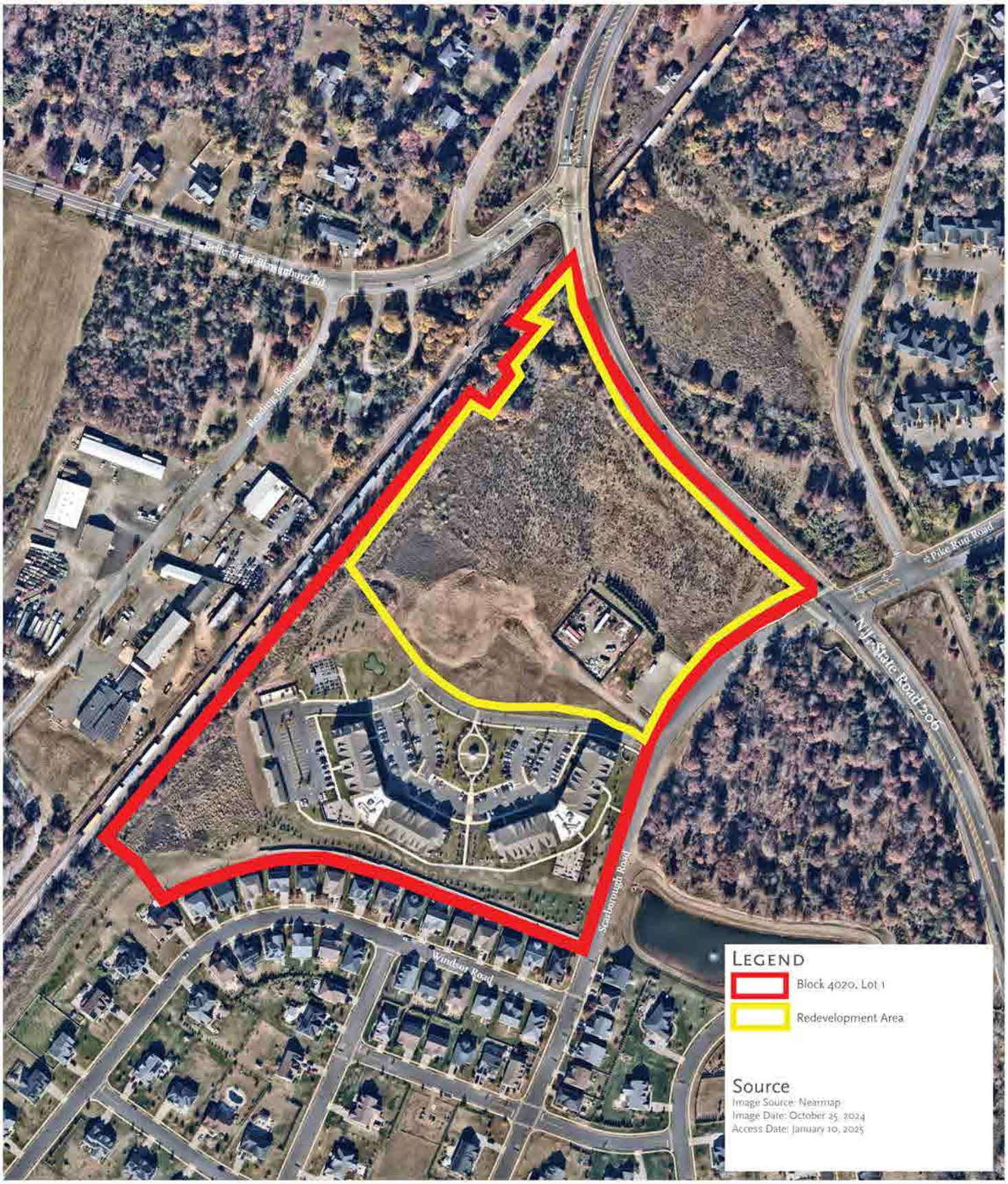
Clarke Caton Hintz
Architecture
Planning
Landscape Architecture

Country Club Meadows Senior Living Redevelopment Plan

Location Map

LOCATION:
Montgomery Township, Somerset County, New Jersey

DATE:
February 2025



NOT TO SCALE

COUNTRY CLUB MEADOWS SENIOR LIVING REDEVELOPMENT PLAN

Aerial Photo

Clarke Caton Hintz
Architecture
Planning
Landscape Architecture

LOCATION:
Montgomery Township, Somerset County, New Jersey

DATE:
February 2025

Existing (Underlying) Zoning

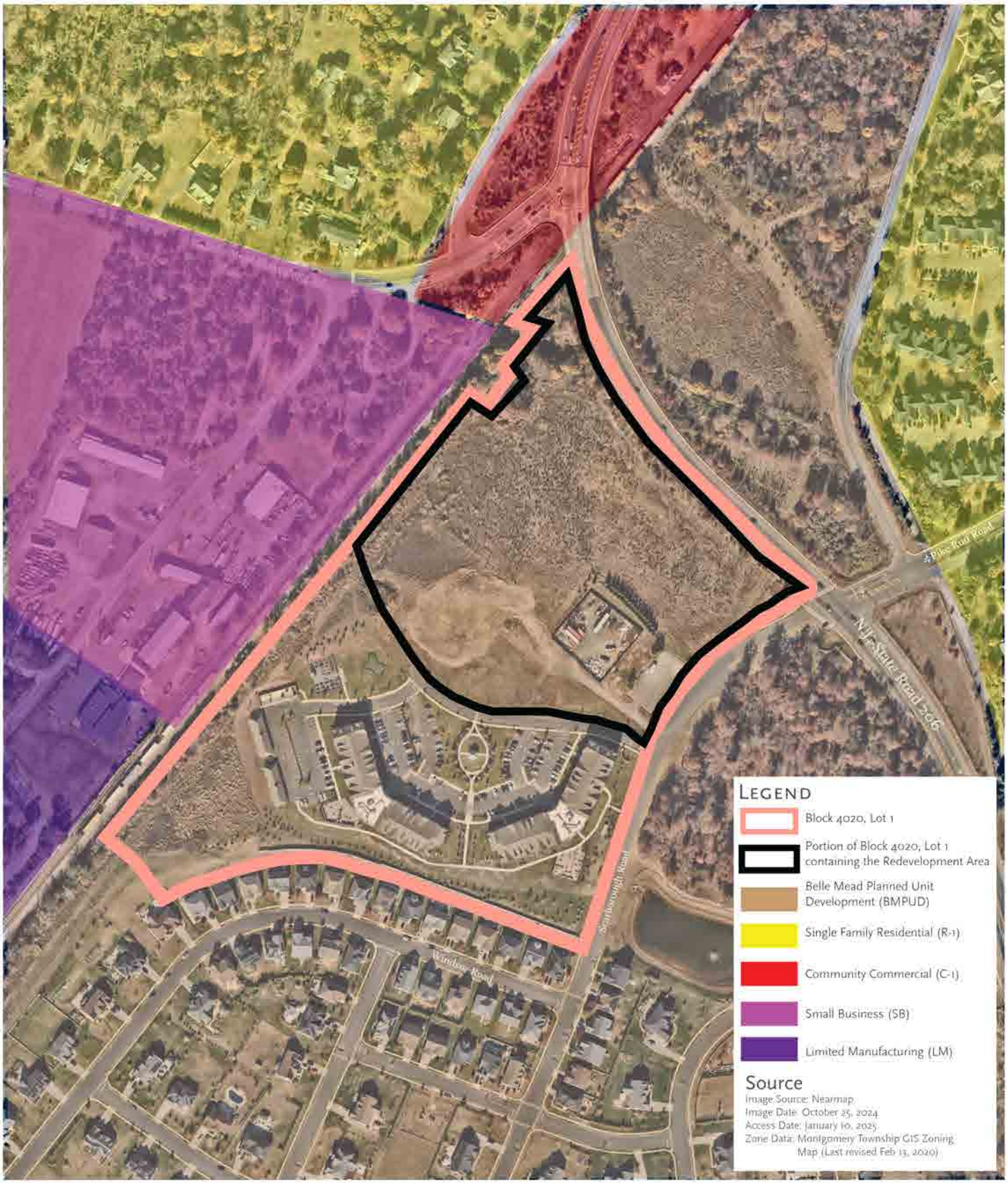
The Redevelopment Area is located within Montgomery's Belle Mead Planned Unit Development (BMPUD) zoning district, Area 3: Continuing Care Facility. The list of permitted uses in Area 3 of the BMPUD District, as of January 2025, is included below for reference only. The Use Regulations of this Redevelopment Plan shall supersede those of the underlying zoning districts within the Redevelopment Area, except where otherwise specified.

Belle Mead Planned Unit Development (BMPUD)

BMPUD Principal Uses

1. Age-restricted senior apartments consisting of 96 senior residential apartments spread across four buildings with 24 units per building.
2. Continuing Care Facility (CCF) complex consisting of three buildings. The three buildings will each contain 74 units of the following types:
    a. 74 independent senior living units.
    b. 74 assisted living units.
    c. 74 sub-acute care beds.

The BMPUD zoning district was created as part of a requirement of the 2014 Settlement agreement between the Township of Montgomery and Country Club Meadows, LLC, Pike Run, LLC, and Pike Meadows/Cloverleaf Plaza. Following the Settlement, a General Development Plan (GDP) for the BMPUD was adopted in 2015 and provided a four-phase plan to develop the zoning district. The Redevelopment Area is part of Phase 3 of the GDP that, prior to being subdivided, was identified as Block 4001, Lots 33 and 33.01 on the tax map. Phase 3 of the GDP proposes to create a Continuing Care Facility (CCF) with a total of 318 units consisting of 96 age-restricted apartments, 74 independent senior living units, 74 assisted living units, and 74 sub-acute care units. The GDP anticipated the CCF as being complete with units beginning occupancy in the spring of 2017 or sooner. Only the 96 age-restricted apartments have been developed.



NOT TO SCALE

COUNTRY CLUB MEADOWS SENIOR LIVING REDEVELOPMENT PLAN

Existing Zoning

Clarke Caton Hintz
Architecture
Planning
Landscape Architecture

LOCATION:
Montgomery Township, Somerset County, New Jersey

DATE:
February 2025

APPLICABILITY AND RELATIONSHIP TO THE ZONING ORDINANCE

The use, bulk, design and performance standards of this Redevelopment Plan shall supersede the zoning provisions of the Montgomery Township Land Development Ordinance within the Redevelopment Area. However, where the regulations and standards of the Redevelopment Plan are silent, the standards of the Montgomery Township Zoning Ordinance shall apply to the Redevelopment Area as permitted by N.J.S.A. 40A:12A-7.a(2). The Montgomery Township Zoning Map is hereby amended to delineate the boundaries of the Country Club Meadows Redevelopment Area as shown on the maps included herein, upon the adoption of the Country Club Meadows Redevelopment Plan in accordance with N.J.S.A. 40A:12A-7.c.

GENERAL PROVISIONS

Redevelopment Entity

The Township Committee shall act as the "Redevelopment Entity" pursuant to N.J.S.A. 40A-12A-4.c for purposes of implementing this Redevelopment Plan and carrying out redevelopment projects. In doing so, the Township Committee shall have the powers set forth in N.J.S.A. 40A-12A-8 to effectuate all of its duties and responsibilities in the execution and implementation of this Redevelopment Plan, with the use of all powers provided by the Legislature for use in a redevelopment area, except for the use of eminent domain as the Country Club Meadows Tract is a non-condemnation redevelopment area.

Redeveloper Selection

The Township Committee may select a single redeveloper for the redevelopment of the entire Country Club Meadows Redevelopment Area. The Township Committee shall select the redeveloper based on the entity's experience, financial capacity, ability to meet deadlines, flexibility in meeting market demands within the framework of the Redevelopment Plan, and additional criteria that demonstrate the redeveloper's ability to implement the goals and objectives of the plan.

Staff Employment

The Township Committee may employ or contract for and fix compensation of such experts, staff, and services that it may deem necessary, including, but not limited to, architecture, economic forecasting, engineering, environmental, landscape architecture, legal, market analysis, planning, and transportation consulting services. The Township Committee shall not, however, authorize expenditures which exceed, exclusive of gifts, grants or escrow accounts, the amounts appropriated for its use.

Acquisition of Property

The power of eminent domain has not been authorized within the Redevelopment Area. No property is proposed to be acquired by public entities in the Redevelopment Area as part of this Redevelopment Plan.

REDEVELOPMENT REGULATIONS

Redevelopment, and any plan approved by the Planning Board depicting said redevelopment, shall be consistent with use regulations and design and performance standards included as part of this Redevelopment Plan. This redevelopment plan may be amended from time to time in compliance with the LRHL.

Variances may not be granted from the requirements of the Redevelopment Plan contained within Mandatory Components or Use Regulations. However, deviations may be granted by the Planning Board from standards contained in the remaining sections, herein, or within the Land Development Ordinance. Consideration of deviations shall be undertaken pursuant to requirements found at N.J.S.A. 40:55D-70.c of the New Jersey Municipal Land Use Law. Consideration of exceptions from Chapter 16-5 General Provisions and Design Standards contained within the Montgomery Township Land Development Ordinance shall be undertaken pursuant to requirements found at N.J.S.A. 40:55D-51. Consideration of submission waivers shall be undertaken pursuant to N.J.S.A. 40:55D – 10.3.

Mandatory Components

The following requirements are mandatory. Any deviation from these requirements requires an amendment to the Redevelopment Plan.

1. Comprehensive and Complete Redevelopment: The entirety of the redevelopment area shall be planned, designed and approved as a single, comprehensive site plan, including any subdivisions, easements or other land controls.

2. Phasing: The overall redevelopment of the area may be phased, with any phasing plan subject to the discretion of the Planning Board.

3. Access: Shared access via the existing driveway/road serving the Meadows at Montgomery is required. A legal instrument shall be articulated demonstrating the right of access between the redevelopment area to/from that driveway/road.

4. Affordable Housing Required: 20 units through the creation of Medicaid-eligible beds. A minimum of 10 assisted living units shall be semi-private units containing a minimum of 20 Medicaid- eligible beds. To ensure that all beds within these units qualify to receive an individual affordable dwelling credit, each of these rooms shall be restricted to occupancy by unrelated individuals, thus producing two affordable housing credits from each unit.

5. All necessary public and private improvements shall be the sole responsibility of the redeveloper in terms of cost, timing and construction.

6. The regulations set forth herein shall supersede all land development regulations pertaining to this site and the Montgomery Land Development Ordinance Chapter 16, unless otherwise stated herein. However, where this plan is silent, all regulations of the Montgomery Land Development Ordinance Chapter 16 apply. Nothing herein shall circumvent or contravene the procedural requirements of the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) nor the regulatory requirements of outside agencies with jurisdiction over the site.

Use Regulations

No lot within the Redevelopment Area shall be used and no structure shall be erected, altered or occupied for any purpose except for the following permitted principal uses and accessory uses, which shall be located in areas of the Redevelopment Area that are determined by the Planning Board to be substantially consistent with the Conceptual Land Use Plan. Any deviation from these requirements requires an amendment to the Redevelopment Plan.

Permitted Principal Uses

1. Senior Living Facility

Dwelling Unit Distribution

1. Maximum number of dwelling units: 196
2. Independent living units: 65% maximum (rounded down)
3. Assisted living units: 20% minimum (rounded up)
4. Memory care: 10% minimum (rounded up)

Permitted Accessory Uses

1. Off-street parking and loading, including surface, structured, and/or mechanical parking
2. Support uses and services: dining rooms, kitchens, exercise rooms, living rooms, multipurpose rooms, theaters, libraries, pubs/bistros, coffee shops, salons, art or performance studios, laundry rooms, offices, exam rooms, nursing stations, maintenance, retail gift shop (for residents, visitors and employees), storage and mail/package rooms.
3. Refuse and recycling.
4. Utilities and communications infrastructure for the provision of services to the building(s) and its occupants.
5. Signs.
6. Plantings and landscape design elements.
7. Site and building lighting.
8. Pedestrian and bicycle facilities, including pathways, walks, bike lockers, bike shelters, and bike racks.
9. Fences and walls.
10. Gathering spaces, including common use patios/terraces.
11. Seating and furnishings.

12. Stormwater management facilities.
13. Building-mounted photovoltaic energy generation.
14. Photovoltaic parking canopies.
15. Open space and recreation.

Bulk and Spatial Regulations Applicable to the Entirety of the Redevelopment Area.

Exceptions from these regulations may be granted pursuant to the framework established for granting of variances in the NJ Municipal Land Use Law at NJS 40:55D-70.c.

Table 2. Coverage and Bulk Requirements

Tract Requirements	
Minimum Tract Area	Entirety of the redevelopment area
Maximum Unit Count	196 units, total
Maximum Building Height	55 feet
Maximum Number of Stories	3 (see definition of story)
Minimum Building Setbacks:	
From Route 206 right-of-way	250 feet
From Other Lot Lines	50 feet
From Other Buildings	15 feet, unless more is required by building code
Maximum Building Coverage	25%
Maximum Impervious Coverage	55%
Minimum Open Space	45%
Buffers	
Scarborough Road	30 feet
Along Western Boundary of Redevelopment Area	30 feet

Subdivision of Land in the Redevelopment Area

1. Subdivision of land within the redevelopment area is permitted.
2. There is no minimum required lot size for any subdivided lots within the redevelopment area.
3. Lots that are created within the redevelopment area that do not provide frontage on an improved public street are permitted, provided that vehicular access to an improved public street is provided.

Vehicular Access

Vehicular Access to the Redevelopment Area shall be provided via Scarborough Road and the existing private roadway on the western edge of the redevelopment area that serves the "Meadows at Montgomery" subject to the following requirements:

Scarborough Road: Not more than one new vehicular access/egress from Scarborough Road is permitted.

Meadows at Montgomery Private Roadway: This existing private roadway may be used for vehicular access. There is no limit to the number of vehicular connections to the existing driveway, provided they comply with engineering standards.

Parking Regulations.

Exceptions from these regulations may be granted pursuant to the framework established for granting of variances in the NJ Municipal Land Use Law at NJS 40:55d-70.c.

1. Minimum Parking Requirements:

    a. IL Villa Units — 1.5 spaces per unit

    This requirement may be satisfied via a combination of a one-car garage and a driveway space associated with a particular unit.

    b. IL/AL Swing Units — 0.5 spaces per unit

    c. AL Units — 0.5 spaces per unit

    d. MC Units — 0.25 spaces per unit

2. All parking and vehicular circulation elements shall be designed in accordance with the New Jersey Residential Site Improvement Standards (NJAC 5:21 et seq.).

3. Barrier-free designated parking shall be provided in accordance with the Barrier Free Sub-Code, N.J.A.C. 5:23-7.

4. Electric vehicle parking shall be provided in compliance with P.L. 2021, Ch. 171 and the NJDCA Model EV Ordinance.

5. Oversized parking space(s) are permitted and may be a minimum dimension of 14 feet in width by 30 feet in length for facility-owned transportation buses and other oversized vehicles.

Design Regulations

Exceptions from these regulations may be granted pursuant to the framework established for granting of design exceptions in the NJ Municipal Land Use Law at NJS 40:55d-51. Unless otherwise specified, all improvements within the redevelopment area shall comply with Chapter 16-5 General Provisions and Design Standards of Montgomery Township Land Development Ordinance.

1. Architecture and Site Planning. The design of the site and all buildings within the redevelopment area shall be designed to be substantially consistent with the conceptual images of buildings contained in this plan. All buildings shall exhibit a unified appearance in terms of the architectural style, materials, colors and finishes.

2. Any flat-roofed building shall have a parapet at the edge of roof with sufficient height to screen all rooftop elements from view.

3. All portions of the tract not utilized by buildings or paved surfaces shall be planted, utilizing trees, shrubs, herbaceous species, lawn, ground cover, and other vegetation. Native, indigenous species should be utilized to the greatest extent possible.

4. Buffers. All required buffers shall be planted. Evergreen vegetative screening and/or berms shall be provided where appropriate.

5. Lighting. All lighting shall be downward-focused, Dark-Sky compliant, shielded where necessary to prevent light spillage onto adjacent private and public properties and rights-of-way (except for vehicular intersections). All lighting shall be LED with a color temperature not higher than 2,700K. Maximum height of lights shall be 16 feet.

6. Utilities and Stormwater Design. All utility and stormwater design shall be in accordance with municipal ordinances.

7. Mechanical Equipment. Building and/or ground-mounted mechanical equipment shall be adequately screened.

8. Refuse Management. All refuse areas shall be fully enclosed within the building and/or outside the building. If outside of a building, the refuse enclosure shall be designed to visually screen the refuse area on all sides and shall be composed with materials, finishes and colors that match those used on the building(s).

9. Signs: A master plan for all signs shall be submitted that details the locations, size, height and design of all proposed signs. Building-mounted/attached signs shall be shown in relation to the entire façade upon which they will be located. Larger scale details are also required.

    a. Freestanding sign. Two freestanding signs are permitted. One freestanding sign with a maximum sign area of 50 square feet and a maximum height of 8 feet. One freestanding sign with a maximum sign area of 25 square feet and a maximum height of five feet. All signs shall be located outside of sight easements and shall have a setback from vehicular cartways of no less than 25 feet.

    b. Attached signage. Assisted living/memory care building may have one attached sign maximum size 50 square feet in sign area.

    c. Wayfinding signs. Wayfinding and directional signs shall be permitted, not to exceed 6 square feet in area and5feet in height. The extent of wayfinding and directional signs shall be determined by, and is subject to the discretion of, the approving authority.

    d. The size of the sign area in all cases above shall be exclusive of base and frame.

e. If illuminated, signs shall be externally illuminated in such a manner that no glare impacts roadways, streets or pedestrian walks.

10. Wetlands. Any onsite freshwater wetlands and transition areas/buffers, as may be modified after any wetlands transition area averaging approved by NJDEP, shall be placed into a conservation deed restriction in favor of Montgomery Township.

11. Roof-mounted elements

    a. Penthouses or other roof structures for the housing of stairways, tanks, bulkheads, ventilating fans, air conditioning equipment and similar equipment required to operate and maintain the building are permitted on a roof.

    b. Skylights, spires, cupolas are permitted on a roof.

    c. Common terraces or decks are permitted on a roof.

    d. Photovoltaic energy generating systems are permitted on a roof.

    e. The maximum area occupied by permitted roof-mounted elements shall be 40 % of roof the roof area.

    f. Rooftop mounted equipment, systems, penthouses and other structures or elements shall not exceed 12 feet in height as measured from the roof elevation, not the parapet elevation.

    g. Lighting mounted on a roof shall be incorporated within a parapet to the greatest extent possible to avoid negative off-site impacts. Where lighting cannot be integrated in a parapet, the mounting height of lights shall not exceed 48 inches.

    h. Vegetated roof areas are permitted.



NOT TO SCALE

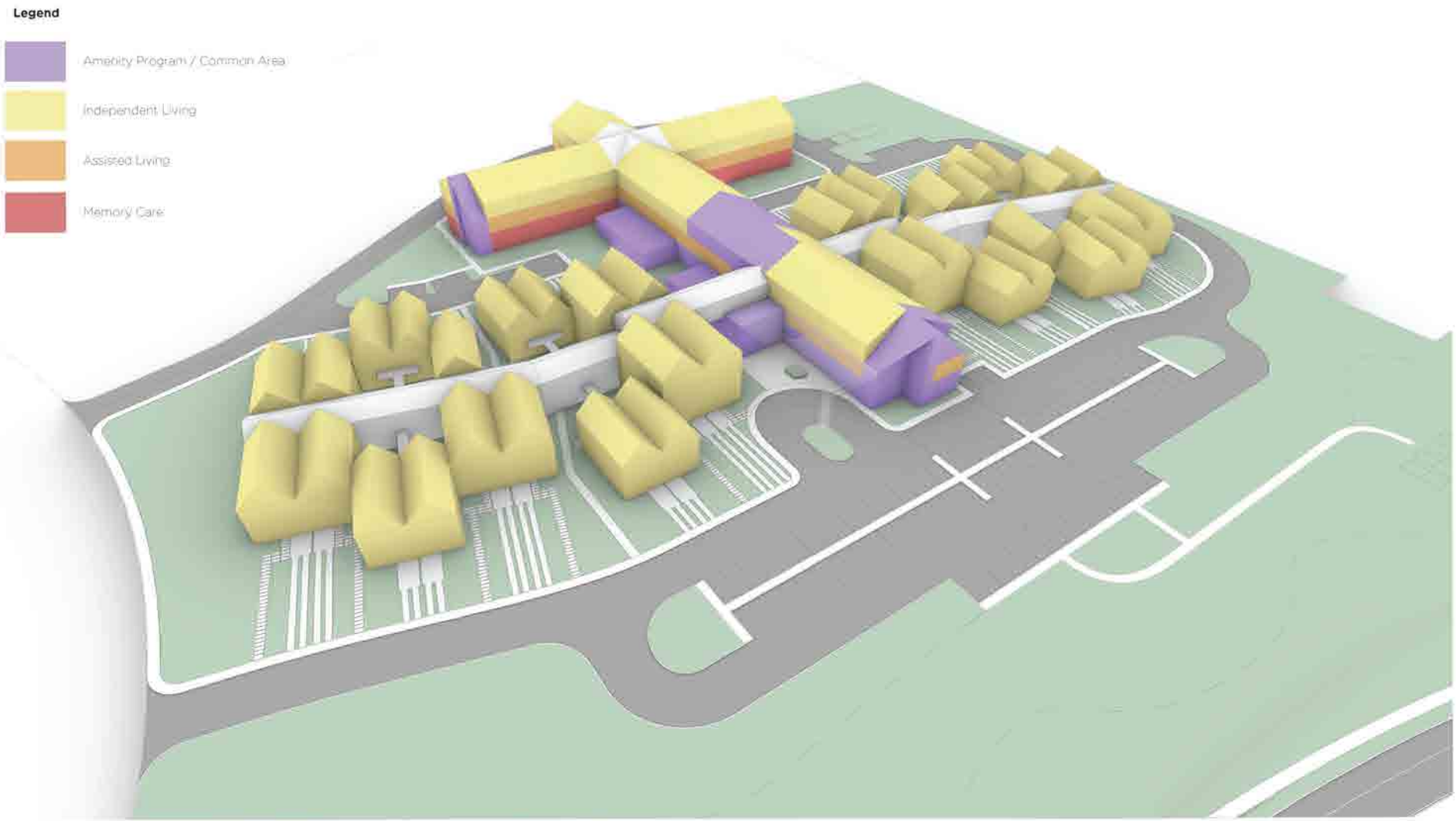
COUNTRY CLUB MEADOWS SENIOR LIVING REDEVELOPMENT PLAN

Thrive at Montgomery Concept Plan

Clarke Caton Hintz
Architecture
Planning
Landscape Architecture

LOCATION:
Montgomery Township, Somerset County, New Jersey

DATE:
February 2025



NOT TO SCALE

Clarke Caton Hintz
Architecture
Planning
Landscape Architecture

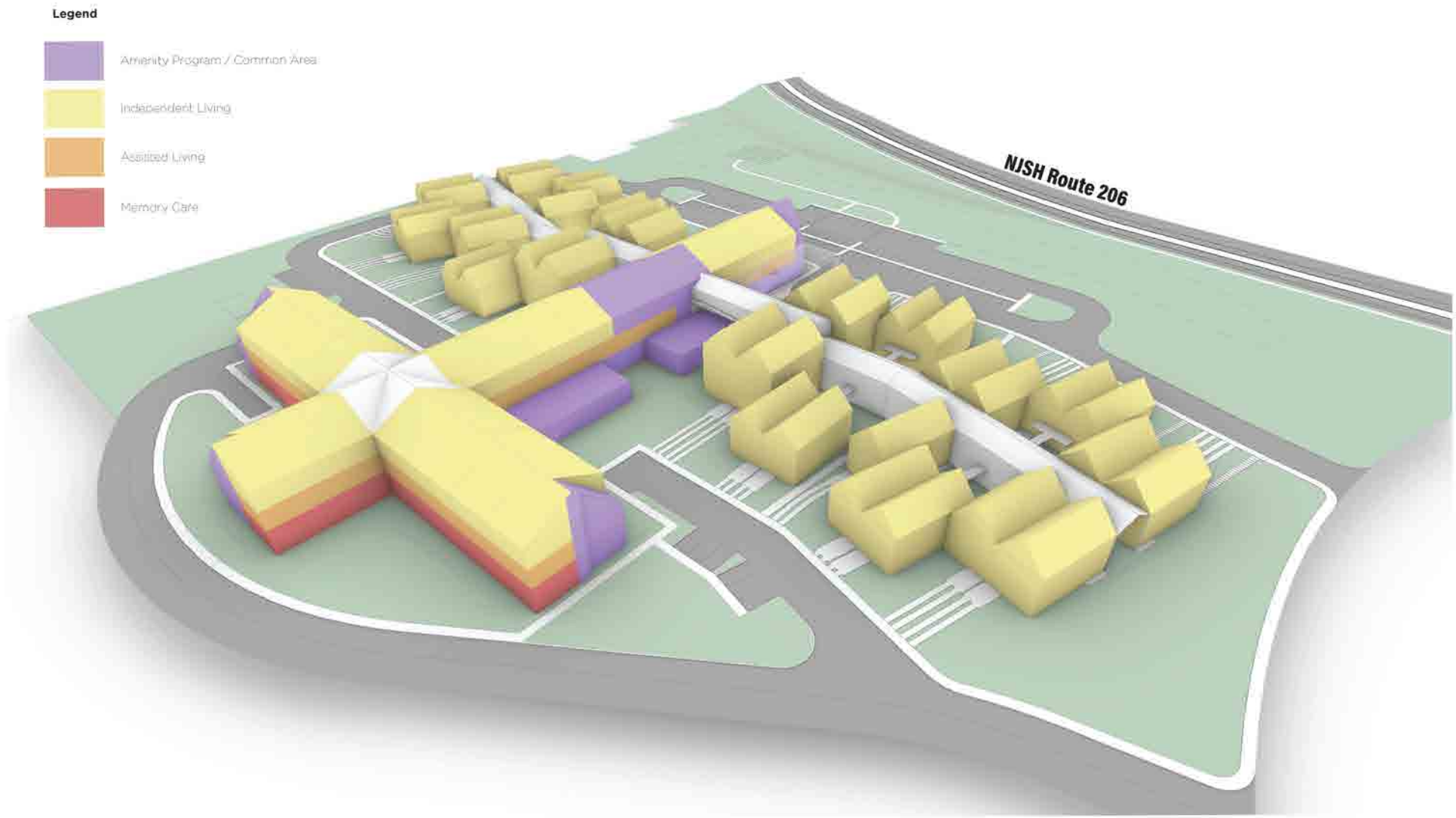
COUNTRY CLUB MEADOWS SENIOR LIVING REDEVELOPMENT PLAN

Thrive at Montgomery Concept Plan 3D Diagram (View 1)

LOCATION:
Montgomery Township, Somerset County, New Jersey

DATE:
February 2025

Source
Thrive at Montgomery Concept Plan, prepared by Reach Architects and HQW Architects, dated January 24, 2025.



Clarke Caton Hintz
Architecture
Planning
Landscape Architecture

COUNTRY CLUB MEADOWS SENIOR LIVING REDEVELOPMENT PLAN

Thrive at Montgomery Concept Plan 3D Diagram (View 2)

LOCATION:
Montgomery Township, Somerset County, New Jersey

DATE:
February 2025

Source
- Thrive at Montgomery Concept Plan, prepared by Reach Architects and HQW Architects, dated January 24, 2025.



Clarke Caton Hintz
Architecture
Planning
Landscape Architecture

COUNTRY CLUB MEADOWS SENIOR LIVING REDEVELOPMENT PLAN

Thrive at Montgomery Concept Plan Rendering A

LOCATION:
Montgomery Township, Somerset County, New Jersey

DATE:
February 2025

Source
Thrive at Montgomery Concept Plan, prepared by Reach Architects and HQW Architects, dated January 24, 2025.



Clarke Caton Hintz

Architecture
Planning
Landscape Architecture

COUNTRY CLUB MEADOWS SENIOR LIVING REDEVELOPMENT PLAN

Thrive at Montgomery Concept Plan Rendering B

LOCATION:
Montgomery Township, Somerset County, New Jersey

DATE:
February 2025

Source
Thrive at Montgomery Concept Plan, prepared by Resch Architects and HQW Architects, dated January 24, 2025

Public Improvements

The construction or extension of any public utilities required shall be installed at the full expense of the redeveloper consistent with the design policies and standards that are contained within this Plan. The redeveloper is expected to install necessary public improvements on the property they control as well as abutting rights-of-way. There will be no municipal financial assistance in the form of contributions towards the construction of off-site and/or off-tract improvements necessitated by the future development. No recapture of off-site improvement expenses from future development should be anticipated. However, nothing contained herein shall be construed to preclude the ability of the municipality or redeveloper from obtaining any governmental programs, grants, loans, or other financial support or incentives for public infrastructure improvements or other construction, or from the municipality to consider a recapture provision in the redevelopment agreement.

RELATIONSHIP TO OTHER PLANS

Montgomery Township 2017 Master Plan Reexamination Report

The 2017 Master Plan Reexamination Report, adopted September 18, 2017, supports the goals, objectives and recommendations of the 1971 Master Plan and subsequent reexaminations and amendments adopted through 2021. The report focused heavily on future growth and development, as well as preservation of critical lands. This plan is also consistent with the Redevelopment Plan.

The 2017 Reexamination Report reaffirms the goals and objectives of the 1989 "Part II: Land Use Plan and Housing Elements" portion of the Master Plan. The following objectives identified in the 1989 Land Use Plan and Housing Elements that are applicable to this Redevelopment Plan:

- The Development Plan should recognize the physical characteristics of the Township and acknowledge the inherent capabilities and limitations of the land to host different types of community development at appropriate densities and intensities.
- The Development Plan should strive to prevent the homogenous spread of suburban development throughout the municipality. Specific areas of the Township should be designated for specific types of residential and non-residential development. The rural and country atmosphere which prevails throughout most of the municipality should be maintained.
- Recognizing the housing obligations of the municipality, but attempting to prevent sprawl and maintain a development mix balanced between residential and non-residential construction, the Development Plan should guide and contain the principal commercial and higher density residential development within the municipality to specific areas of concentrated land uses. One of these areas, referred to as the Rocky Hill node, currently exists along Route 206 near its intersection with Route 518. A second area, originally proposed in the 1974 "Housing Report", is situated within the Belle Mead area of the Township at the northern terminus of Route 206 north of Cruser Brook and Belle Mead-Griggstown Road, and is referred to as the Belle Mead node.

- Between the two (2) nodes of concentrated development along Route 206, referred to as the Rocky Hill node and the Belle Mead node, the Development Plan should continue to prevent the evolution of strip commercial uses along Route 206.

- The Development Plan shall provide that the future relatively high density housing to be permitted in the Belle Mead node be planned as part of relatively large scale developments in order to insure that adequate roads, recreational areas, drainage facilities, public water and sewerage facilities and other infrastructural improvements are constructed commensurate with the residential development.

The redevelopment of the Country Club Meadows Tract is located within the Belle Mead node discussed in the 2017 Reexamination of the Master Plan, thus supporting several goals of the Master Plan. Its redevelopment as a senior living facility that contributes to the region's fair share obligation for affordable housing supports the goals and policies of the 2017 Reexamination of the Master Plan.

Montgomery Township 2020 Amended Housing Element and Fair Share Plan

In December 2020, the Township adopted an amendment to its Housing Element & Fair Share Plan. The Amended Housing Element and Fair Share Plan reflects the revisions to the projects included within the Township's 2018 Amended Housing Element and Fair Share Plan as detailed in the July 24, 2019 Court's Order granting a Final Judgment of Compliance and Repose.

The Redevelopment Area is identified in the 2020 Amended Housing Element and Fair Share Plan as the Country Club Meadows Site. The project is described as an inclusionary project resulting from a 2014 settlement agreement between the Township, Country Club Meadows, LLC, and Pike Run, LLC, et al. The settlement agreement led to the creation of a general development plan ("GDP") for an area of over 190 acres, as well as Belle Mead Planned Unit Development ("BMPUD"). The BMPUD contains the zoning regulations for a mixture of uses including commercial space, 148 single family homes, 27 apartments over retail, and 318 continuing care units. The Redevelopment Area, included within the GDP area, is intended to contain the 318 continuing care units. The Redevelopment Plan establishes the zoning regulations to develop a senior living facility consistent with the 2020 Amended Housing Element and Fair Share Plan.

2014 Amendment to the Land Use Element of the Master Plan

In July 2014, the Township adopted an amendment to its Land Use Plan Element titled *Land Use Plan Amendment Specific to Lands Owned by "Country Club Meadows" in the Belle Mead Portion of Montgomery Township*. The Amendment, which includes the Redevelopment Area, summarizes the 2014 settlement and provides a history of concept plans relating to the site since 1988. It also provides the language that would eventually become the regulations in the Belle Mead Planned Unit Development (BMPUD) zoning district, which includes the Redevelopment Area and is known as Area 3: Continuing Care Facility.

Following the adoption of the Master Plan Amendment, and as part of the 2014 settlement, the Township adopted the recommended zoning changes to create the BMPUD zoning district, including Area 3. As discussed in the Preliminary Study for the Redevelopment Area, the zoning regulations for Area 3 of the BMPUD District are incredibly specific and precluded the development of the area as

originally intended.[2] This Redevelopment Plan establishes comprehensive zoning regulations within the Redevelopment Area to effectively develop a senior living facility as intended in and consistent with the Township's goal Land Use Plan Amendment.

Montgomery Township Land Development Ordinance

Prior to the adoption of the Redevelopment Plan, the site was located within Montgomery's Belle Mead Planned Unit Development (BMPUD) zoning district, Area 3: Continuing Care Facility. Permitted principal uses in Area 3 of the BMPUD include age-restricted senior apartments consisting of 96 senior residential apartments spread across four buildings with 24 units per building; and a continuing care facility (CCF) complex consisting of three L-shaped buildings, each with 74 units containing 74 independent senior living units, 74 assisted living units, and 74 sub-acute care beds. The Redevelopment Plan establishes new comprehensive zoning regulations to effectively develop a senior living facility consistent with uses envisioned in Area 3 of the BMPUD.

2017 Somerset County Master Plan Housing Element

The following policies and strategies are identified in the Somerset County Master Plan Housing Element, dated November 2017, that are applicable to this Redevelopment Plan:

- Respond to the changing needs of the County's population by encouraging a broad range of housing types at all levels of affordability.
- Address the demand for a wide range of supported senior and special needs housing types.
- Increase the supply of rental and for-purchase housing affordable to low- and moderate-income eligible households and those earning between 80 and 120 percent of median household income.
- Create healthy, attractive, walkable neighborhoods with proximity and access to jobs, cultural and recreational amenities, services and transportation choices.
- Guide residential and mixed-use infill and redevelopment into areas where existing infrastructure, employment, services and other community assets are concentrated (i.e. Priority Growth Investment Areas).
- Promote efficient land use patterns and residential densities that provide "economies of scale" necessary for cost-effective infrastructure maintenance, renewal and enhancement.
- Use residential and mixed-use redevelopment to return underutilized and vacant properties to productive use and catalyze community revitalization.
- Create opportunities to increase the supply of affordable housing necessary for meeting the needs of all types of very-low, low- and moderate-income households.

[2] *Block 4020, Lot 1 Redevelopment Study Area: Preliminary Investigation of an Area in Need of Redevelopment*, Endorsed June 20, 2024 (p.23).

2001 State Development and Redevelopment Plan

The State Planning Commission adopted the State Development and Redevelopment Plan (*"State Plan"*) on March 1, 2001. The State Plan is organized around five Planning Areas. The Redevelopment Area is located within Planning Area 2 (PA2), the Suburban Planning Area, in which the following goals are established:

- Provide for much of the state's future development;
- Promote growth in Centers and other compact forms;
- Protect the character of existing stable communities;
- Protect natural resources;
- Redesign areas of sprawl;
- Reverse the current trend toward further sprawl; and
- Revitalize cities and towns.

The Plan also establishes the following policies regarding housing:

- *Policy 1 Balanced Housing Policies for Master Plans and Development Regulations:* Provide a reasonable balance in master plans and development regulations between:
  - residential and other land uses, to achieve sensible ratios between housing and jobs, housing and retail, housing and open space, and other uses;
  - different housing types, to address the full range of housing needs and preferences (different age groups, income levels, mobility options and life styles); and
  - housing costs, with an emphasis on quality affordable housing, housing tenures and residential arrangements
- *Policy 2 Age-restricted Housing:* Planning for age-restricted housing should be grounded in local master plans that are balanced with housing for a range of ages and should be physically integrated into or connected to Centers or other areas with facilities and services.

This Redevelopment Plan aims to advance the goals and policies of the State Plan by revitalizing underutilized lands, by addressing a range of housing needs, and by providing for land uses and design standards that promote growth within the local and regional context of Montgomery Township.

DEVELOPMENT PLAN REVIEW AND APPROVAL

Cost of Review and Escrow

Redevelopers seeking input on a conceptual plan or approval of a project in the Redevelopment Area shall establish an escrow account with the Township Committee from which any consultants necessary for the review of the redevelopment project shall be paid. Such escrow account shall be in accordance

with N.J.S.A. 40:55D-53.2. The Township Committee shall adopt a fee schedule by resolution and may amend it from time to time as circumstances warrant.

Consistency with Redevelopment Plan

The Planning Board shall certify the consistency of an application for development with the Redevelopment Plan after submission by the redeveloper to the Planning Board and prior to a determination of a complete application by the Planning Board. As a condition precedent to the filing of any application for development to the Planning Board for any property governed by this Redevelopment Plan, the Township Committee shall execute the Agreement with the redeveloper. Any development approved by the Planning Board prior to the enactment of this plan pursuant to the Land Development Ordinance shall be deemed to be certified as consistent with this plan and shall not require a separate determination of consistency by the Planning Board.

Redevelopment Agreement

As a condition precedent to the filing of any application for development to the Planning Board for any property governed by this Redevelopment Plan, the Township Committee and the redeveloper shall enter into a Redevelopment Agreement that sets forth the obligations and rights of the Township and the Redeveloper. After Planning Board approval, and prior to the issuance of zoning and construction permits, the Redevelopment Agreement shall be subject to the terms and conditions of the Planning Board approval and the approval of any outside agencies, which shall be appended to the Redevelopment Agreement.

Any subsequent redevelopers, if not the designated redeveloper of the Country Club Meadows Redevelopment Area, shall enter into a Redevelopment Agreement with the Township Committee.

Effect of Agreement

The execution of the agreement shall convey the right to prepare an application(s) for development to the Township Planning Board in accordance with the terms of the agreement and Redevelopment Plan, among other rights that may be granted by the Township Committee. In addition, the execution of the agreement shall establish the period of time as such rights to develop under the terms and conditions of the Redevelopment Plan shall be granted. Nothing herein shall prevent the Township Committee and redeveloper from mutually agreeing to an amendment of the Amended Redevelopment Plan as it affects the redeveloper's property from time to time or at any time.

Application for Development

An application for development shall be submitted in such form, and accompanied by such maps, documents, and materials as are prescribed in the Land Development Ordinance of the Township of Montgomery.

Planning Board Review

1. Site plan or subdivision review shall be conducted by the Montgomery Township Planning Board pursuant to N.J.S.A. 40:55D-1 *et seq*.

2. Deviations may not be granted from the requirements contained in the Mandatory Components or Use Regulations of this Redevelopment Plan. However, deviations may be granted from standards contained in the remaining sections of the Redevelopment Plan in accordance with the provisions of the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-60 and -70c. Furthermore, exceptions may be granted pursuant to N.J.S.A. 40:55D-51 and submission waivers pursuant to N.J.S.A. 40:55D-10.3.

3. An application requesting a deviation from the requirements of this Redevelopment Plan shall provide public notice of such application in accordance with the public notice requirement set forth in N.J.S.A. 40:55D-12a and -12b.

4. Any development approved by the Planning Board prior to the enactment of this plan pursuant to Chapter 126 Land Use of the Municipal Code shall not require additional, separate approval by the Planning Board.

Effects of Approval

The effects of any Planning Board approval shall be consistent with the rights granted by Municipal Land Use Law at N.J.S.A. 40:55D-1 *et seq*. except to the extent they may be modified by an agreement with a redeveloper.

NEW DEFINITIONS

As used in this redevelopment plan, the following terms shall have the meanings set forth below.

1. SENIOR LIVING FACILITY - shall mean a facility which includes a combination of Independent Living Units and Assisted Living/Memory Care units to provide residency for eligible senior citizens.

2. INDEPENDENT LIVING UNITS (IL) - shall mean a non-licensed dwelling unit which contains living, sleeping, kitchen and sanitary facility accommodations, where all residents are capable of living independently without continuing medical or physical assistance exceeding the levels defined by the operator of the senior living facility, and where residents dine either privately and/or in a communal dining area.

3. ASSISTED LIVING UNITS (AL) - shall mean a dwelling unit licensed by the State of New Jersey which contains living, sleeping and sanitary facility accommodations, where residents meet the requirements for assisted living residences as defined by the State of New Jersey, thereby requiring assistance in normal daily living activities between independent living and nursing care.

4. MEMORY CARE UNITS (MC) - shall mean residential facilities licensed as an assisted living unit by the State of New Jersey within a senior citizen housing community providing housing and care to individuals with Alzheimer's and other forms of dementia and memory impairment. Memory care units will primarily be occupied by senior citizens but may also be occupied by early onset residents of any age.

5. STORY - That portion of a building included between the surface of any floor and the surface of the floor next above it; or if there is no floor above it, then the space between the floor and ceiling next above it. The floor of the first story of a building shall not be more than six (6) feet above the average grade of the ground around the building. A parking level, basement or cellar under a building which does not have more than half its height above grade at any point, not inclusive of those points required for access, shall not be considered a story. A mezzanine that has a floor area that has a floor area of 30% or less than the full floor below shall not be considered a story Architectural embellishments, mechanical equipment enclosures, elevator penthouses and rooftop structures and improvements shall not be counted as a story but are governed by height regulations.

6. BUILDING HEIGHT - The vertical distance measured to the highest point of a building from the mean elevation of the finished grades along all sides of the building.

    a. Exception: When measuring the mean elevation along the building base the elevation of a driveway used to provide access or egress from a parking area encompassed by the building or located below the ground floor of the building, provided that the total width of said driveway(s) are less than 30 feet in width, may be excluded from the calculation. If the width of said driveway(s) s exceeds a total of 30 feet in width, then the elevation of the driveways shall be included in the determination of the mean elevation along the building base and thus the measurement of the building height.

    b. For flat-roofed buildings with a parapet, the building height shall be measured to the highest point on the parapet.

    c. For buildings with a mansard roof combined with a flat roof, the building height shall be measured to the highest point on the mansard roof, which is in essence, a parapet.

    d. A roof with a slope of 10 degrees or less shall constitute a flat roof.

APPENDIX A

TOWNSHIP COMMITTEE RESOLUTION #24-6-221:

DESIGNATING AN AREA IN NEED OF REDEVELOPMENT

TOWNSHIP OF MONTGOMERY
SOMERSET COUNTY, NEW JERSEY

RESOLUTION #24-6-221

DESIGNATING APPROXIMATELY 11.9 ACRES OF THE UNDEVELOPED PORTION OF LOT 1 IN BLOCK 4020 AS SHOWN ON THE TAX MAP OF THE TOWNSHIP OF MONTGOMERY AS A NON-CONDEMATION AREA IN NEED OF REDEVELOPMENT UNDER THE NEW JERSEY LOCAL REDEVELOPMENT AND HOUSING LAW (N.J.A.A 40A:12A-1 et seq.)

WHEREAS, the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the "LRHL") authorizes municipalities to determine whether certain parcels of land within the municipality constitute a "non-condemnation area in need of redevelopment" as described in Section 5 of the Redevelopment Law; and

WHEREAS, to determine whether a certain parcel of land constitutes an area in need of redevelopment, the Township Committee of the Township of Montgomery (the "Township Committee") by way of Resolution #24-2-95 dated February 15, 2024, authorized and directed the Township of Montgomery Planning Board (the "Board") to conduct a preliminary investigation to determine whether the undeveloped portion of Lot 1 in Block 4020 as shown on the Tax Map of the Township of Montgomery consisting of approximately 11.9 acres (the "Study Area"), meets the criteria set forth in Section 5 of the LRHL and should be designated as a "non-condemnation area in need of redevelopment;" and

WHEREAS, the Board authorized the undertaking of the preliminary investigation as to whether the Study Area, or a portion thereof, constitutes an area in need of redevelopment in accordance with the LRHL; and

WHEREAS, the LRHL requires the Board to conduct a public hearing prior to making its determination whether the Study Area should be designated as "an area in need of redevelopment," at which hearing the Board shall hear all persons who are interested or would be affected by a determination that the Study Area is a redevelopment area; and

WHEREAS, the LRHL further requires that such notice be mailed at least ten (10) days prior to such public hearing to the last owner(s) of the relevant properties in accordance with the Township's assessment records; and

WHEREAS, the Board held a public hearing (the "Public Hearing") to determine whether the Study Area is a "non-condemnation area in need of redevelopment" under the criteria set forth in Section 5 of the LRHL at a regular meeting of the Board on June 10, 2024; and

WHEREAS, notice of the Public Hearing was provided in the official newspaper of the Township on two consecutive weeks, the last being not less than ten (10) days before the Public Hearing; and

WHEREAS, the Board also provided notice to property owners in the Study Area; and

WHEREAS, at the Public Hearing, James Clavelli, PP, AICP, of Clarke Caton Hintz presented a report dated May 29, 2024 entitled Preliminary Investigation of an Area in Need of Redevelopment (Non-Condemnation) for the undeveloped portion of Lot 1 in Block 4020, the Redevelopment Study Area; and

WHEREAS, at the Public Hearing, the Board reviewed the Report and considered testimony of Mr. Clavelli; and

WHEREAS, the Board also gave members of the public an opportunity to speak and ask questions related to this matter; and

WHEREAS, after the conclusion of the Public Hearing, and in consideration of the Report and the substantial and credible testimony presented, the Board, on June 10, 2024, determined the Study Area met one or more criteria to designate the Study Area as a "non-condemnation area in need of redevelopment," which was memorialized by way of Planning Board Resolution dated June 10, 2024 which is attached hereto as Exhibit "A;" and

WHEREAS, the Township Committee agrees with the recommendation of the Board that the Study Area be designated as a "non-condemnation area in need of redevelopment" pursuant to the LRHL.

WHEREAS, the Township Committee now desires to authorize and direct the Board to cause a redevelopment plan to be prepared for the Study Area and present same to the Township Committee pursuant to N.J.S.A. 40A:12A-7(f).

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Montgomery, County of Somerset, New Jersey, as follows:

1. The Township Committee hereby designates the undeveloped portion of Lot 1 in Block 4020 as shown on the Tax Map of the Township of Montgomery consisting of approximately 11.9 acres, as a "non-condemnation area in need of redevelopment" (the "Determination") pursuant to the LRHL.

2. The Determination shall authorize the Township of Montgomery to use all of the powers provided by the Legislature for use in a redevelopment area excluding the use of eminent domain, thus designating it a "Non-condemnation Redevelopment Area."

3. The Township Clerk is hereby directed to transmit a certified copy of this Resolution by regular and certified mail to the Commissioner of Community Affairs (the "Commissioner") for review. The Determination of the Study Area as a "non-condemnation area in need of redevelopment" shall not take effect without first receiving the review and approval of the Commissioner. If the Commissioner does not issue an approval or disapproval within thirty (30) calendar days of transmittal, the Determination shall be deemed approved.

4. Notice of the Determination (the "Notice) shall be served within ten (10) days of the Determination, upon all record owners of property located within the delineated area, those whose names are listed on the Tax Assessor's records, and upon each person who filed a written objection thereto and stated, in or upon the written submission, an address to which the notice of Determination may be sent.

5. A property owner who received notice of Determination as set forth above who does not file a legal challenge to the Determination affecting his or her property within 45 days of receipt of such notice shall thereafter be barred from filing such a challenge

CERTIFICATION

I, Lisa Fania, Clerk of the Township of Montgomery, County of Somerset, do hereby certify that the foregoing is a true and correct copy of a resolution duly adopted by the Township Committee at a Regular Meeting held on June 20, 2024.

Lisa Fania, RMC
Township Clerk

Exhibit A

RESOLUTION OF
THE PLANNING BOARD OF THE TOWNSHIP OF
MONTGOMERY, SOMERSET COUNTY, NEW JERSEY,
RECOMMENDING THAT THE REAL PROPERTY DESIGNATED AS THE UNDEVELOPED PORTION OF BLOCK 4020, LOT 1 ON THE TAX MAP OF MONTGOMERY AND LOCATED ON SCARBOROUGH ROAD SHOULD BE DECLARED A NON-CONDEMNATION REDEVELOPMENT AREA PURSUANT TO N.J.S.A. 40A:12A-1, ET SEQ.

WHEREAS, the Township Committee of Montgomery directed the Planning Board, pursuant to Resolution #24-2-95 (adopted on February 15, 2024), to conduct a preliminary investigation to determine whether certain property located at Scarborough Road, designated as the undeveloped portion of Lot 1 in Block 4020 and part of the BMPUD zoning district, qualified as a non-condemnation area in need of redevelopment, pursuant to the criteria established at N.J.S.A. 40A:12A-1 et seq., known as the "Local Redevelopment and Housing Law"; and

WHEREAS, the Montgomery Township Planning Board authorized and directed its planning consultant, Clarke Caton Hintz, to undertake a preliminary investigation to determine whether the Study Area should be declared a non-condemnation redevelopment area pursuant to N.J.S.A. 40A:12A-1, et seq.; and

WHEREAS, Clarke Caton Hintz prepared a report entitled "Preliminary Investigation of an Area in Need of Redevelopment (Non-Condemnation) for the Block 4020, Lot 1 Redevelopment Study Area" (the "Investigative Study Report"); and

WHEREAS, on June 10, 2024, the Planning Board in accordance with notice and jurisdictional requirements conducted a public hearing at which the Board considered the Investigative Study Report which was presented by James Clavelli, PP, AICP, Clarke Caton Hintz to determine whether the Study Area should be recommended to be established as a "Non-Condemnation Redevelopment Area" pursuant to N.J.S.A. 40A: 12A- 1 et. seq; and

WHEREAS, Mr. Clavelli testified regarding the Report and the Study Area, as fully set forth on the record; and

WHEREAS, the Investigative Study Report concluded that the Block 4020, Lot 1 Redevelopment Study Area (the Study Area) remains the only undeveloped portion of the BMPUD zoning district and that the Study Area satisfied that the criterion "c" of N.J.S.A. 40A: 12A- 5(c) because the site has remained vacant for a period greater than ten years and remains undeveloped for its zoned use as a continuing care facility due to its location in terms of market area, available sewer infrastructure, and location within a court ordered zoning district; and

WHEREAS, the Investigative Study Report further concluded that the entirety of the Study Area is within the Suburban Planning Area (PA2), which is mapped by the New Jersey State Office for Planning Advocacy as a "smart growth area" and, therefore, satisfies criterion "h" of N.J.S.A. 40A: 12A- 5(h)

WHEREAS, the Board opened the hearing to public comment but no comment was provided; and

WHEREAS, based on the foregoing, the Board finds that the testimony and evidence placed on the record supports a finding that the Study Area meets the statutory criteria to support its designation as a non-condemnation area in need of redevelopment, as referenced herein and in the Report, specifically with regard to criteria "c", and "h".

NOW THEREFORE BE IT RESOLVED that the Montgomery Township Planning Board recommends to the Township Committee that the undeveloped portion of Block 4020, Lot 1 has met the criteria for designation as a non-condemnation redevelopment area.

ROLL CALL VOTE ON MOTION TO RECOMMEND THAT THE UNDEVELOPED PORTION OF BLOCK 4020, LOT 1 ON THE TAX MAP OF MONTGOMERY SHOULD BE DECLARED A NON-CONDEMNATION REDEVELOPMENT AREA PURSUANT TO N.J.S.A. 40A:12A-1, ET SEQ.

(June 10, 2024)

Moved by: Roberts

Seconded by: Singh

Those in Favor: Battle, Blodgett, Campeas, Glockler, Keenan, Mani, Roberts, Singh

Those Opposed: None

ROLL CALL VOTE ON MOTION TO APPROVE RESOLUTION OF MEMORIALIZATION (June 10, 2024)

Moved by: Blodgett

Seconded by: Mani

Those in Favor: Battle, Blodgett, Campeas, Glockler, Keenan, Mani, Roberts, Singh

Those Opposed: None

LORI SAVRON
PLANNING BOARD SECRETARY
TOWNSHIP OF MONTGOMERY

APPENDIX B

TOWNSHIP ORDINANCE # 25-1750:

ADOPTING THIS REDEVELOPMENT PLAN

TOWNSHIP OF MONTGOMERY
SOMERSET COUNTY, NEW JERSEY

ORDINANCE #25-1750

AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY IN SOMERSET COUNTY ADOPTING THE BLOCK 4020, LOT 1 REDEVELOPMENT PLAN

WHEREAS, the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., (the "LRHL") authorizes municipalities to determine whether certain parcels of land within the municipality constitute a "non-condemnation area in need of redevelopment" as described in Section 5 of the Redevelopment Law; and

WHEREAS, on February 15, 2024, the Township Committee of the Township of Montgomery (the "Township Committee") adopted Resolution #24-2-95, which authorized and directed the Township of Montgomery Planning Board (the "Board") to conduct a preliminary investigation to determine whether the undeveloped portion of property identified in Block 4020, Lot 1 as shown on the Township's official Tax Map consisting of approximately 11.9 acres (the "Property"), met the criteria for a non-condemnation "area in need of redevelopment" according to the criteria set forth in N.J.S.A. 40A:12A-5 of the LHRL; and

WHEREAS, on behalf of the Planning Board, Clarke Caton Hintz prepared a report dated May 29, 2024 and entitled Preliminary Investigation of an Area in Need of Redevelopment (Non-Condemnation) for the undeveloped portion of Lot 1 in Block 4020, the redevelopment Study Area (the "Preliminary Investigation"), which concluded, for the reasons stated therein, that the Property meets certain criteria under the LRHL supporting a declaration that the Property is a non-condemnation redevelopment area; and

WHEREAS, the Planning Board held a duly noticed public hearing on June 10, 2024, concerning the above-referenced Preliminary Investigation; and

WHEREAS, at the June 10, 2024, public hearing, the Planning Board further concurred and agreed with the reasons stated in the Preliminary Investigation that the Property constitutes and meets certain criteria under the LRHL supporting the recommendation that the Property be determined and declared a non-condemnation "area in need of redevelopment"; and

WHEREAS, on June 20, 2024, the Township Committee adopted Resolution #24-6-221 declaring the Property a non-condemnation area in need of redevelopment; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-7, Clarke Caton Hintz prepared a redevelopment plan dated March 2025 (the "Redevelopment Plan") for the Property, a copy of which is attached hereto as Exhibit A; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-7(d)-(e), upon introduction of this Ordinance, the Redevelopment Plan shall be referred to the Township Planning Board for review of the Redevelopment Plan and a determination of its consistency with the Montgomery Township Master Plan within forty-five (45) days of referral.

NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Montgomery, County of Somerset, State of New Jersey, that:

Section 1. Pursuant to N.J.S.A. 40A:12A-7 the Township Committee hereby accepts and approves the Redevelopment Plan, as attached hereto as Exhibit A and as set forth herein, and hereby adopts said Redevelopment Plan.

Section 2. If any section, paragraph, subsection, clause, or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

Section 3. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

Section 4. To the extent that any portion of the Redevelopment Plan conflicts with or amends or modifies any provision of any other of the Township's development regulations, the Redevelopment Plan shall supersede or amend or modify, as applicable, such development regulations and the zoning district map included in the Township's zoning ordinance shall be deemed amended accordingly.

Section 5. This Ordinance shall take effect upon passage and publication in accordance with applicable law.

DATE ADOPTED: April 17, 2025

ATTEST:

Lisa Fania, RMC
Township Clerk

TOWNSHIP OF MONTGOMERY
COUNTY OF SOMERSET

Neena Singh
Mayor

31. Fourth Round: Extensions of Controls

32. WATER AND SEWER CAPACITY LETTERS

33. Spending Plan

2025

Fourth Round Spending Plan

Draft June 13, 2025
Adopted _____, 2025
Endorsed _____, 2025

Montgomery Township, Somerset County, New Jersey

Prepared by:

Clarke Caton Hintz | 100 BARRACK STREET | TRENTON, NJ | 08608

INTRODUCTION

The Township of Montgomery (hereinafter "Montgomery" or "the Township"), has prepared a Fourth Round Housing Plan Element and Fair Share Plan (HPE/FSP) that addresses the Township's affordable housing obligations. This Spending Plan sets forth how Montgomery Township will spend its affordable housing trust funds in support of the affordable housing compliance plan detailed in the Fourth Round HEFSP. The Township received a Third Round Judgment of Compliance and Repose ("JOR") from the Superior Court On January 24, 2023, approving Montgomery Township's Third Round Amended HEFSP, including the Third Round 2020 Spending Plan.

The Township petitioned COAH for Third Round substantive certification on December 16, 2005. However, COAH did not conduct a substantive review of the 2005 Housing Element and Fair Share Plan prior to the 2007 Appellate Division decision overturning COAH's 2004 Third Round rules. On November 25, 2008, Montgomery adopted a 2008 Third Round Housing Element and Fair Share Plan consistent with COAH's second iteration of Third Round rules. The Township submitted the 2008 Plan to COAH on December 30, 2008 as part of their second petition for Third Round substantive certification; the petition was deemed complete by COAH on March 27, 2009. The Township's 2008 Plan did not receive substantive certification prior to the 2010 Appellate Division decision invalidating COAH's second iteration of Third Round rules.

The Township updated its Spending Plan on April 16, 2012 which was subsequently amended on May 15, 2012. COAH failed to take action on the Township's 2012 Spending Plan. The Court approved the Township's 2018 Spending Plan. Montgomery Township prepared a Third Round Spending Plan in 2020, which was approved by the Court per the January 24, 2023 Third Round JOR.

On March 5, 1997, COAH approved the Township's mandatory development fee ordinance. This ordinance was adopted by the municipality on April 17, 1997. An amendment to the development fee ordinance was approved by COAH on December 5, 2008, which set to establish residential development fees in the amount of 1.5% of the

equalized assessed value of residential development and nonresidential development fees in the amount of 2.5% of the equalized assessed value of nonresidential development. The amendment was formally adopted by the Township on December 18, 2008.

As of December 31, 2024, Montgomery collected a total of $3,390,034.72 in development fees, payments in lieu of construction, interest, and other income. It has spent a total of $2,802,269.10, leaving a balance of $587,765.62. All development fees, payments in lieu of constructing affordable units on site, "other" income, and interest generated by the fees are deposited in a separate, interest-bearing affordable housing trust fund account at Citizens Bank. These funds will be spent in accordance with N.J.A.C. 5:93-8.16, as described in the sections that follow. Montgomery Township will rely on N.J.A.C. 5:93 or 5:97 in this Spending Plan, as N.J.S.A. 52:27D-329.2.a(4) provides that "[m]unicipalities may continue to rely on regulations on development fees and spending plans previously adopted by the council until new rules and regulations are adopted by the department."

The Township acknowledges that the expenditure of funds contemplated in this spending plan constitute a "commitment" for expenditure pursuant to N.J.S.A. 52:27D-329.2.d., with the four-year time period beginning to run with the date of collection of the funds as may be extended by virtue of the date of the Superior Court's approval of this Fourth Round Spending Plan.

REVENUES FOR CERTIFICATION PERIOD

To calculate a projection of revenue anticipated during the Fourth Round (2025-2035), Montgomery considered the following:

(a) Development fees: $1,753,680

1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals;
2. All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy; and
3. Future development that is likely to occur based on historical rates of development.

(b) Payment in lieu (PIL): $0

Actual and committed payments in lieu of construction from developers[1]. Although the Township previously received $200,000 in PILs, no revenues from PILs are expected over the Fourth Round period as the FHA was amended by P.L. 2024, c.2 to eliminate N.J.S.A. 52:27D-329.3 which had enabled PILs.

(c) Other funding sources: $1,080,000

The Township will receive no less than $1,080,000 from EKhan, the developer of the proposed inclusionary development at the Kenvue site, to fund a total of 54 extensions of controls on the existing family for-sale units at McKinley Commons and Montgomery Glen. These monies will be transferred to the Affordable Housing Trust fund and recorded as Other Income.

[1] - Payment in Lieu of Construction (if creating an affordable housing dwelling unit).

(d) Projected interest: $93,511

Based on interest earned in recent years and projected rates of development fee revenue, Montgomery anticipates collecting $93,511 in interest through 2035.

The following table indicates the anticipated revenue to be generated from development impact fees and interest. Montgomery Township projects a subtotal of $2,927,192 to be collected between January 1, 2025 and June 30, 2035, including interest, to be used for affordable housing purposes. The total, after adding the money currently in the account, is projected to be $3,514,957.35. All interest earned on the account shall accrue to the account to be used only for the purposes of affordable housing.

Projected Affordable Trust Fund Revenues – January 1, 2025 through June 30, 2035													
Year Source of Funds		2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2025-2035 Total
Projected Residential Development	$587,765.62 Starting Balance (January 1, 2025)	$35,829	$129,745	$126,118	$122,087	$35,829	$35,829	$35,829	$35,829	$35,829	$35,829	$17,914	$646,666
Projected Non-Residential Development		$13,355	$276,395	$447,052	$283,045	$13,410	$13,410	$13,410	$13,410	$13,410	$13,410	$6,705	$1.11M
Other Income		$0	$0	$360,000	$360,000	$360,000	$0	$0	$0	$0	$0	$0	$1.08M
Interest		$1,032	$13,403	$30,795	$25,249	$13,505	$1,625	$1,625	$1,625	$1,625	$1,625	$812	$92,920
Total		***$32,302***	***$419,543***	***$963,964***	***$790,381***	***$422,744***	***$50,864***	***$50,864***	***$50,864***	***$50,864***	***$50,864***	***$25,432***	***$2.927M***

Projected residential development is based on the estimate of $35,829 per year, based on the Township's annual average development fee collection over the past ten years. Additional projected residential development fees are also based on 34 single-family dwellings anticipated to be constructed at the Montgomery Promenade site. This estimate does not include residential development fees on inclusionary residential development (which is exempt), but it does include anticipated non-residential development fees on the non-residential component of mixed commercial/residential projects. Projected non-residential development is based on potential future commercial development based on the average non-residential development fees collected over the past ten years, as well as anticipated commercial development, including the commercial portion of the Village Walk Mixed Use site, a PSE&G electrical substation, and the commercial portion of the Montgomery Promenade development. Other income is expected for Kenvue's payment to fund extensions of controls at McKinley Commons and Montgomery Glen. Interest is anticipated at 3.30%, the interest rate as of December 2024.

ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by Montgomery Township:

(b) Collection of development fee revenues:

All collection of development fee revenues will be consistent with local regulations which follow COAH administrative models for both residential and non-residential developments and in accordance with N.J.S.A. 40:55D-8.1 through 8.7. and N.J.S.A. 52:27D-329.2 as amended by P.L. 2024 c.2.

(c) (b) Distribution of development fee revenues:

The Planning Board adopts and forwards a resolution to the governing body recommending the expenditure of development fee revenues as set forth in this Spending Plan. Alternatively, the governing body may hear and decide upon a request for development fee revenues for the purpose of creating affordable housing. The governing body reviews the request for consistency with the Spending Plan and adopts the recommendation by resolution.

The release of funds requires the adoption of the governing body resolution. Once a request is approved by resolution, the Chief Financial Officer releases the requested revenue from the trust fund for the specific use approved in the governing body's resolution.

DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

(a) Rehabilitation (N.J.A.C. 5:93-5.2)

As documented in the Fourth Round HEFSP, Montgomery Township's Rehabilitation obligation is 73 units. The Township will establish a rehabilitation program open to eligible owner-occupied and renter-occupied units.

In accordance with N.J.A.C. 5:97-6.2(b)3, which requires municipalities to provide sufficient funding to address no less than half of the municipal rehabilitation obligation by the midpoint of the certification period, the Township will reserve funds for 37 of the 73 remaining units to be potentially rehabilitated as rental units. At this time, the Township will set aside $481,000 from its affordable housing trust fund to support these 37 rental rehabilitations, using an average of $10,000 per unit for hard costs (e.g., major system repairs or replacements) and $3,000 per unit for administrative expenses, totaling $13,000 per unit. At the midpoint review, the Township will reassess the program and determine whether additional funds need to be reserved to meet its full rehabilitation obligation.

(b) Affordability Assistance (N.J.A.C. 5:93-8.16(c))

Montgomery Township is required to spend a minimum of 30 percent of development fee revenue to render affordable units more affordable and at least one-third of that amount must be dedicated to very low-income households or to create very low-income units (i.e. households with incomes less than 30 percent of the regional median income). The actual affordability assistance minimums are calculated on an ongoing basis based on actual revenues.

Projected Minimum Affordability Assistance Requirement		
Actual development fees to 12/31/2024		$2,741,327.27
Actual interest earned to 12/31/2024	+	$265,637.98
Development fees projected 1/1/2025-6/30/2035	+	$1,753,680.28
Interest projected 1/1/2025-6/30/2035	+	$93,511.45
Total	=	***$4,854,156.98***
30% requirement	x 0.30 =	$1,456,247.09
Less affordability assistance expenditures to 12/31/2024	-	***$2,073,010.52***
Projected Minimum Affordability Assistance Requirement	=	***$0***

As of December 31, 2024, the Township has already expended $2,073,010.52 from the Affordable Housing Trust Fund on affordability assistance. Based on fees and interest collected to date, projected revenues, and existing expenditures on affordability assistance, Montgomery Township does not need to dedicate any additional funds from the affordable housing trust fund to render units more affordable. However, the Township may elect to provide additional affordability assistance through a variety of vehicles including, but not limited to the following:

- Emergency Repair Program;
- Down-payment assistance;
- Rental assistance;
- Security deposit assistance;
- Low interest loans;
- Assistance with homeowners' association or condominium fees and special assessments; and/or
- Converting low-income units to very-low-income units or creating new very-low income units, etc.

The Township will work with its affordable housing providers and administrator to expand outreach to ensure the existing and new households of very-low-, low- and moderate-income programs can take advantage of affordability assistance programs. Additionally, the Township will work with affordable housing providers to convert low-income units to very low-income units.

Projected Minimum Very Low-Income Affordability Assistance Requirement		
Actual development fees collected (7/17/2008 - 12/31/2024)		$1,415,624.10
Actual interest earned (7/17/2008 - 12/31/2024)	+	$145,114.45
Projected development fees (1/1/2025 - 6/30/2035)	+	$1,753,680.28
Projected interest (1/1/2025 - 6/30/2035)	+	$93,511.45
Total		***$3,407,930.28***
30% requirement	x 0.30 =	$1,022,379.08
1/3 requirement	÷ 3 =	$340,793.03
Less very low-income affordability assistance expenditures through 12/31/2024	–	***$2,073,010.52***
Projected Minimum Very Low-Income Affordability Assistance Requirement	***x 0.33 =***	***$0***

As previously discussed, the Township has exceeded its projected minimum affordability assistance requirement. Montgomery Township does not need to dedicate any additional funds from the affordable housing trust fund to render units more affordable. However, the Township may elect to provide additional affordability assistance through a variety of vehicles as previously listed.

(c) New construction project(s) (N.J.A.C. 5:93-5.3)

Montgomery Municipal Center Site/ConvaTec Inc./RPM Site: $1,759,536

Pursuant to the 2021/2024 Amended Redevelopment Agreement between the Township and RPM Development, LLC, The Township shall provide the redeveloper a total of $1,759,536 including $288,750 for affordability assistance and $1,470,786 for housing activity from the Affordable Housing Trust Fund for the approved development of 70 affordable senior rental apartments. As such, the Township has committed to expend such funds to subsidize the predevelopment, construction and other related costs.

Extensions of Controls: $2,130,000

As part of the non-contiguous residential cluster within the proposed inclusionary development at the Kenvue site, the developer ("EKhan") will make a total payment of no less than $1,080,000 to fund 35 extensions of controls on the existing family for-sale units at McKinley Commons and 19 extensions of controls on the existing family for-sale units at Montgomery Glen. Additionally, the Township will allocate $1,050,000 to fund 60 extensions of controls on the existing senior rental units at McKinley Commons.

(d) Administrative Expenses (N.J.A.C. 5:93-8.16(e))

Montgomery Township may use affordable housing trust fund revenue for related administrative costs up to a 20% limitation pending funding availability after programmatic and affordability assistance expenditures. The actual administrative expense maximum is calculated on an ongoing basis based on actual revenues.

Projected Administrative Expenses		
Development fees collected to 12/31/2024		$2,741,327.27
Interest collected to 12/31/2024	+	$265,637.98
Payments-in-lieu of construction and other deposits to 12/31/2024	+	$383,069.47
Development fees projected 1/1/2025-6/30/2035	+	$1,753,680.28
Interest projected 1/1/2025-12/31/2035	+	$93,511.45
Total		***$5,237,226.45***
20% maximum permitted administrative expenses	x 0.20 =	$1,047,445.29
Less administrative expenditures through 12/31/2024	–	$578,911.89
Projected allowed administrative expenditures 1/1 2025 to 6/30/2035	=	***$468,533.40***

Montgomery Township projects that $468,533.40 may be available from the affordable housing trust fund to be used for administrative purposes. Projected administrative expenditures, subject to the 20 percent cap, are as follows:

- Township Attorney, Engineer, and Planner fees related to plan preparation and implementation.
- Administration fees related to rehabilitation, extension of expiring controls, affordability assistance programs, and municipally-sponsored construction programs;
- Affirmative Marketing;
- Income qualification of households; and
- Administration of Township's Affordable Housing Units.

EXPENDITURE SCHEDULE

Montgomery Township intends to use Affordable Housing Trust Fund revenues for the Township's rehabilitation program, its municipally-sponsored construction program, extensions of expiring controls, and administrative costs related to affordable housing efforts not to exceed the maximum of 20% of collected funds.

Projected Expenditure Schedule 2025 Through 2035													
Program	**Units**	**2025**	**2026**	**2027**	**2028**	**2029**	**2030**	**2031**	**2032**	**2033**	**2034**	**2035**	**Total**
Rehabilitation	37		$48,100	$48,100	$48,100	$48,100	$48,100	$48,100	$48,100	$48,100	$48,100	$48,100	$481K
New Construction / Units		$586,512		$586,512		$586,512			$1.255M	$542,500	$332,500		$3.889M
Administration		$83,533	$50,000	$50,000	$20,000	$20,000	$20,000	$20,000	$20,000	$50,000	$50,000	$85,000	$468.53k
TOTAL		**$670,045**	**$98,100**	**$684,612**	**$68,100**	**$654,612**	**$68,100**	**$68,100**	**$1.323M**	**$640,600**	**$430,600**	**$133,100**	**$4.839M**

EXCESS OR SHORTFALL OF FUNDS

Montgomery acknowledges that the commitments in this Spending Plan exceed the currently projected revenues available, and will adopt a resolution of its intent to fund to cover any shortfall.

SUMMARY

The Township of Montgomery intends to spend Affordable Housing Trust Fund revenues pursuant to the regulations governing such funds and consistent with the Fourth Round HEFSP. As of December 31, 2024, Montgomery had a balance of $587,765.62 and anticipates an additional $2,927,192 in revenues before the expiration of a Fourth Round Judgment of Repose, for a total of $3,514,957.35.

Montgomery will dedicate $481,000 towards the Township's rehabilitation program, $3,889,536 towards extensions of controls and the creation of affordable housing through the Township's 100% municipally-sponsored construction program, and $ $468,533.40 on administrative costs related to affordable housing efforts during the Fourth Round.

Spending Plan Summary	
Revenues	
Balance as of December 31, 2024	$587,765.62
Projected Revenue from 1/1/2025 through 6/30/2035	
1. Development fees	+ $1,753,680.28
2. Payments in lieu of construction[2]	+ $0
3. Other funds	+ $1,080,000
Interest	+ $93,511.45
Total Projected Revenue	= ***$3,514,957.35***
Expenditures	
Rehabilitation	+ $481,000.0
New Construction	+ $3,889,536.0
Administration	+ $468,533.40
Total Projected Expenditures	= ***$4,839,069.40***
Remaining Balance	= ***($1,324,112.05)***

[2] - the FHA was amended by P.L. 2024, c.2 to eliminate N.J.S.A. 52:27D-329.3 which had enabled PILs.

RESOLUTION OF INTENT TO BOND IN THE EVENT THAT THERE IS A SHORTFALL IN FUNDING TO EFFECTUATE CERTAIN AFFORDABLE HOUSING MECHANISMS IN ITS FOURTH ROUND HOUSING ELEMENT AND FAIR SHARE PLAN

WHEREAS, the Governing Body of the Township of Montgomery ("Township") desires to create a realistic opportunity for the creation of affordable housing within the Township; and

WHEREAS, the Township voluntarily brought a timely declaratory judgment action pursuant to the procedures set forth by Administrative Directive #14-24 seeking approval of a Housing Element and Fair Share Plan that satisfied the Township's obligation to provide for its fair share of the regional need of low- and moderate-income housing; and

WHEREAS, the Township of Montgomery Planning Board has adopted a Fourth Round Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq., which addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act; and

WHEREAS, the Fourth Round Housing Element and Fair Share Plan provides for expenditures to fund and support its affordable housing mechanisms; and

WHEREAS, the Township has adopted a Development Fee Ordinance in order to generate revenue for the Township's Affordable Housing Trust Fund; and

WHEREAS, the Township of Montgomery anticipates that monies collected and deposited in the Affordable Housing Trust Fund, along with other permitted funding sources, will be sufficient to effectuate the above-referenced mechanisms; and

WHEREAS, the Township of Montgomery is committed to securing approval of its Fourth Round Housing Element and Fair Share Plan; and

WHEREAS, the Township of Montgomery acknowledges the affordable housing rules and regulations that provide that, although utilization of a mandatory development fee ordinance is an appropriate mechanism to raise money for the purpose of off-setting the expenses incurred in connection with the Housing Element and Fair Share Plan, there must be an alternative funding source in the event that insufficient monies are derived from the mandatory development fee ordinance or other resources, or the funds are not received in a timely fashion, for the purpose of effectuating its affordable housing mechanisms including the extension of controls and the municipally sponsored rehabilitation program; and

WHEREAS, the Township of Montgomery wishes to express its commitment to cover such funding shortfalls and to fully implement the mechanisms set forth in its Fourth Round Housing Element and Fair Share Plan through bonding or other lawful means.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Township of

Montgomery, in the County of Somerset, State of New Jersey, that it does hereby confirm its intent that in the event that the projected funding from the mandatory development fee ordinance the Township has adopted is insufficient to complete the aforementioned affordable housing mechanisms, it is the intention of the Governing Body of the Township of Montgomery to adopt appropriate bond ordinances in order to provide the requisite funding in an appropriate time frame.

34. Affordable Housing and Development Fee Ordinance

TOWNSHIP OF MONTGOMERY
Ordinance No. 18-1587

AN ORDINANCE REPEALING AND REPLACING CHAPTER XV "AFFORDABLE HOUSING" OF THE TOWNSHIP OF MONTGOMERY TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE TOWNSHIP'S AFFORDABLE HOUSING OBLIGATIONS

BE IT ORDAINED by the Committee of the Township of Montgomery, Somerset County, New Jersey, that the Code of the Township of Montgomery is hereby amended to include provisions addressing Montgomery Township's constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with *N.J.A.C.* 5:93-1, et seq., as amended and supplemented, *N.J.A.C.* 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985. This Ordinance is intended to provide assurances that very-low-, low- and moderate-income units ("affordable units") are created with controls on affordability over time and that very-low-, low- and moderate-income households shall occupy those units. This Ordinance shall apply except where inconsistent with applicable law.

The Montgomery Township Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at *N.J.S.A.* 40:55D-1, et seq. The Housing Element and Fair Share Plan has been endorsed by the Committee. This Ordinance implements and incorporates the adopted and endorsed Housing Element and Fair Share Plan and addresses the requirements of *N.J.A.C.* 5:93-1, et seq., as amended and supplemented, *N.J.A.C.* 5:80-26.1, et seq. as amended and supplemented, with one exception regarding the provision of very-low income housing as described in more detail below, and the New Jersey Fair Housing Act of 1985.

Section 15-1 Short Title

This chapter of the "Code of the Township of Montgomery" shall be known as the "Affordable housing Ordinance of the Township of Montgomery."

Section 15-2 Purpose

1. This section of the Township Code sets forth regulations regarding the very-low-, low-, and moderate-income housing units in the Township consistent with the provisions known as the "Substantive Rules of the New Jersey Council on Affordable Housing", *N.J.A.C.* 5:93 et seq., the Uniform Housing Affordability Controls ("UHAC"), *N.J.A.C.* 5:80-26.1 et seq., except where modified by the requirements for very-low income housing as established in P.L. 2008, c.46 (the "Roberts Bill", codified at *N.J.S.A.* 52:27D-329.1) as reflected in the terms of a Settlement Agreement between the Township and Fair Share Housing Center ("FSHC") such that the statutory requirement to provide very-low income units equal to 13% of affordable units approved and constructed after July

17, 2008, to be affordable households at 30% of the regional median income, overrides the UHAC requirement that 10% of all low- and moderate-income units must be affordable at 35% of the regional median income, and the Township's constitutional obligation to provide a fair share of affordable housing for very-low-, low-, and moderate-income households.

2. This Ordinance is intended to assure that very-low-, low- and moderate-income units ("affordable units") are created with controls on affordability over time and that very-low, low- and moderate-income households shall occupy these units. This Ordinance shall apply to all inclusionary developments and 100% affordable developments (including those funded with low-income housing tax credit financing) except where inconsistent with applicable law.

3. This Ordinance implements and incorporates the Fair Share Plan and addresses the requirements of *N.J.A.C.* 5:93, as may be amended and supplemented.

Section 15-3 Monitoring and Reporting Requirements

The Township of Montgomery shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its Court-approved Housing Element and Fair Share Plan:

1. Beginning on December 8, 2018, and on every anniversary of that date through December 8, 2025, the Township agrees to provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs ("NJDCA"), Council on Affordable Housing ("COAH"), or Local Government Services ("NJLGS"), or other entity designated by the State of New Jersey, with a copy provided to FSHC and posted on the municipal website, using forms developed for this purpose by the NJDCA, COAH, or NJLGS. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

2. Beginning on December 8, 2018, and on every anniversary of that date through December 8, 2025, the Township agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to FSHC, using forms previously developed for this purpose by COAH or any other forms endorsed by the Special Master and FSHC.

3. By July 1, 2020, as required pursuant to *N.J.S.A.* 52:27D-313, the Township will post on its municipal website, with a copy provided to FSHC, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity. Such posting shall invite any interested party to submit comments to the municipality, with a copy to FSHC, regarding whether any sites no longer present a realistic opportunity. Any interested party may by motion request a hearing before the Court regarding these issues.

4. By December 8, 2020, and every third year thereafter, as required by *N.J.S.A.* 52:27D-329.1, the Township will post on its municipal website, with a copy provided to FSHC, a status report as to its satisfaction of its very low income requirements, including its family very low income requirements. Such posting shall invite any interested party to submit comments to the municipality and FSHC on the issue of whether the municipality has complied with its very low income and family very low income housing obligations.

Section 15-4 Definitions

The following terms when used in this Ordinance shall have the meanings given in this Section:

"Act" means the Fair Housing Act of 1985, P.L. 1985, c. 222 (*N.J.S.A.* 52:27D-301 et seq.)

"Adaptable" means constructed in compliance with the technical design standards of the Barrier Free Subcode, *N.J.A.C.* 5:23-7.

"Administrative agent" means the entity designated by the Township to administer affordable units in accordance with this Ordinance, *N.J.A.C.* 5:93, and UHAC (*N.J.A.C.* 5:80-26.1).

"Affirmative marketing" means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to *N.J.A.C.* 5:80-26.15.

"Affordability average" means the average percentage of median income at which new restricted units in an affordable housing development are affordable to low- and moderate-income households.

"Affordable" means, a sales price or rent level that is within the means of a low- or moderate-income household as defined within *N.J.A.C.* 5:93-7.4, and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in *N.J.A.C.* 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in *N.J.A.C.* 5:80-26.12, as may be amended and supplemented.

"Affordable housing development" means a development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Township's fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a one hundred percent (100%) affordable housing development.

"Affordable housing program(s)" means any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

"Affordable unit" means a housing unit proposed or created pursuant to the Act and approved for crediting by the Court and/or funded through an affordable housing trust fund.

"Agency" means the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (*N.J.S.A.* 55:14K-1, et seq.).

"Age-restricted unit" means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development wherein the unit is situated are 62 years of age or older; or 2) at least 80 percent of the units are occupied by one person who is 55 years of age or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as "housing for older persons" as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

"Alternative living arrangement" means a structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D and E boarding homes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

"Assisted living residence" means a facility that is licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

"Certified household" means a household that has been certified by an Administrative Agent as a very-low, low-income household or moderate-income household.

"COAH" of the "Council" mean the New Jersey Council on Affordable Housing, as established by the New Jersey Fair Housing Act (*N.J.S.A.* 52:27D-301, et seq.) which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.

"DCA" means the State of New Jersey Department of Community Affairs.

"Deficient housing unit" means a housing unit with health and safety code violations that requires the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

"Developer" means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land included in a proposed development including the holder of an option to contract to purchase, or other person having an enforceable proprietary interest in such land.

"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use

or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to *N.J.S.A.* 40:55D-1, et seq.

"Development fee" means money paid by a developer for the improvement of property as permitted in *N.J.A.C.* 5:93-8.8.

"Equalized assessed value" means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).

"Green building strategies" means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

"Inclusionary development" means a development containing both affordable units and market rate units. This term includes, but is not limited to: new construction, the conversion of a non-residential structure to residential use and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure.

"Low-income household" means a household with a total gross annual household income equal to 50 percent or less of the regional median household income by household size.

"Low-income unit" means a restricted unit that is affordable to a low-income household.

"Major system" means the primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and load bearing structural systems.

"Market-rate units" means housing not restricted to low- and moderate-income households that may sell or rent at any price.

"Median income" means the median income by household size for the applicable housing region, as adopted annually by the Township pursuant to this ordinance, by COAH or a successor entity approved by the Court.

"Moderate-income household" means a household with a total gross annual household income in excess of 50 percent but less than 80 percent of the regional median household income by household size.

"Moderate-income unit" means a restricted unit that is affordable to a moderate-income household.

"Non-exempt sale" means any sale or transfer of ownership other than the transfer of ownership between spouses; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a class A beneficiary and the transfer of ownership by court order.

"Random selection process" means a process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

"Regional asset limit" means the maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by duly adopted Regional Income Limits published annually by COAH or a successor entity.

"Rehabilitation" means the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

"Rent" means the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

"Restricted unit" means a dwelling unit, whether a rental unit or an ownership unit, that is subject to the affordability controls of *N.J.A.C.* 5:80-26.1, as amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

"UHAC" means the Uniform Housing Affordability Controls set forth in *N.J.A.C.* 5:80-26.1, et seq.

"Very low-income household" means a household with a total gross annual household income equal to 30 percent or less of the regional median household income by household size.

"Very low-income unit" means a restricted unit that is affordable to a very low-income household.

"Weatherization" means building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for purposes of a rehabilitation program.

Section 15-5 Applicability

1. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the

Township of Montgomery pursuant to the Township's most recently adopted Housing Element and Fair Share Plan.

2. Moreover, this Ordinance shall apply to all developments that contain very-low-, low-and moderate-income housing units, including any currently unanticipated future developments that will provide very-low, low- and moderate-income housing units.

4. Projects receiving Federal Low Income Housing Tax Credit financing shall comply with the income and bedroom distribution requirements of UHAC at *N.J.A.C.* 5:80-26.3 (with the exception that the UHAC requirement for 10 percent of the affordable units in rental projects being required to be at 35 percent of median income be modified as required by the statutory requirement, N.J.S.A. 52:27D-329.1 to 13 percent of affordable units in such projects shall be required to be at 30 percent of median income) and the length of the affordability controls applicable to such projects shall be not less than a thirty (30) year compliance period plus a 15 year extended use period.

Section 15-6 Township-wide Mandatory Set-Aside

1. A multi-family development providing a minimum of five (5) new housing units created through a municipal rezoning; Zoning Board use or density variance; redevelopment plan or rehabilitation plan that provide for densities at or above six (6) units per acre is required to include an affordable housing set-aside of 20% if the affordable units will be for-sale and 15% if the affordable units will be for rent.

2. At least 50% of the affordable units in each development shall be affordable to low-income housing. At least 13% of all affordable units in rental developments shall be affordable to very-low-income households.

3. All such affordable units, including bedroom distribution, shall be governed by the controls on affordability and affirmatively marketed in conformance with UHAC, *N.J.A.C.* 5:80-26.1 et seq., or any successor regulation, and all other applicable law.

4. No subdivision shall be permitted or approved for the purpose of avoiding compliance with this requirement. Developers cannot, for example, subdivide a project into two lots and then make each of them a number of units just below the threshold.

5. This requirement does not give any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of the Township of Montgomery to grant such rezoning, variance or other relief.

6. This Township-wide mandatory set-aside requirement does not apply to any sites or specific zones otherwise identified in the Township's Settlement Agreement with FSHC or Fair Share Plan, for which density and set-aside requirements shall be governed by the specific standards as set forth therein. The Township shall maintain this mandatory set-aside provision through at least July 7, 2025 at which time the Township may determine to extend the applicability of the provision.

Section 15-7 Alternative Living Arrangements

1. The administration of an alternative living arrangement shall be in compliance with *N.J.A.C.* 5:93-5.8 and UHAC, with the following exceptions:

a. Affirmative marketing (*N.J.A.C.* 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court;

b. Affordability average and bedroom distribution (*N.J.A.C.* 5:80-26.3).

2. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30 year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.

3. The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

Section 15-8 Phasing Schedule for Inclusionary Zoning

In inclusionary developments the following schedule shall be followed:

Maximum Percentage of Market-Rate Units Completed	Minimum Percentage of Low- and Moderate-Income Units Completed
25	0
25+1	10
50	50
75	75
90	100

Section 15-9 New Construction

1. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

a. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit. At least 13 percent of all restricted rental units shall be very low income units (affordable to a household earning 30 percent or less of regional median income by household size). The very low income units shall be counted as part of the required number of low income units within the development.

b. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be very low or low-income units.

c. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:

1) The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;

2) At least 30 percent of all low- and moderate-income units shall be two bedroom units;

3) At least 20 percent of all low- and moderate-income units shall be three bedroom units; and

4) The remaining units may be allocated among two and three bedroom units at the discretion of the developer.

d. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

2. Accessibility Requirements:

a. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free SubCode, *N.J.A.C.* 5:23-7 and the following:

b. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:

1) An adaptable toilet and bathing facility on the first floor; and

2) An adaptable kitchen on the first floor; and

3) An interior accessible route of travel on the first floor; and

4) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and

5) If not all of the foregoing requirements in b.1) through b.4) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs b.1) through b.4) above have been satisfied,

then an interior accessible route of travel shall not be required between stories within an individual unit; and

6) An accessible entranceway as set forth at P.L. 2005, c. 350 (*N.J.S.A.* 52:27D-311a, et seq.) and the Barrier Free SubCode, *N.J.A.C.* 5:23-7, or evidence that Montgomery Township has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:

a) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.

b) To this end, the builder of restricted units shall deposit funds within the Township of Montgomery's Affordable Housing Trust Fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.

c) The funds deposited under paragraph 6)b) above shall be used by the Township of Montgomery for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.

d) The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Township of Montgomery for the conversion of adaptable to accessible entrances.

e) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free SubCode, *N.J.A.C.* 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township's Affordable Housing Trust Fund in care of the Township Treasurer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

(7) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free SubCode, *N.J.A.C.* 5:23-7.

3. Design:

a. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.

b. In inclusionary developments, low- and moderate-income units shall have access to all of the same common elements and facilities as the market units.

4. Maximum Rents and Sales Prices:

a. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and the calculation procedures as approved by the Court and detailed herein.

"Regional income units shall be established for the region that the Township is located within (i.e. Region 3) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the Township's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year."

b. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52 percent of median income.

c. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13 percent of all low- and moderate-income rental units shall be affordable to very low-income households, which very low-income units shall be part of the low-income requirement.

d. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.

e. In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:

1) A studio shall be affordable to a one-person household;

2) A one-bedroom unit shall be affordable to a one and one-half person household;

3) A two-bedroom unit shall be affordable to a three-person household;

4) A three-bedroom unit shall be affordable to a four and one-half person household; and

5) A four-bedroom unit shall be affordable to a six-person household.

f. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:

1) A studio shall be affordable to a one-person household;

2) A one-bedroom unit shall be affordable to a one and one-half person household; and

3) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.

g. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under *N.J.A.C.* 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of *N.J.A.C.* 5:80-26.3, as may be amended and supplemented.

h. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under *N.J.A.C.* 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of *N.J.A.C.* 5:80-26.3, as may be amended and supplemented.

i. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.

j. The rents of very low-, low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the

Northeast Urban Area. This increase shall not exceed nine percent in any one year. Rent increases for units constructed pursuant to low income housing tax credit regulations shall be indexed pursuant to the regulations governing low income housing tax credits.

Section 15-10 Utilities

1. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.

2. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by HUD for the Section 8 program.

Section 15-11 Occupancy Standards

In referring certified households to specific restricted units, the Administrative Agent shall, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:

1. Provide an occupant for each bedroom;

2. Provide children of different sexes with separate bedrooms;

3. Provide separate bedrooms for parents and children; and

4. Prevent more than two persons from occupying a single bedroom.

Section 15-12 Control Periods for Restricted Ownership Units and Enforcement Mechanisms

1. Control periods for restricted ownership units shall be in accordance with *N.J.A.C.* 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until Montgomery Township takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of *N.J.A.C.* 5:80-26.1, as may be amended and supplemented.

2. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.

3. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.

4. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's

heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.

5. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.

6. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under *N.J.A.C.* 5:80-26.5(a), as may be amended and supplemented.

Section 15-13 Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices

Price restrictions for restricted ownership units shall be in accordance with *N.J.A.C.* 5:80-26.1, as may be amended and supplemented, including:

1. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.

2. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.

3. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.

4. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See Section 13.

Section 15-14 Buyer Income Eligibility

1. Buyer income eligibility for restricted ownership units shall be in accordance with *N.J.A.C.* 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.

2. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the Township Committee, and subject to the Court's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt

occupancy of the unit and all other reasonable efforts to attract a low income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit.

3. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.

4. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's eligible monthly income.

Section 15-15 Limitations on Indebtedness Secured by Ownership Unit; Subordination

1. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.

2. With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of the unit, as such price is determined by the Administrative Agent in accordance with *N.J.A.C.* 5:80-26.6(b).

Section 15-16 Capital Improvements To Ownership Units

1. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that add an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.

2. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided

the price, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

Section 15-17 Control Periods for Restricted Rental Units

1. Control periods for restricted rental units shall be in accordance with *N.J.A.C.* 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 30 years, until Montgomery Township takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of *N.J.A.C.* 5:80-26.1, as may be amended and supplemented.

2. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Somerset. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.

3. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:

a. Sublease or assignment of the lease of the unit;

b. Sale or other voluntary transfer of the ownership of the unit; or

c. The entry and enforcement of any judgment of foreclosure on the property containing the unit.

Section 15-18 Rent Restrictions for Rental Units; Leases

1. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.

2. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.

3. Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

4. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 15% of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

Section 15-19 Tenant Income Eligibility

1. Tenant income eligibility shall be in accordance with *N.J.A.C.* 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:

a. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of the regional median household income by household size.

b. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of the regional median household income by household size.

c. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of the regional median household income by household size.

2. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to *N.J.A.C.* 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

a. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;

b. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;

c. The household is currently in substandard or overcrowded living conditions;

d. The household documents the existence of assets with which the household proposes to supplement the rent payments; or

e. The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.

3. The applicant shall file documentation sufficient to establish the existence of the circumstances in 1.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.

Section 15-20 Municipal Housing Liaison

1. The Township of Montgomery shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for overseeing the Township's affordable housing program, including overseeing the administration of affordability controls on the affordable units and the affirmative marketing of available affordable units in accordance with the Township's Affirmative Marketing Plan; fulfilling monitoring and reporting requirements; and supervising Administrative Agent(s). Montgomery Township shall adopt this Ordinance which creates the position of Municipal Housing Liaison and Montgomery Township shall adopt a Resolution which appoints the person to fulfill the position of Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee. The Municipal Housing Liaison shall be approved by the Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.

2. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Montgomery Township, including the following responsibilities which may not be contracted out to the Administrative Agent:

a. Serving as Montgomery Township's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;

b. Monitoring the status of all restricted units in Montgomery Township's Fair Share Plan;

c. Compiling, verifying, submitting and posting all monitoring reports as required by the Court and by this Ordinance;

d. Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and

e. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.

3. Subject to the approval of the Court, the Township of Montgomery shall designate one or more Administrative Agent(s) to administer and to affirmatively market the affordable units constructed in the Township in accordance with UHAC and this Ordinance. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The Operating Manual(s) shall be available for public inspection in the office of the Township Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the work of the Administrative Agent(s).

Section 15-21 Administrative Agent

An Administrative Agent shall be an independent entity serving under contract to and reporting to the municipality. ***The fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required.*** The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which includes:

1. Affirmative Marketing:

a. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Township of Montgomery and the provisions of *N.J.A.C.* 5:80-26.15; and

b. Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

2. Household Certification:

a. Soliciting, scheduling, conducting and following up on interviews with interested households;

b. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;

c. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;

d. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of *N.J.A.C.* 5:80-26.1 et seq.;

e. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located;

f. Employing a random selection process as provided in the Affirmative Marketing Plan of the Township of Montgomery when referring households for certification to affordable units; and

g. Notifying the following entities of the availability of affordable housing units in the Township of Montgomery: Fair Share Housing Center, the New Jersey State Conference of

the NAACP, the Latino Action Network, and the New Brunswick, Plainfield Area, Perth Amboy, and Metuchen/Edison branches of the NAACP.

3. Affordability Controls:

a. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;

b. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;

c. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Somerset County Register of Deeds or Somerset County Clerk's office after the termination of the affordability controls for each restricted unit;

d. Communicating with lenders regarding foreclosures; and

e. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to *N.J.A.C.* 5:80-26.10.

4. Resales and Rerentals:

a. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or rerental; and

b. Instituting and maintaining an effective means of communicating information to low- (or very low-) and moderate-income households regarding the availability of restricted units for resale or re-rental.

5. Processing Requests from Unit Owners:

a. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;

b. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;

c. Notifying the municipality of an owner's intent to sell a restricted unit; and

d. Making determinations on requests by owners of restricted units for hardship waivers.

6. Enforcement:

a. Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;

b. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;

c. Posting annually, in all rental properties (including two-family homes), a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;

d. Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in *N.J.A.C.* 5:80-26.18(d)4;

e. Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and

f. Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Township Committee and the Court, setting forth procedures for administering the affordability controls.

7. Additional Responsibilities:

a. The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

b. The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Ordinance.

c. The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

Section 15-22 Affirmative Marketing Requirements

1. The Township of Montgomery shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, that is compliant with *N.J.A.C.* 5:80-26.15, as may be amended and supplemented.

2. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color,

national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 3 and is required to be followed throughout the period of restriction.

3. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 3, comprised of Somerset, Hunterdon and Middlesex Counties.

4. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and rerentals. The Administrative Agent designated by the Township of Montgomery shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.

5. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

6. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.

7. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.

8. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and the municipal library in the municipality in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.

9. In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in Montgomery Township, and copies of the application forms, to the following entities: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, and the New Brunswick, Plainfield Area, Perth Amboy, and Metuchen/Edison branches of the NAACP.

10. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

Section 15-23 Enforcement of Affordable Housing Regulations

1. Upon the occurrence of a breach of any of the regulations governing an affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.

2. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

a. The municipality may file a court action pursuant to *N.J.S.A.* 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:

1) A fine of not more than $500.00 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;

2) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Township of Montgomery Affordable Housing Trust Fund of the gross amount of rent illegally collected;

3) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.

b. The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- or moderate-income unit.

1) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.

2) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.

3) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.

4) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.

5) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.

6) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

Section 15-24 Development Fees

1. Purpose

a. In Holmdel Builder's Association v. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), *N.J.S.A.* 52:27D-301 et seq., and the State Constitution, subject to COAH's adoption of rules.

b. COAH was authorized by P.L. 2008, c. 46, Section 8 (*N.J.S.A.* 52:27D-329.2), and the Statewide Nonresidential Development Fee Act (*N.J.S.A.* 40:55D-8.1 through 40:55D-8.7) to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of COAH or a court of competent jurisdiction and have a COAH- or court-approved spending plan may retain fees collected from nonresidential development.

c. In Re: Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015), also known as the Mount Laurel IV decision, the Supreme Court remanded COAH's duties to the Superior Court. As a result, affordable housing development fee collections and expenditures from the municipal affordable housing trust funds to implement municipal Third Round Fair Share Plans through July 7, 2025 are under the Court's jurisdiction and are subject to approval by the Court.

d. This section establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance with P.L. 2008, c. 46, Sections 8 and 32 through 38. Fees collected pursuant to this section shall be used for the sole purpose of providing low- and moderate-income housing. This chapter shall be interpreted within the framework of COAH's rules on development fees, codified at *N.J.A.C.* 5:93-8.

2. Basic Requirements

a. COAH had previously approved ordinances adopting and amending Chapter XV, which established the Township's affordable housing trust fund. The Township's development fee ordinance which has been further amended and relocated to Section 15-24 of Chapter XV remains effective pursuant to the Superior Court's jurisdiction in accordance with *N.J.A.C.* 5:93.8.

b. COAH approved the Township's initial Spending Plan in 1997. At such time that the Court approves the Township's Amended Third Round Housing Element and Fair Share Plan and the Amended Third Round Spending Plan, the Township may begin spending development fees in conformance with *N.J.A.C.* 5:93-8 for the new 2018 Plan activities.

3. Residential Development Fees

A. Imposed fees.

1. Within all Zoning Districts, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development, provided no increased density is permitted.

2. When an increase in residential density pursuant to *N.J.S.A.* 40:55D-70d(5) (known as a "d" variance) has been permitted, developers may be required to pay a development fee of 6% of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application. Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1.5% of the equalized assessed value on the first two units; and the specified higher percentage up to six percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

B. Eligible exactions, ineligible exactions and exemptions for residential development.

1. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.

2. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.

3. In addition to the construction of new principal and/or accessory buildings, development fees shall be imposed and collected for the construction of additions or expansions to existing buildings, for the change or conversion of an existing building to accommodate a more intense use, and/or for the demolition and replacement of an existing building provided that:

(a) The development fee shall be calculated on the increase in the equalized assessed value of the improved building.

(b) No development fee shall be collected for a demolition and replacement of a residential building resulting from a natural disaster.

(c) No development fee shall be collected for the construction of an "accessory structure" which is not a "building" as these terms are defined in the Montgomery Township "Land Development Ordinance."

4. Nonresidential Development Fees

A. Imposed fees.

1. Within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements for all new nonresidential construction on an unimproved lot or lots.

2. Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.

3. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the preexisting land and improvement and the equalized assessed value of the newly improved structure, i.e., land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero.

B. Eligible exactions, ineligible exactions and exemptions for nonresidential development.

1. The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the two-and-one-half-percent (2.5%) development fee, unless otherwise exempted below.

2. The two-and-one-half-percent (2.5%) fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.

3. Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to P.L. 2008, c. 46, as specified in the Form N-RDF, "State of New Jersey Nonresidential Development Certification/Exemption" form. Any exemption claimed by a developer shall be substantiated by that developer.

4. A developer of a nonresidential development exempted from the nonresidential development fee pursuant to P.L. 2008, c. 46, shall be subject to it at such time the basis for the exemption no longer applies and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.

5. If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the Township as a lien against the real property of the owner.

5. Collection Procedures

A. Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the Construction Official responsible for the issuance of a building permit.

B. For nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF, "State of New Jersey Nonresidential Development Certification/Exemption," to be completed as per the instructions provided. The developer of a nonresidential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

C. The Construction Official responsible for the issuance of a building permit shall notify the local Tax Assessor of the issuance of the first building permit for a development which is subject to a development fee.

D. Within 90 days of receipt of that notice, the Municipal Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.

E. The Construction Official responsible for the issuance of a final certificate of occupancy notifies the local Assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.

F. Within 10 business days of a request for the scheduling of a final inspection, the Municipal Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.

G. Should Montgomery fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may

estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b of Section 37 of P.L. 2008, c. 46 (*N.J.S.A.* 40:55D-8.6).

H. Fifty percent (50%) of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.

I. Appeal of development fees.

1. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by Montgomery. Appeals from a determination of the Board may be made to the Tax Court in accordance with the provisions of the State Uniform Tax Procedure Law, *N.J.S.A.* 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

2. A developer may challenge nonresidential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by Montgomery. Appeals from a determination of the Director may be made to the Tax Court in accordance with the provisions of the State Uniform Tax Procedure Law, *N.J.S.A.* 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

6. Affordable Housing Trust Fund

a. There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.

b. The following additional funds shall be deposited in the affordable housing trust fund and shall at all times be identifiable by source and amount:

1. Payments in lieu of on-site construction of affordable units;

2. Developer-contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached development accessible;

3. Rental income from municipally operated units;

4. Repayments from affordable housing program loans;

5. Recapture funds;

6. Proceeds from the sale of affordable units; and

7. Any other funds collected in connection with Montgomery's affordable housing program.

c. Montgomery Township previously provided COAH with written authorization, in the form of three-party escrow agreements between the municipality, Bank of America, and COAH, to permit COAH to direct the disbursement of the funds as provided for in *N.J.A.C.* 5:93-8. The Superior Court shall now have such jurisdiction to direct the disbursement of the Township's trust funds per *N.J.A.C.* 5:93-8.

d. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by the Court.

7. Use of Funds

a. The expenditure of all funds shall conform to a spending plan approved by the Court. Funds deposited in the housing trust fund may be used for any activity approved by the Court to address the Township's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to, preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing nonresidential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to *N.J.A.C.* 5:93-8.16 and specified in the approved spending plan.

b. Funds shall not be expended to reimburse Montgomery for past housing activities.

c. At least 30% of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income by region.

1. Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, infrastructure assistance, and assistance with emergency repairs.

2. Affordability assistance to households earning 30% or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income.

3. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

d. Montgomery may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with *N.J.A.C.* 5:93-8.16.

e. No more than 20% of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20% of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with the monitoring requirements set forth in the Court-approved December 8, 2018 executed Settlement Agreement with Fair Share Housing Center. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

8. Monitoring

a. On or about December 8 of each year through 2025, Montgomery shall provide annual reporting of trust fund activity to the DCA, COAH, or NJLGS, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the DCA, COAH, or NJLGS. This reporting shall include an accounting of all housing trust fund activity, including the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with Montgomery's housing program, as well as to the expenditure of revenues and implementation of the plan approved by the Court.

9. Ongoing Collection of Fees

a. The ability for Montgomery to impose, collect and expend development fees shall expire with its Court-issued Judgment of Compliance and Repose unless Montgomery has filed an adopted Housing Element and Fair Share Plan with the Court or other appropriate jurisdiction, has filed a Declaratory Judgment Action, and has received the Court's approval of its development fee ordinance. If Montgomery fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance and Repose, it may be

subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to Section 20 of P.L. 1985, c. 222 (N.J.S.A. 52:27D-320). Montgomery shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment Compliance and Repose, nor shall Montgomery retroactively impose a development fee on such a development. Montgomery shall not expend development fees after the expiration of its Judgment Compliance and Repose.

Section 15-25 Appeals

Appeals from all decisions of an Administrative Agent appointed pursuant to this Ordinance shall be filed in writing with the Court.

I, Donna Kukla, Clerk for the Township of Montgomery, hereby certify that Ordinance #18-1587 was introduced on first reading by the governing body of the Township of Montgomery, County of Somerset, on July 5, 2018.

Public hearing and consideration for adoption was held on July 19, 2018, at which time the Ordinance was finally adopted.

Donna Kukla, Township Clerk

Introduction	:	July 5, 2018
Published	:	July 11, 2018
Public Hearing	:	July 19, 2018
Adopted	:	July 19, 2018
Published	:	July 25, 2018

35. Affirmative Marketing Plan

TOWNSHIP OF MONTGOMERY
COUNTY OF SOMERSET, NEW JERSEY
RESOLUTION ADOPTING AN AFFIRMATIVE MARKETING PLAN FOR THE TOWNSHIP OF MONTGOMERY

WHEREAS, in accordance with the Fair Housing Act and the New Jersey Uniform Housing Affordability Controls (N.J.A.C. 5:80-26-1, *et seq*.), the Township of Montgomery is required to adopt by resolution an Affirmative Marketing Plan to ensure that all affordable housing units created, including those created within the Township of Montgomery are affirmatively marketed to very-low, low and moderate income households, particularly those living and/or working within Housing Region 3, the Housing Region encompassing the Township of Montgomery.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Committee of the Township of Montgomery, County of Somerset, State of New Jersey, do hereby adopt the following Affirmative Marketing Plan:

Affirmative Marketing Plan

A. All affordable housing units in the Township of Montgomery shall be marketed in accordance with the provisions herein unless otherwise provided by law or regulation of the State of New Jersey. This Affirmative Marketing Plan shall apply to all developments that contain or will contain very low, low and moderate income units, including those that are part of the Township's prior round obligation and its current Fair Share Plan and those that may be constructed in future developments not yet anticipated by the Fair Share Plan.

B. The Affirmative Marketing Plan shall be implemented by an Administrative Agent designated by and/or under contract to the Township of Montgomery. All the costs of advertising and affirmatively marketing affordable housing units shall be borne by the developers/sellers/owners of the affordable unit(s).

C. In implementing the Affirmative Marketing Plan, the Administrative Agent, acting on behalf of the Township, shall undertake all the following strategies:
   1. Review, approve and ensure that the developers/sellers/owners publish at least one advertisement in a newspaper of general circulation within the housing region.
   2. Broadcast of one advertisement by a radio or television station broadcasting throughout the housing region.
   3. At least one additional regional marketing strategy using one of the other sources listed below at Sec. E of this plan.

D. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual

orientation, disability, age or number of children to housing units which are being marketed by a developer or sponsor of affordable housing. The Affirmative Marketing Plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward the Housing Region in which the municipality is located and covers the entire period of the deed restriction for each restricted housing unit. The Township of Montgomery is in Housing Region 3, consisting of Somerset, Middlesex and Hunterdon Counties.

E. The Affirmative Marketing Plan is a continuing program intended to be followed throughout the entire period of restrictions and shall meet the following requirements:

1. All newspaper articles, announcements and requests for applications for very low, low, and moderate-income units shall appear in the Courier News.

   The primary marketing shall take the form of at least one press release and a paid display advertisement in the above newspaper during the first week of the marketing program. Additional advertising and publicity shall be on an "as needed" basis. The developer/owner shall disseminate all public service announcements and pay for display advertisements. The developer/owner shall provide proof of publication to the Administrative Agent. All press releases and advertisements must be approved in advance by the Township's Administrative Agent.

   Advertisements will be placed on the following websites:
   Montgomery's Affordable Housing website at:
   http://www.twp.montgomery.nj.us/departments/planning/affordable-housing/ ;
   Affordable Homes New Jersey - https://www.affordablehomesnewjersey.com/
   and New Jersey Housing Resource Center (NJHRC) at http://www.njhrc.gov/.

2. The advertisement shall include a description of the:
   i. Street address(es) of the units;
   ii. Directions to the units;
   iii. Range of prices for the units;
   iv. Numbers of bedrooms in units (bedroom mix);
   v. Maximum income permitted to qualify for the units;
   vi. Location of applications;
   vii. Business hours when interested households may obtain an application;
   viii. Application fees, if any;
   ix. Number of units currently available; and
   x. Anticipated dates of availability.

3. Newspaper advertisements, announcements and information on where to request applications for very low, low, and moderate-income housing shall also appear in the Hunterdon County Democrat, Somerset Messenger-Gazette, and Montgomery News.

4. Advertisements on where to request applications for very-low, low, and moderate-income housing shall be broadcast on at least one regional cable television or radio station.

5. Applications shall be mailed or emailed by the Administrative Agent to the prospective applications upon request. However, when on-line preliminary applications are utilized, if prospective applicants do not have internet access, they will be given a phone number to call the Administrative Agent, who will then enter all pre-application information online during the phone call. Locations of applications, brochures, and flyers to affirmatively market the program are listed in attached Appendix II, and will also be made available on the Township's website. Also, information on how to apply shall be made available at the developer's sales/rental office and shall be mailed or emailed to prospective applicants upon request.

6. The Administrative Agent shall develop, maintain and regularly update a list of community contact person(s) and/or organizations(s) in Somerset, Middlesex, and Hunterdon Counties that will aid in Montgomery's affirmative marketing program, with particular emphasis on contacts that will reach out to groups that are least likely to apply for housing within the region, including major regional employers. Please see Appendix I at the end of this Resolution for a complete list. Information shall be sent quarterly to every entity on the Township's affirmative marketing list at Appendix I.

7. In addition, the Township's Affirmative Marketing Plan will address the Settlement Agreement provisions to add more community groups for direct notification of affordable housing unit availability. The additional community groups include:

    - Fair Share Housing Center (510 Park Boulevard, Cherry Hill, NJ 08002);
    - New Jersey State Conference of the NAACP (4326 Harbor Beach Blvd. #775, Brigantine, NJ 08203);
    - Latino Action Network (P.O. Box 943, Freehold, NJ 07728);
    - New Brunswick branch of the NAACP (PO Box 235, New Brunswick, NJ, 08903);
    - Plainfield Area branch of the NAACP (300 Central Avenue, Plainfield, NJ, 07060);
    - Perth Amboy branch of the NAACP (PO Box 1219, Perth Amboy, NJ, 08621); and,
    - Metuchen/Edison branch of the NAACP (127 Newman St., Metuchen, NJ, 08840).

8. Whenever necessary, a random selection method to select occupants of very low, low and moderate income housing will be used by the Administrative Agent, in conformance with N.J.A.C. 5:80-26.16 (l).

9. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 3 comprised of Somerset, Middlesex and Hunterdon Counties.

10. The Administrative Agent shall administer the Affirmative Marketing Plan. The Administrative Agent has the responsibility to income qualify very low, low and moderate income households; to place income eligible households in low and moderate income units upon initial occupancy; to continue to qualify households for re-occupancy of units as they become vacant during the period of affordability controls; to assist with outreach to very low, low and moderate income households; and to enforce the terms of the deed restriction and mortgage loan as per N.J.A.C 5:80-26-1, et seq.

11. Whenever appropriate, the Administrative Agent shall provide or direct qualified very low, low and moderate income applicants to counseling services on subjects such as budgeting, credit issues, mortgage qualifications, rental lease requirements and landlord/tenant law. The Administrative Agent shall develop, maintain and update a list of entities and lenders willing and able to perform such services.

12. All developers/owners of very low, low and moderate income housing units shall be required to undertake and pay the costs of the marketing of the affordable units in their respective developments, subject to the direction and supervision of the Administrative Agent. The implementation of the Affirmative Marketing Plan for a new development that includes affordable housing shall commence at least 120 days before the issuance of either a temporary or permanent certificate of occupancy.

13. The implementation of the Affirmative Marketing Plan shall continue until all very low, low, and moderate-income affordable housing units are initially occupied and for as long as affordable units exist that remain deed restricted and for which the occupancy or re-occupancy of units continues to be necessary. Please note that in addition to complying with this Township-wide Affirmative Marketing Plan that the Administrative Agent shall also review and approve a separate Affirmative Marketing Plan for every new affordable development in Montgomery that is subject to NJAC 5:80-26.1 et seq. That

document shall be completed by the owner/developer and will be compliant with the Township's Affirmative Marketing Plan as presented herein, and incorporate development specific details and permitted options, all subject to the Administrative Agent's review and approval. The development specific affirmative marketing plans will use the standard form for Region 3, included at the end of this document as Appendix III.

14. The Administrative Agent shall provide the Municipal Housing Liaison with the information required to comply with monitoring and reporting requirements pursuant to N.J.A.C.5:80-26-1, *et seq*. and the Order granting the Township a Final Judgement of Compliance and Repose.

BE IT FURTHER RESOLVED that the appropriate Township officials and professionals are authorized to take all actions required to implement the terms of this Resolution.

BE IT FURTHER RESOLVED that this Resolution shall take effect pursuant to law.

APPROVED this _____ day of ____, 2019.

ATTEST:

_____

Donna Kukla, Township Clerk

Appendix I: Montgomery Township Affirmative Marketing Mailing List

Business Name	Address1	Address 2	City State Zip	County	Type of Organization
Dow Jones & Co	54 Eddington Lane		Monroe, NJ 08831	Middlesex County	Major Employers
Hygrade Beverage	P.O. Box 7092	Attn: Human Resources	North Brunswick, NJ 08902	Middlesex County	Major Employers
J. F. K. Medical Center	65 James St.		Edison, NJ 08818	Middlesex County	Major Employers
MetLife	186 Wood Avenue South		Iselin, NJ 08854	Middlesex County	Major Employers
OHM Laboratories	P.O. Box 7397		North Brunswick, NJ 08902	Middlesex County	Major Employers
Phillips Lighting	200 Franklin Square Drive		Somerset, NJ 08873	Middlesex County	Major Employers
Raritan Bay Medical Center	530 New Brunswick Ave.		Perth Amboy, NJ 08861	Middlesex County	Major Employers
Rutgers University	Library of Science & Medicine	165 Bevier Rd	Piscataway NJ 08854	Middlesex County	Major Employers
Rutgers University	620 George St.		New Brunswick, NJ 08901	Middlesex County	Major Employers
Siemens AG	755 College Rd.		Princeton, NJ 08540	Middlesex County	Major Employers
St. Peters University Hospital	254 Eason Ave.		New Brunswick, NJ 08901	Middlesex County	Major Employers
Telecordia Technology	444 Hoes Lane		Piscataway, NJ 08854	Middlesex County	Major Employers
3M	500 Route 202 North		Flemington, NJ 08822	Hunterdon County	Major Employers
A.M. Best	1 Ambest Rd.		Oldwick, NJ 08858	Hunterdon County	Major Employers

Atlantic Spring	PO Box 650		Flemington, NJ 08822	Hunterdon County	Major Employers
Burlington Coat Factory	325 US Highway 202 # 1		Flemington, NJ 08822	Hunterdon County	Major Employers
Chubb Insurance	202 Halls Mill Rd.		Whitehouse Station, NJ 08889	Hunterdon County	Major Employers
Exxonmobile Research	1545 US Highway 22 East		Annandale, NJ 08801	Hunterdon County	Major Employers
Flemington Department Store	151 New Jersey 31		Flemington, NJ 08822	Hunterdon County	Major Employers
Foster Wheeler	53 Frontage Rd		Clinton, Hampton, NJ 08827	Hunterdon County	Major Employers
Georgia Paciific	623 Riegelsville Rd.		Milford, NJ 08848	Hunterdon County	Major Employers
Hitran Corp.	362 State Route 31		Flemington, NJ 08822	Hunterdon County	Major Employers
Hunterdon Care Center	1 Leisure Ct.		Flemington, NJ 08822	Hunterdon County	Major Employers
Hunterdon County	PO Box 2900		Flemington, NJ 08822	Hunterdon County	Major Employers
Hunterdon Hills Playhouse	88 State Route 173		Hampton, NJ 08827	Hunterdon County	Major Employers
Hunterdon Medical Center	2100 Wescott Drive		Flemington, NJ 08822	Hunterdon County	Major Employers
Ingersoll Rand	1467 State Route 31 S.		Annandale, NJ 08801	Hunterdon County	Major Employers
Johanna Foods	PO Box 272		Flemington, NJ 08822	Hunterdon County	Major Employers
Lamberville Station	11 Bridge Street		Lambertville, NJ 08530	Hunterdon County	Major Employers
Merck	1 Merck Drive		Whitehouse Station, NJ 08889	Hunterdon County	Major Employers
Merck	3070 US 22		Branchburg, NJ 08876	Somerset County	Major Employers
New York Life	110 Cokesbury Rd.		Lebanon, NJ 08833	Hunterdon County	Major Employers

Raritan Valley Disposal	9 Frontage Road		Clinton, NJ 08809-4000	Hunterdon County	Major Employers
Readington Farms	12 Mill Rd		Whitehouse STA, NJ 08889	Hunterdon County	Major Employers
Shop-Rite of Hunterdon	272 US Highway 202/31		Flemington, NJ 08822	Hunterdon County	Major Employers
Sprint	268 US Highway 202/31		Flemington, NJ 08822	Hunterdon County	Major Employers
Tekni-Plex, Inc	112 Church St.		Flemington, NJ 08822	Hunterdon County	Major Employers
Walmart	152 State Route 31 North		Flemington, NJ 08822	Hunterdon County	Major Employers
Bank of America	159 Wood Ave		Edison, NJ 08820	Middlesex County	Major Employers
Johnson & Johnson	1 Johnson & Johnson Plaza	Attn: Human Resources	New Brunswick, NJ 08901	Middlesex County	Major Employers
Johnson & Johnson	425 Hoes Lane		Piscataway, NJ 08854	Middlesex county	Major Employers
Robert Wood Johnson Hospital	1 Robert Wood Johnson Pl.		New Brunswick, NJ 08901	Middlesex County	Major Employers
Wells Fargo Bank	1899 Route 27		Edison, NJ 08817	Middlesex County	Major Employers
Bank of America	1 Washington Street	P.O. Box 208	Rocky Hill, NJ 08553-0208	Somerset County	Major Employers
Brother International	Corporate Headquarters:	100 Somerset Corporate Blvd.	Bridgewater, NJ 08807-0911	Somerset County	Major Employers
Chubb Group of Insurance Companies	15 Mountain View Rd.		Warren, NJ 07059	Somerset County	Major Employers
Ethicon	Route 22 West		Somerville, NJ 08876	Somerset County	Major Employers
ICI Americas Inc.	10 Finderne Ave		Bridgewater, NJ 08807	Somerset County	Major Employers

Johnson & Johnson	1 Merck Drive	P.O. Box 2000	Rahway, NJ 07065	Somerset County	Major Employers
Montgomery Township BOE	1014 Route 601		Skillman, NJ 08558	Somerset County	Major Employers
Montgomery Township High School	1016 Route 601		Skillman, NJ 08558	Somerset County	Major Employers
Montgomery Township Lower Middle School	373 Burnt Hill Rd.		Skillman, NJ 08558	Somerset County	Major Employers
Montgomery Township Upper Middle School	375 Burnt Hill Rd.		Skillman, NJ 08558	Somerset County	Major Employers
Orchard Hill Elementary School	244 Orchard Rd.		Skillman, NJ 08558	Somerset County	Major Employers
Phillips- Van Heusen Corporation	1001 Frontier Rd.		Bridgewater, NJ 08807	Somerset County	Major Employers
Somerset Medical Center	110 Rehill Ave.		Somerville, NJ 08876	Somerset County	Major Employers
TD Bank	3221 State Route 27		Franklin Park, NJ 08823	Somerset County	Major Employers
Village Elementary School	100 Main Blvd		Skillman, NJ 08558	Somerset County	Major Employers
Bristol-Myers Squibb	777 Scudders Mill Rd		Plainsboro, NJ 08536	Middlesex County	Major Employers
J.F.K Medical Center	65 James Street		Edison, NJ 08820	Middlesex County	Major Employers
Lowe's Home Improvement	150 NJ-31		Flemington, NJ 08822	Hunterdon County	Major Employers
Silverline Building Products	1 Silverline Dr		North Brunswick, NJ 08902	Middlesex County	Major Employers
St. Peter's University Hospital	254 Easton Ave.		New Brunswick, NJ 08901	Middlesex County	Major Employers
Telcordia Technology	1 Telcordia Dr.		Piscataway, NJ 08854	Middlesex County	Major Employers

The Home Depot	244 Highway 202		Flemington, NJ 08822	Hunterdon County	Major Employers
Hunterdon County Chamber of Commerce	119 Main Street	Suite 1	Flemington, NJ 08822-1789	Hunterdon County	Major Employers
Middlesex County Regional Chamber of Commerce	109 Church Street		New Brunswick, NJ 08901	Middlesex County	Major Employers
Somerset County Busines Partnership	360 Grove Street		Bridgewater, NJ 08807	Somerset County	Major Employers
Medical Center at Princeton	1 Plainsboro Road		Plainsboro, NJ 08536	Middlesex Co.	Major Employers
Princeton HealthCare System	1 Plainsboro Road		Plainsboro, NJ 08536	Middlesex Co.	Major Employers
Bloomberg LP	431 Ridge Rd		Dayton, NJ 08810	Middlesex County	Major Employers
Ortho-Clinical Diagnosis, Inc	1001 US 202		Raritan, NJ 08869	Somerset County	Major Employers
Engelhard Corporation	101 Woods Ave South		Iselin, NJ 08830	Middlesex County	Major Employers
Beacon Newspaper	P.O. Box 350		Princeton, NJ 08542	Hunterdon County	Media
Comcast	279 Amwell Rd.		Hillsborogh, NJ 08844	Hunterdon County	Media
Hunterdon County Democrat	200 State Route 31 Ste 200		Flemington, NJ 08822	Hunterdon County	Media
Cablevision of South Raritan	275 Centennial Ave.		Piscataway, NJ 08854	Middlesex County	Media
Comcast of East Windsor	90 Lake Drive		East Windsor, NJ 08520	Middlesex County	Media
Comcast of Northwest New Jersey	155 Port Murray Rd.		Mansfield, NJ 07865	Middlesex County	Media
Home News Tribune	3601 Highway 66		Neptune, NJ 07756	Middlesex County	Media

South Plainfield Observer	1110 Hamilton Blvd	Suite 1B	South Plainfield, NJ 07080	Middlesex County	Media
Star-Ledger	1 Star Ledger Plaza		Newark, NJ 07102	Essex County	Media
Bernardsville News	17-19 Morristown Rd.		Bernardsville, NJ 07924	Somerset County	Media
Cablevision of South Raritan	275 Centennial Ave.		Piscataway, NJ 08854	Somerset County	Media
Courier News	92 East Main Street, ste 202		Somerville, NJ 08876	Somerset County	Newspaper
Central Jersey Housing Resource Center	600 First Ave., Suite 3		Raritan, NJ 08869	Somerset County	Other
Hunterdon/Somerset Association of Realtors	3461 Route 22 East, Building B		Branchburg, NJ 08876	Somerset County	Other
Abundant Life	P.O. Box 870	Bishop George C. Searight	New Brunswick, NJ 08903	Middlesex County	Religious Buildings
Anshe Emeth Memorial Temple	222 Livingston Ave.	Rabbi Bennett Miller	New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Antioch Christian Church	28 Oliver Street Avenue		New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Ascension Lutheran Church	247 Somerset St. #732	Reverend Robert Wilson	New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Bayard St. Presbyterian Church	22 Joyce Kilmer Ave #A	Reverend Joseph Bodnar	New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Calvary Baptist Church	38 McKinley Ave.		Carteret, NJ 07008	Middlesex County	Religious Buildings
Carteret Jewish Community Center	42 Noe St.		Carteret, NJ 07008	Middlesex County	Religious Buildings

Chabad House - Lubavitch	170 College Ave.	Rabbi Yosef Carlebach	New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Christ Church Episcopal Of New Brunswick	5 Paterson St.		New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Christian Fellowship Church	1212 Livingston Ave.	Reverend Stephen Sherman	New Brunswick, NJ 08902	Middlesex County	Religious Buildings
Emanuel Evangilical Lutheran Church	3 Kirkpatrick St.	Reverend Jeffrey C. Eaton	New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Faith Home Baptist Church	40 Georges Rd.	Reverend William C. Riddick	New Brunswick, NJ 08901	Middlesex County	Religious Buildings
First Baptist Church	24 Essex St.		Carteret, NJ 07008	Middlesex County	Religious Buildings
First Baptist Church of Lincoln Gardens	771 Somerset St.	Reverend Dr. DeForest "Buster" Soaries	Somerset, NJ 08873	Middlesex County	Religious Buildings
First Presbyterian Church	83 Carteret Ave.		Carteret, NJ 07008	Middlesex County	Religious Buildings
First reformed Church	9 Bayard St.	Reverend Dr. Hartmut Kramer-Mills	New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Friendship Christian Church	71 Throop Ave.		New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Holy Family Church	213 Pershing Ave.		Carteret, NJ 07008	Middlesex County	Religious Buildings
Holy Virgin Protection Russian Orthodox	301 Handy St.		New Brunswick, NJ 08901	Middlesex County	Religious Buildings

Hungarian Reformed Church	175 Pershing Ave.		Carteret, NJ 07008	Middlesex County	Religious Buildings
Igl Pta Puerto di Sion	318 Townsend St.		New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Kingdom Hall of Jehovahs Witness	121 French St.		New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Magyar Reformed Church	175 Summer St.	Reverend Zsolt Otvos	New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Mount Zion AME Church	39 Hildebrand Way		New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Mount Zion First Born Church	62 Larch Ave.		New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Nativity of the Blessed Virgin Mary Ukranian	80 Livingston Ave		New Brunswick, NJ 08901	Middlesex County	Religious Buildings
New Brunswick Friends Meeting (Quaker)	109 Nichol Ave.		New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Our Lady of Mount Carmel Church	75 Morris St.	Reverend Ramon Nacaricon	New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Pentecostal Church of God	186 Commercial Ave.		New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Peoples AME Zion Church	77 Union St.		Carteret, NJ 07008	Middlesex County	Religious Buildings
Presbyterian Church of New Brunswick	100 Livingston Ave. #173	Reverend Szabolcs S. Nagy	New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Progressive Church of God & Christ	124 French St.		New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Revival Center Church	45 Edwin St.		Carteret, NJ 07008	Middlesex County	Religious Buildings
Sacred Heart Roman Catholic	213 Pershing Ave.		Carteret, NJ 07008	Middlesex County	Religious Buildings

Sacred Heart Roman Catholic	56 Throop Ave.	Reverend Joseph Kerrigan	New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Saint Peters	222 Easton Ave.		New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Second Reformed Church	100 College Ave.	Reverend Dr. Andrew R. Rienstra	New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Seventh Day Advantist	339 Livingston Ave.		New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Seventh Day Advantist Spanish Church	27 Division St.		New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Sharon Baptist Church	25 Howard St.	Reverend Kevin Jones	New Brunswick, NJ 08901	Middlesex County	Religious Buildings
St. Albans Episcopal	148 Lee Ave.	Reverend Harroldean Ashton	New Brunswick, NJ 08901	Middlesex County	Religious Buildings
St. Demetrius Ukraine	645 Roosevelt Ave.		Carteret, NJ 07008	Middlesex County	Religious Buildings
St. Elias Church	42 Cooke Ave.		Carteret, NJ 07008	Middlesex County	Religious Buildings
St. John the Evangilist	189 George Rd.	Reverend Matthew L. Buterbaugh	New Brunswick, NJ 08901	Middlesex County	Religious Buildings
St. Johns The Baptist	29 Abeel St.	Reverend Marco Caceres	New Brunswick, NJ 08901	Middlesex County	Religious Buildings
St. Joseph Byzantine Church	30 High St.	Reverend Stephen Skinta	New Brunswick, NJ 08901	Middlesex County	Religious Buildings
St. Joseph Church	7 Locust St.		Carteret, NJ 07008	Middlesex County	Religious Buildings

St. Ladislaus Church	215 Somerset St.		New Brunswick, NJ 08901	Middlesex County	Religious Buildings
St. Mary of Mount Virgin	198 1/2 Sanford St.	Monsignor Robert Santa Barbara	New Brunswick, NJ 08901	Middlesex County	Religious Buildings
St. Mary's Ukranian Catholic	719 Roosevelt Ave.		Carteret, NJ 07008	Middlesex County	Religious Buildings
St. Peters R.C. Church	94 Somerset St.	Reverend Peter Cebulka	New Brunswick, NJ 08901	Middlesex County	Religious Buildings
St. Peters R.C. Church	94 Somerset St.	Reverend Thomas Odorizzi	New Brunswick, NJ 08901	Middlesex County	Religious Buildings
St. Sharbel Maronite Church	7 Reeve St.	Reverend Maron Asmar	Somerset, NJ 08873	Middlesex County	Religious Buildings
Suydam St. Church	74 Drift St.		New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Synod of Mid Atlantics Reformed Church	17 Seminary Pl.		New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Tabernacle Baptist Church	239 George St.	Reverend Dr. Leo H. Graham	New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Tabernacle Pentecostal Church	104 Union St.		Carteret, NJ 07008	Middlesex County	Religious Buildings
Taiwanese American Pres Church	770 US-206		Hillsborough Township, NJ 08844	Middlesex County	Religious Buildings
The Church of Jesus Church	21 Charles St.	Reverend Salvador Sgro	New Brunswick, NJ 08901	Middlesex County	Religious Buildings
The First Baptist Church	226 Hale St.	Reverend Dr. John Hayward	New Brunswick, NJ 08901	Middlesex County	Religious Buildings

The Promise Church of god	193 Suydam St.		New Brunswick, NJ 08901	Middlesex County	Religious Buildings
The Salvation Army	287 Handy St.	Captains Domingo & Rosa Urban	New Brunswick, NJ 08901	Middlesex County	Religious Buildings
The United Mehodist Church	323 George #23	Reverend Dr. Gregory B. Young	New Brunswick, NJ 08901	Middlesex County	Religious Buildings
University Heights Seventh Day	P.O. Box 1152		New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Zionh Evangelical Lutheran Church	714 Roosevelt Ave.		Carteret, NJ 07008	Middlesex County	Religious Buildings
Blawenburg Reformed Church	424 Route 518		Blawenburg, NJ 08504	Somerset County	Religious Buildings
Blessed Sacrament Church	1890 Washington Valley Rd.		Martinsville, NJ 08836	Somerset County	Religious Buildings
Bound Brook United Methodist Church	150 West Union Ave.		Bound Brook, NJ 08805	Somerset County	Religious Buildings
Chinese Christian Church	119 Matilda Ave.		Somerset, NJ 08873	Somerset County	Religious Buildings
Christ Presbyterian Church	1600 Washington Valley Rd.		Martinsville, NJ 08836	Somerset County	Religious Buildings
Congregational Church of Bound Brook	209 Church St.		Bound Brook, NJ 08805	Somerset County	Religious Buildings
Emmanuel Baptist Church	34 S 3rd Ave.		Manville, NJ 08835	Somerset County	Religious Buildings
Eternal Life Church	322 Franklin Blvd.		Somerset, NJ 08873	Somerset County	Religious Buildings
Faith In Action Church	228 S. Main St.		Manville, NJ 08835	Somerset County	Religious Buildings

First Baptist Church	43 Franklin St.		South Bound Brook, NJ 08880	Somerset County	Religious Buildings
First Presbyterian Church	321 Mine Brook Rd.		Bernardsville, NJ 07924	Somerset County	Religious Buildings
Gateway Church	324 Milltown Rd.		Bridgewater, NJ 08807	Somerset County	Religious Buildings
Grace Community Church	424 Garretson Rd.		Bridgewater, NJ 08807	Somerset County	Religious Buildings
Hope Church	519 East Main St.		Bound Brook, NJ 08805	Somerset County	Religious Buildings
Montgomery United Methodist Church	Pastor Tony Godlefski	117 Sunset Rd.	Belle Meade, NJ 08502	Somerset County	Religious Buildings
Our Lady of Mercy	122 High St.		South Bound Brook, NJ 08880	Somerset County	Religious Buildings
St. Johns Lutheran Church	319 Windsor St.		Bound Brook, NJ 08805	Somerset County	Religious Buildings
St. Mary of Cztestochowa	201 Vosseller Ave.		Bound Brook, NJ 08805	Somerset County	Religious Buildings
St. Paul's Episcopal Church	214 Church St.		Bound Brook, NJ 08805	Somerset County	Religious Buildings
Sts Peter and Paul Catholic Church	285 Hamilton St.		Somerset, NJ 08873	Somerset County	Religious Buildings
The Presbyterian Church of Bound Brook	409 Mountain Ave.		Bound Brook, NJ 08805	Somerset County	Religious Buildings
Congregation Kehilat Shalom	Rabbi Susan L. Falk	253 Belle Mead-Griggstown Rd.	Belle Mead, NJ 08502	Somerset County	Religious Buildings
Emanuel Lutheran Church	New and Kirkpatrick Streets		New Brunswick, NJ 08901	Middlesex County	Religious Buildings
Holy Trinity Episcopal Church	90 Leonardine Aveune		South River, NJ 08882	Middlesex County	Religious Buildings

Kingdom Hall of Jehovah's Witnesses	172 Hollow Rd.		Skillman, NJ 08558	Somerset County	Religious Buildings
Kingston United Methodist Church	9 Church Street	P.O. Box 291	Kingston, NJ 08528	Middlesex County	Religious Buildings
Montgomery Evangelical Free Church	Pastor Brian Cooper	246 Belle Mead-Griggstown Rd.	Belle Mead, NJ 08502	Somerset County	Religious Buildings
Msgr. Gregory E. S. Malovetz	St. Charles Borromeo Church	47 Skillman Rd.	Skillman, NJ 08558	Somerset County	Religious Buildings
New Jersey's Lesbian & Gay Havurah	P.O. Box 2576		Edison, NJ 08818	Middlesex County	Religious Buildings
St. Matthew's Roman Catholic Church	81 Seymour Avenue		Edison, NJ 08817	Middlesex County	Religious Buildings
The Temple Emmanu-El	100 James Street		Edison, NJ 08818	Middlesex County	Religious Buildings
New Brunswick Senior Center	81 Huntington St.		New Brunswick, NJ 08901	Middlesex County	Senior Center
Hunterdon County Social Services	Community Services Building	6 Gauntt Place, P.O. Box 2900	Flemington, NJ 08822	Hunterdon County	Social Service Offices/Administration Buildings
United Way Hunterdon County	4 Walter Foran Blvd	Suite 104	Flemington, NJ 08822	Hunterdon County	Social Service Offices/Administration Buildings
American Red Cross of Central Jersey	707 Alexander Rd.		Princeton, NJ 08540	Middlesex County	Social Service Offices/Administration Buildings
Jewish Family & Vocational Services	32 Ford Ave.		Milltown, NJ 08850	Middlesex County	Social Service Offices/Administration Buildings
Salvation Anny	433 State St.		Perth Amboy, NJ 08861	Middlesex County	Social Service Offices/Administration Buildings

Brunswick and Raritan Housing Corporation	56 Throop Ave.		New Brunswick, NJ 08901	Middlesex County	Social Service Offices/Administration Buildings
Carteret Housing Authority	96 Roosevelt Ave.		Carteret, NJ 07008	Middlesex County	Social Service Offices/Administration Buildings
Catholic Charities Diocese of Metuchen	319 Maple St.		Perth Amboy, NJ 08861	Middlesex County	Social Service Offices/Administration Buildings
Central Jersey Legal Services, Middlesex County Division,	313 State St.	Suite 308	Perth Amboy, NJ 08861	Middlesex County	Social Service Offices/Administration Buildings
Central NJ Maternal & Child Health Consortium, Inc	2 King Arthur Court, Suite		North Brunswick, NJ 08902	Middlesex County	Social Service Offices/Administration Buildings
Edison Housing Authority	14 Rev Samuel C Carpenter Blvd		Edison, NJ 08820	Middlesex County	Social Service Offices/Administration Buildings
Elijah's Promise	18 Neilson St.		New Brunswick, NJ 0890l	Middlesex County	Social Service Offices/Administration Buildings
Fish Inc	456 New Market Rd.		Piscataway, NJ 08854	Middlesex County	Social Service Offices/Administration Buildings
Franklin Township Municipal Building	475 DeMott Lane		Somerset, NJ 08873	Middlesex County	Social Service Offices/Administration Buildings
Middlesex Board of Social Services	Alexander F. Jankowski Community Center	1 Olive St.	Perth Amboy, NJ 08861	Middlesex County	Social Service Offices/Administration Buildings
Middlesex County Admin Builiding - Housing	75 Bayard		New Brunswick, NJ 08903	Middlesex County	Social Service Offices/Administration Buildings
Middlesex County Board of Social Services	181 How Lane	PO Box 509	New Brunswick, NJ 08903	Middlesex County	Social Service Offices/Administration Buildings
Middlesex County Office On Aging	JFK Square		New Brunswick, NJ 08903	Middlesex County	Social Service Offices/Administration Buildings

Middlesex County Rental Assistance Offices	181 Howe Lane		New Brunswick, NJ 08903	Middlesex County	Social Service Offices/Administration Buildings
Middlesex County Vocational and Technical Adult Evening Schools	457 High St.		Perth Amboy, NJ 08861	Middlesex County	Social Service Offices/Administration Buildings
Middlesex County Vocational and Technical Schools	112 Rues Lane		East Brunswick, NJ 08816	Middlesex County	Social Service Offices/Administration Buildings
Middlesex County Vocational and Technical Schools	21 Suttons Lane		Piscataway, NJ 08854	Middlesex County	Social Service Offices/Administration Buildings
Accelero Learning - Asbury Park Center	907 Grand Avenue		Asbury Park, NJ 07712	Middlesex County	Social Service Offices/Administration Buildings
New Brunswick Housing Authority	P.O. Box 110		New Brunswick, NJ 08901	Middlesex County	Social Service Offices/Administration Buildings
Northwest New Jersey Community Action Program, Inc. (NORWESCAP)	350 Marshall St.		Phillipsburg, NJ 08865	Middlesex County	Social Service Offices/Administration Buildings
Perth Amboy Adult Education Center	178 Barrracks St.		Perth Amboy, NJ 08861	Middlesex County	Social Service Offices/Administration Buildings
Perth Amboy Housing Authority	881 Amboy Ave.	PO Box 390	Perth Amboy, NJ 08862	Middlesex County	Social Service Offices/Administration Buildings
Rahway Housing Authority	498 Capobianco Plz		Rahway, NJ 07065	Middlesex County	Social Service Offices/Administration Buildings
South Amboy Housing Authority	250 South BRd.way	P.O. Box 817	South Amboy, NJ 08879	Middlesex County	Social Service Offices/Administration Buildings
St. John's Center	24 Abeel St.		New Brunswick, NJ 08901	Middlesex County	Social Service Offices/Administration Buildings
The Salvation Army	287 Handy St., P.O. Box 269		New Brunswick, NJ 08901	Middlesex County	Social Service Offices/Administration Buildings
Montgomery Township Senior Center	Otto Kaufman Community Center	356 Skillman Rd.	Skillman, NJ 08558	Somerset County	Social Service Offices/Administration Buildings

Rotary Club of Montgomery/Rocky Hill	P.O. Box 333		Rocky Hill, NJ 08553	Somerset County	Social Service Offices/Administration Buildings
Somerset County Administration Building	20 Grove St.	P.O. Box 3000	Somerville, NJ 08876	Somerset County	Social Service Offices/Administration Buildings
Somerset County Board of Social Services	73 East High St.		Somerville, NJ 08876	Somerset County	Social Service Offices/Administration Buildings
Somerset County Office On Aging	First Floor	27 Warren St.	Somerville, NJ 08876	Somerset County	Social Service Offices/Administration Buildings
Somerset County Office on Human Services	20 Grove St.	P.O. Box 3000	Somerville, NJ 08876	Somerset County	Social Service Offices/Administration Buildings
Fair Share Housing Center	510 Park Blvd		Cherry Hill, NJ 08002	Camden County	Social Service Offices/Administration Buildings
Housing and Community Development Network of New Jersey	145 W. Hanover St		Trenton, NJ 08618	Mercer County	Social Service Offices/Administration Buildings
Hunterdon County Administration Building	71 Main Street		Flemington NJ	Hunterdon County	Social Service Offices/Administration Buildings
Hunterdon County Department of Human Services		P.O. Box 2900	Flemington, NJ 08822-2900	Hunterdon County	Social Service Offices/Administration Buildings
Hunterdon County Dept. of Human Services, Div. of Senior, Disabilities & Vet. Svcs.		4 Gauntt Pl. Bldg. # 1, P.O. Box 2900	Flemington, NJ 08822-2900	Hunterdon County	Social Service Offices/Administration Buildings
Hunterdon County Housing Agency	8 Gauntt Place	P.O. Box 2900	Flemington, NJ 08822	Hunterdon County	Social Service Offices/Administration Buildings

Hunterdon County Social Services Board, Community Svcs	6 Gauntt Place, P.O. Box 2900		Flemington, NJ 08822-2900	Hunterdon County	Social Service Offices/Administration Buildings
Hunterdon-Somerset County Board of Realtors	3461 US-22		Branchburg, NJ 08876	Somerset County	Social Service Offices/Administration Buildings
Latino Action Network	PO Box 943		Freehold, NJ 07728	Monmouth County	Social Service Offices/Administration Buildings
Mercer County Board of Realtors	1428 Brunswick Ave		Trenton, NJ 08638	Mercer County	Social Service Offices/Administration Buildings
Metuchen/Edison NAACP	127 Newman Street		Metuchen, NJ 08840	Middlesex County	Social Service Offices/Administration Buildings
Middlesex County Department of Human Services, County Admn. Bldg.	1 JFK Square		New Brunswick, NJ 08901	Middlesex County	Social Service Offices/Administration Buildings
Division of Housing, Community Development & Social Services	Middlesex County Administration Bldg, 2nd Floor	75 Bayard Street	New Brunswick, NJ 08901	Middlesex County	Social Service Offices/Administration Buildings
New Brunswick NAACP	PO Box 235		New Brunswick, NJ 08901	Middlesex County	Social Service Offices/Administration Buildings
New Jersey Council on Affordable Housing	101 South Broad Street	CN 813	Trenton, NJ 08625-0800	Mercer County	Social Service Offices/Administration Buildings
New Jersey Department of Community Affairs	101 South Broad Street	P.O. Box 800	Trenton, NJ 08625-0800	Mercer County	Social Service Offices/Administration Buildings
Office of Aging & Disabled Services		Middlesex County Admin Bldg., 5th Floor, 75 Bayard Street	New Brunswick, NJ 08901	Middlesex County	Social Service Offices/Administration Buildings

Perth Amboy NAACP	PO Box 1219		Perth Amboy, NJ 08862	Middlesex County	Social Service Offices/Administration Buildings
Plainfield Area NAACP	Plainfield Elks (2nd Floor)	1357 W. 3rd Street	Plainfield, NJ 07060		Social Service Offices/Administration Buildings
Somerset County Community Action Program (SCAP)	155 Pierce St	Suite F	Somerset, NJ 08873	Somerset County	Social Service Offices/Administration Buildings
Urban League of Hudson County	253 Martin Luther King Drive		Jersey City, NJ 07305	Hudson County	Social Service Offices/Administration Buildings
United Way of Central Jersey	32 Ford Ave.		Milltown, NJ 08850	Middlesex County	Social Service Offices/Administration Buildings
Hunterdon County Dept of Planning, Economic Dev & Land Use	PO Box 2900		Flemington, NJ 08822	Hunterdon County	Social Service Offices/Administration Buildings
Somerset County Planning Division	20 Grove St.	PO Box 3000	Somerville, NJ 08876	Somerset County	Social Service Offices/Administration Buildings
Civic League of Greater New Brunswick	47 Throop, #49		New Brunswick, NJ 08901	Middlesex County	Social Service Offices/Administration Buildings
New Jersey State Conference of the NAACP	4326 Harbor Beach Blvd. #775		Brigantine, NJ 08203		Social Service Offices/Administration Buildings
NAACP New Brunswick Youh Council Branch	PO Box 235		New Brunswick, NJ 08903	Middlesex County	Social Service Offices/Administration Buildings
NAACP Rutgers University Branch	613 George Street		New Brunswick, NJ 08901	Middlesex County	Social Service Offices/Administration Buildings
Supportive Housing Association	185 Valley Street		South Orange, NJ 07079		Social Service Offices/Administration Buildings
Warren/ Sussex County Branch of the NAACP	PO BOX 229		WASHINGTON NJ 07882	Warren/Sussex County	Social Service Offices/Administration Buildings
The ARC of Middlesex County	219 Blackhorse Lane #1		North Brunswick, NJ 08902	Middlesex County	Social Service Offices/Administration Buildings

The ARC of Hunterdon County	1465 Route 31 South, Suite 23		Annandale, NJ 08801	Hunterdon County	Social Service Offices/Administration Buildings
The ARC of Somerset County	141 South Street		Manville, NJ 08835	Somerset County	Social Service Offices/Administration Buildings
Lutheran Social Ministries	6 Terri Lane, Suite 300		Burlington, NJ 08016	Burlington County	Social Service Offices/Administration Buildings
Metuchen Community Services	223 Fayette Street		Perth Amboy, NJ 08861	Middlesex County	Social Service Offices/Administration Buildings
Catholic Charities	398 5th Avenue		Hackettstown, NJ 07840		Social Service Offices/Administration Buildings
Housing Coalition of New Jersey	90 Jersey Avenue		New Brunswick, NJ 08901	Middlesex	Social Service Offices/Administration Buildings
Middlesex Interfaith Partners with the Homeless	100 Mitch Snyder Dr		Edison, NJ 08837	Middlesex County	Social Service Offices/Administration Buildings
Plainsboro Non Profit Housing Corporation	316 Rockingham Row		Princeton, NJ 08540	Somerset County	Social Service Offices/Administration Buildings
Woodbridge Housing Authority	20 Bunns Lane		Woodbridge NJ 07095	Middlesex County	Social Service Offices/Administration Buildings
Franklin Township Housing Authority	1 Parkside Street		Somerset, NJ 08873	Somerset County	Social Service Offices/Administration Buildings
Highland Park Housing Authority	242 South 6th Avenue		Highland Park NJ 08904	Middlesex County	Social Service Offices/Administration Buildings
Housing Authority of Plainfield	510 East Front Street, Suite 1		Plainfield, NJ 07060	Union County	Social Service Offices/Administration Buildings
East Brunsick Community corp	PO Box 185		East Brunswick, NJ 08816	Middlesex County	Social Service Offices/Administration Buildings
North Central Jersey Association of Realtors	767 Central Avenue		Westfield, NJ 07090	Union County	Social Service Offices/Administration Buildings
Metuchen NAACP	PO Box 86		Edison, NJ 08818		Social Service Offices/Administration Buildings
NJ State NAACP	PO Box 638		Lakewood, NJ 08701		Social Service Offices/Administration Buildings

Middleseex County Clerk	PO Box 1110, 4th Floor		New Brunswick, NJ 08901	Middlesex County	
Faith Fellowship	2707 Main Street		Sayreville, NJ 08872	Middlesex County	
Brighter Dental Care	46 Vreeland Drive		Skillman, NJ 08558	Somerset County	
Dr. Mary DeCicco, DMD	67 Tamarack Circle		Skillman, NJ 08558	Somerset County	
James J. Cally, DMD	192 Tamarack Circle		Skillman, NJ 08558	Somerset County	
Kaufman Chiropractic	10 Vreeland Drive	Suite 106	Skillman, NJ 08558	Somerset County	
Menla Healthcare	411 Executive Drive	Bldg. 4, Suite 411	Princeton, NJ 08540	Somerset County	
Montgomery Eye Care	1325 Route 206	Suite 24	Skillman, NJ 08558	Somerset County	
Montgomery Family Chiropractic	415 Wall Street		Princeton, NJ 08540	Somerset County	
Montgomery Medical Associates	9 Dutchtown-Harlingen Rd.		Belle Mead, NJ 08502	Somerset County	
Neck & Back Institute	727 State Rd.		Princeton, NJ 08540	Somerset County	
Pastor Phillip Liu	Princeton Christian Church	471 Cherry Valley Rd.	Princeton, NJ 08540	Somerset County	
Princeton Allergy & Asthma Associates	24 Vreeland Drive		Skillman, NJ 08558	Somerset County	
Princeton Care Center	728 Bunn Drive		Princeton, NJ 08540	Somerset County	
Princeton Eye Group	419 North Harrison St.	Suite 104	Princeton, NJ 08540	Somerset County	
Princeton Foot & Ankle Associates	11 North Harrison St.		Princeton, NJ 08540	Somerset County	
Princeton Orthopaedic	325 Princeton Ave.		Princeton, NJ 08540	Somerset County	
Provident Bank	2162 US Route 206	Suite 5	Belle Mead, NJ 08502	Somerset County	

Rev. William De Young	Harlingen Reformed Church	34 Dutchtown-Harlingen Rd.	Belle Mead, NJ 08502	Somerset County	
TD Bank	883 State Rd.		Princeton, NJ 08540	Somerset County	
Plainfield Area NAACP	PO Box 368		Plainfield, NJ 07060		
Community Access Unlimited, Inc.	80 West Grand Street		Elizabeth, NJ 07202		
Housing Partnership for Middlesex County	2 East Blackwell Street		Dover, NJ 07801		
New Jersey Citizen Action	75 Raritan Avenue	Suite 200	Highland Park NJ 08904		
Puerto Rican Action Board, Inc	90 Jersey Avenue		New Brunswick, NJ 08901		
Puerto Rican Association for Human Development	100 First Street		Perth Amboy, NJ 08861		
Birth Haven, Inc.	Tina Magarino, Executive Director	4 Academy Street	Newton, NJ 07860		

Appendix II – Montgomery Preliminary Application Distribution List

Business Name	Address1	Address 2	City State Zip
Middlesex County Administration Bldg	75 Bayard Street		New Brunswick, NJ 08901
Somerset County Admin. Bldg	20 Grove Street		Somerville, NJ 08876
Somerset County Library Headquarters	1 Vogt Drive		Bridgewater, NJ 08807
Hunterdon County Library Headquarters	314 State Highway 12		Flemington, NJ 08822
Hunterdon County Administration Building	71 Main Street		Flemington NJ 08822
Montgomery Municipal Building	2261 Van Horne Road - Route 206 North		Belle Mead, NJ 08502
Somerset County Library - Mary Jacobs Branch	64 Washington Street		Rocky Hill, NJ 08553

APPENDIX III
AFFIRMATIVE FAIR HOUSING MARKETING PLAN
For Affordable Housing in **(REGION 3)**

I. APPLICANT AND PROJECT INFORMATION
(Complete Section I individually for all developments or programs within the municipality.)

1a. Administrative Agent Name, Address, Phone Number	1b. Development or Program Name, Address	
Piazza & Associates, Inc. Tel: 609-786-1100 Fax: 609-786-1105 216 Rockingham Row, Princeton, NJ 08540 fpiazza@PiazzaNJ.com	Pike Run Village 40 Pike Run Road Belle Meade, NJ, 08502	
1c. Number of Affordable Units: 210 Number of Rental Units: 210 Number of For-Sale Units:	1d. Price or Rental Range From To	1e. State and Federal Funding Sources (if any)
1f. ☐ Age Restricted X Non-Age Restricted	1g. Approximate Starting Dates Advertising: Occupancy:	
1h. County **Hunterdon, Middlesex, Somerset**	1i. Census Tract(s):	
1j. Managing/Sales Agent's Name, Address, Phone Number Pike Run Village, 105 Cain Court Belle Meade, NJ, 08628		
1k. Application Fees (if any):		

1a. Administrative Agent Name, Address, Phone Number	1b. Development or Program Name, Address	
Piazza & Associates, Inc. Tel: 609-786-1100 Fax: 609-786-1105 216 Rockingham Row, Princeton, NJ 08540 fpiazza@PiazzaNJ.com	Hillside at Montgomery 145 Hartwick Drive Skillman, NJ, 08558	
1c. Number of Affordable Units: 23 Number of Rental Units: 23 Number of For-Sale Units:	1d. Price or Rental Range From To	1e. State and Federal Funding Sources (if any)
1f. ☐ Age Restricted X Non-Age Restricted	1g. Approximate Starting Dates Advertising: Occupancy:	
1h. County **Hunterdon, Middlesex, Somerset**	1i. Census Tract(s):	
1j. Managing/Sales Agent's Name, Address, Phone Number		
1k. Application Fees (if any):		

1a. Administrative Agent Name, Address, Phone Number	1b. Development or Program Name, Address
Piazza & Associates, Inc. Tel: 609-786-1100 Fax: 609-786-1105 216 Rockingham Row, Princeton, NJ 08540 fpiazza@PiazzaNJ.com	The Grove at Montgomery 2261 US 206 North Montgomery, NJ, 08502

1c.	1d. Price or Rental Range	1e. State and Federal Funding Sources (if any)
Number of Affordable Units: 27 Number of Rental Units: 27 Number of For-Sale Units:	From To	

1f.	1g. Approximate Starting Dates
□ Age Restricted X Non-Age Restricted	Advertising: Occupancy:

1h. County	1i. Census Tract(s):
Hunterdon, Middlesex, Somerset	

1j. Managing/Sales Agent's Name, Address, Phone Number

1k. Application Fees (if any):

1a. Administrative Agent Name, Address, Phone Number	1b. Development or Program Name, Address
Ingerman 5 Powell Lane Collingswood, NJ 08108 856-662-1730	The Willows at Orchard Road 5 Autumn Lane Skillman, NJ, 08558

1c.	1d. Price or Rental Range	1e. State and Federal Funding Sources (if any)
Number of Affordable Units: 40 Number of Rental Units: 40 Number of For-Sale Units:	From To	

1f.	1g. Approximate Starting Dates
□ Age Restricted X Non-Age Restricted	Advertising: Occupancy:

1h. County	1i. Census Tract(s):
Hunterdon, Middlesex, Somerset	

1j. Managing/Sales Agent's Name, Address, Phone Number

1k. Application Fees (if any):

1a. Administrative Agent Name, Address, Phone Number	1b. Development or Program Name, Address
CGP&H 101 Interchange Plaza, Suite 301 Cranbury, NJ, 08512	Montgomery Hills 802 McKinley Court Princeton, NJ, 08540

1c.	1d. Price or Rental Range	1e. State and Federal Funding Sources (if any)
Number of Affordable Units: 35 Number of Rental Units: Number of For-Sale Units: 35	From To	

1f.	1g. Approximate Starting Dates
☐ Age Restricted X Non-Age Restricted	Advertising: Occupancy:

1h. County	1i. Census Tract(s):
Hunterdon, Middlesex, Somerset	

1j. Managing/Sales Agent's Name, Address, Phone Number

1k. Application Fees (if any):

1a. Administrative Agent Name, Address, Phone Number	1b. Development or Program Name, Address
CGP&H 101 Interchange Plaza, Suite 301 Cranbury, NJ, 08512	Montgomery Glen River Birch Circle & Scarlett Oak Drive Princeton, NJ, 08540

1c.	1d. Price or Rental Range	1e. State and Federal Funding Sources (if any)
Number of Affordable Units: 19 Number of Rental Units: Number of For-Sale Units: 19	From To	

1f.	1g. Approximate Starting Dates
☐ Age Restricted X Non-Age Restricted	Advertising: Occupancy:

1h. County	1i. Census Tract(s):
Hunterdon, Middlesex, Somerset	

1j. Managing/Sales Agent's Name, Address, Phone Number

1k. Application Fees (if any): Credit/Background Check $40

1a. Administrative Agent Name, Address, Phone Number	1b. Development or Program Name, Address
CGP&H 101 Interchange Plaza, Suite 301 Cranbury, NJ, 08512	McKinley Court 802 McKinley Court Princeton, NJ, 08540

1c.	1d. Price or Rental Range	1e. State and Federal Funding Sources (if any)
Number of Affordable Units: 60 Number of Rental Units: 60 Number of For-Sale Units:	From To	

1f.	1g. Approximate Starting Dates
X Age Restricted ☐ Non-Age Restricted	Advertising: Occupancy:

1h. County	1i. Census Tract(s):
Hunterdon, Middlesex, Somerset	

1j. Managing/Sales Agent's Name, Address, Phone Number

Twinbrook Management LLC
1481 Oak Tree Rd
Iselin, NJ, 08831
732-283-9000

1k. Application Fees (if any): Credit/Background Check $40

1a. Administrative Agent Name, Address, Phone Number	1b. Development or Program Name, Address
CGP&H 101 Interchange Plaza, Suite 301 Cranbury, NJ, 08512	Blawenburg Village Square 378-390 County Road 518 Skillman, NJ, 08558

1c.	1d. Price or Rental Range	1e. State and Federal Funding Sources (if any)
Number of Affordable Units: 4 Number of Rental Units: 4 Number of For-Sale Units:	From To	

1f.	1g. Approximate Starting Dates
☐ Age Restricted X Non-Age Restricted	Advertising: Occupancy:

1h. County	1i. Census Tract(s):
Hunterdon, Middlesex, Somerset	

1j. Managing/Sales Agent's Name, Address, Phone Number

Blawenburg & Harlingen Villages
908-904-0885

1k. Application Fees (if any): Credit/Background Check $35

1a. Administrative Agent Name, Address, Phone Number	1b. Development or Program Name, Address
PIRHL 5 Commerce Way Hamilton, NJ, 08691 609-283-3201	Kepnor-Tregoe Site Hartwick Drive & Research Road Skillman, NJ, 08558

1c. Number of Affordable Units: 86 Number of Rental Units: 86 Number of For-Sale Units:	1d. Price or Rental Range From To	1e. State and Federal Funding Sources (if any) Low-Income Housing Tax Credits
1f. ☐ Age Restricted X Non-Age Restricted	1g. Approximate Starting Dates Advertising: Occupancy:	
1h. County **Hunterdon, Middlesex, Somerset**	1i. Census Tract(s):	
1j. Managing/Sales Agent's Name, Address, Phone Number		
1k. Application Fees (if any):		

1a. Administrative Agent Name, Address, Phone Number	1b. Development or Program Name, Address
TO BE DETERMINED	DeVanVanCleef 1377 Rt. 206 North Skillman, NJ, 08558

1c. Number of Affordable Units: 23 Number of Rental Units: 23 Number of For-Sale Units:	1d. Price or Rental Range From To	1e. State and Federal Funding Sources (if any)
1f. ☐ Age Restricted X Non-Age Restricted	1g. Approximate Starting Dates Advertising: Occupancy:	
1h. County **Hunterdon, Middlesex, Somerset**	1i. Census Tract(s):	
1j. Managing/Sales Agent's Name, Address, Phone Number		
1k. Application Fees (if any):		

1a. Administrative Agent Name, Address, Phone Number	1b. Development or Program Name, Address
TO BE DETERMINED	Harlingen Village 1273 Route 206 North Belle-Mead, NJ, 08502

1c.	1d. Price or Rental Range	1e. State and Federal Funding Sources (if any)
Number of Affordable Units: 9 Number of Rental Units: 9 Number of For-Sale Units:	From To	

1f.	1g. Approximate Starting Dates
☐ Age Restricted X Non-Age Restricted	Advertising: Occupancy:

1h. County	1i. Census Tract(s):
Hunterdon, Middlesex, Somerset	

1j. Managing/Sales Agent's Name, Address, Phone Number

1k. Application Fees (if any):

1a. Administrative Agent Name, Address, Phone Number	1b. Development or Program Name, Address
TO BE DETERMINED	Village Walk at Montgomery 1330-1340 US Highway 206 Skillman, NJ, 08558

1c.	1d. Price or Rental Range	1e. State and Federal Funding Sources (if any)
Number of Affordable Units: 11 Number of Rental Units: 11 Number of For-Sale Units:	From To	

1f.	1g. Approximate Starting Dates
☐ Age Restricted X Non-Age Restricted	Advertising: Occupancy:

1h. County	1i. Census Tract(s):
Hunterdon, Middlesex, Somerset	

1j. Managing/Sales Agent's Name, Address, Phone Number

1k. Application Fees (if any):

1a. Administrative Agent Name, Address, Phone Number TO BE DETERMINED		1b. Development or Program Name, Address Trap Rock HQ 460 Rt 605 (River Road) Montgomery, NJ, 08540
1c. Number of Affordable Units: 34 Number of Rental Units: 34 Number of For-Sale Units:	1d. Price or Rental Range From To	1e. State and Federal Funding Sources (if any)
1f. ☐ Age Restricted X Non-Age Restricted	1g. Approximate Starting Dates Advertising: Occupancy:	
1h. County **Hunterdon, Middlesex, Somerset**		1i. Census Tract(s):
1j. Managing/Sales Agent's Name, Address, Phone Number		
1k. Application Fees (if any):		

1a. Administrative Agent Name, Address, Phone Number TO BE DETERMINED		1b. Development or Program Name, Address Municipal Building/RPM or 1860 House LOCATION TO BE DETERMINED
1c. Number of Affordable Units: 70 Number of Rental Units: 70 Number of For-Sale Units:	1d. Price or Rental Range From To	1e. State and Federal Funding Sources (if any)
1f. X Age Restricted ☐ Non-Age Restricted	1g. Approximate Starting Dates Advertising: Occupancy:	
1h. County **Hunterdon, Middlesex, Somerset**		1i. Census Tract(s):
1j. Managing/Sales Agent's Name, Address, Phone Number		
1k. Application Fees (if any):		

1a. Administrative Agent Name, Address, Phone Number	1b. Development or Program Name, Address
TO BE DETERMINED	Tapestry Assisted Living NE Corner Hartwick Dr/Research Rd Skillman, NJ, 08558

1c.	1d. Price or Rental Range	1e. State and Federal Funding Sources (if any)
Number of Affordable Units: 12 Number of Rental Units: 12 Number of For-Sale Units:	From To	

1f.	1g. Approximate Starting Dates	
X Age Restricted ☐ Non-Age Restricted	Advertising:	Occupancy:

1h. County	1i. Census Tract(s):
Hunterdon, Middlesex, Somerset	

1j. Managing/Sales Agent's Name, Address, Phone Number

1k. Application Fees (if any):

(Sections II through IV should be consistent for all affordable housing developments and programs within the municipality. Sections that differ must be described in the approved contract between the municipality and the administrative agent and in the approved Operating Manual.)

II. RANDOM SELECTION

2. Describe the random selection process that will be used once applications are received.

In addition to the random number assigned to the household and/or the interest date, there are other factors impacting waiting priority which are described below.

a) Regional Preference: Applicants that indicated that they lived or work in the Affordable Housing Region will be contacted first. Once those applicants are exhausted, applicants outside the region will be contacted.

b) Household Size: Whenever possible, there will be at least one person for each bedroom. If the waiting list is exhausted and there are no in or out region households with a person for each bedroom size, units will be offered to smaller sized households that do not have a person for each bedroom. The Administrative Agent cannot require an applicant household to take an affordable unit with a greater number of bedrooms, as long as overcrowding is not a factor. A household can be eligible for more than one unit category.

III. MARKETING

3a. Direction of Marketing Activity: (indicate which group(s) in the housing region are least likely to apply for the housing without special outreach efforts because of its location and other factors)

☐ White (non-Hispanic X Black (non-Hispanic) X Hispanic ☐ American Indian or Alaskan Native

X Asian or Pacific Islander ☐ Other group:

3b. **HOUSING RESOURCE CENTER** (www.njhousing.gov) A free, online listing of affordable housing ☐

3c. Commercial Media (required) (Check all that applies)

	DURATION & FREQUENCY OF OUTREACH	**NAMES OF REGIONAL NEWSPAPER(S)**	**CIRCULATION AREA**
TARGETS ENTIRE HOUSING REGION 3			
Daily Newspaper			
☐		Star-Ledger	
TARGETS PARTIAL COAH REGION 3			
Daily Newspaper			
☐		Home News Tribune	Middlesex, Somerset, Union
X		Courier News	Somerset and Hunterdon
Weekly Newspaper			
☐		Beacon	Hunterdon
☐		Delaware Valley News	Hunterdon
X		Hunterdon County Democrat / Hunterdon Observer	Hunterdon
☐		Hunterdon Review	Hunterdon
☐		Amboy Beacon	Middlesex
☐		Colonia Corner	Middlesex
☐		Cranbury Press	Middlesex
☐		East Brunswick Sentinel	Middlesex
☐		Edison Sentinel	Middlesex
☐		South Brunswick Post	Middlesex
☐		South Plainfield Observer	Middlesex
☐		Suburban, The	Middlesex
☐		Princeton Packet	Middlesex, Somerset
☐		Sentinel, The	Middlesex, Somerset
☐		Atom Tabloid & Citizen Gazette	Middlesex, Union

☐		Parsippany Life	Morris
☐		Echoes Sentinel	Morris, Somerset
☐		Bernardsville News	Somerset
☐		Branchburg News	Somerset
☐		Chronicle	Somerset
☐		Hills-Bedminster Press	Somerset
☐		Hillsborough Beacon	Somerset
☐		Manville News	Somerset
X		Messenger-Gazette	Somerset
☐		Reporter	Somerset
☐		Somerset Spectator	Somerset
Monthly Newspaper			
X		Montgomery News	Middlesex, Somerset

	Duration & Frequency of Outreach	**Names of Regional TV Station(s)**	**Circulation Area and/or Racial/Ethnic Identification of Readers/Audience**
TARGETS ENTIRE HOUSING REGION 3			
☐		2 WCBS-TV Cbs Broadcasting Inc.	
☐		3 KYW-TV Cbs Broadcasting Inc.	
☐		4 WNBC NBC Telemundo License Co. (General Electric)	
☐		5 WNYW Fox Television Stations, Inc. (News Corp.)	
☐		6 WPVI-TV American Broadcasting Companies, Inc (Walt Disney)	
☐		7 WABC-TV American Broadcasting Companies, Inc (Walt Disney)	
☐		9 WWOR-TV Fox Television Stations, Inc. (News Corp.)	
☐		10 WCAU NBC Telemundo License Co. (General Electric)	
☐		11 WPIX Wpix, Inc. (Tribune)	
☐		12 WHYY-TV Whyy, Inc.	
☐		13 WNET Educational Broadcasting Corporation	
☐		17 WPHL-TV Tribune Company	

☐		31 WPXN-TV Paxson Communications License Company, Llc	
☐		35 WYBE Independence Public Media Of Philadelphia, Inc.	
☐		39 WLVT-TV Lehigh Valley Public Telecommunications Corp.	
☐		41 WXTV Wxtv License Partnership, G.p. (Univision Communications Inc.)	
☐		48 WGTW-TV Trinity Broadcasting Network	
☐		50 WNJN New Jersey Public Broadcasting Authority	
☐		52 WNJT New Jersey Public Broadcasting Authority	
☐		57 WPSG Cbs Broadcasting Inc.	
☐		58 WNJB New Jersey Public Broadcasting Authority	
☐		61 WPPX Paxson Communications License Company, Llc	
☐		63 WMBC-TV Mountain Broadcating Corporation	
☐		65 WUVP-TV Univision Communications, Inc.	
☐		68 WFUT-TV Univision New York Llc	Spanish
TARGETS PARTIAL HOUSING REGION 3			
☐		16 WNEP-TV New York Times Co.	Hunterdon
☐		46 W46BL Maranatha Broadcasting Company, Inc.	Hunterdon
☐		51 WTVE Reading Broadcasting, Inc	Hunterdon (Christian)
☐		25 W25BB New Jersey Public Broadcasting Authority	Hunterdon, Middlesex
☐		22 WYOU Nexstar Broadcasting, Inc	Hunterdon, Somerset
☐		28 WBRE-TV Nexstar Broadcasting, Inc.	Hunterdon, Somerset
☐		44 WVIA-TV Ne Pa Ed Tv Association	Hunterdon, Somerset
☐		56 WOLF-TV Wolf License Corp	Hunterdon, Somerset
☐		60 WBPH-TV Sonshine Family Television Corp	Hunterdon, Somerset
☐		69 WFMZ-TV Maranatha Broadcasting Company, Inc.	Hunterdon, Somerset

☐		29 WTXF-TV Fox Television Stations, Inc. (News Corp.)	Middlesex, Somerset
☐		47 WNJU NBC Telemundo License Co. (General Electric)	Middlesex, Somerset
☐		66 WFME-TV Family Stations of New Jersey, Inc.	Middlesex, Somerset (Christian)
☐		25 WNYE-TV New York City Dept. Of Info Technology & Telecommunications	Somerset

	DURATION & FREQUENCY OF OUTREACH	**NAMES OF CABLE PROVIDER(S)**	**BROADCAST AREA**
TARGETS PARTIAL HOUSING REGION 3			
☐		Comcast of Northwest NJ, Southeast Pennsylvania	Partial Hunterdon
☐		Patriot Media & Communications	Partial Hunterdon, Somerset
☐		Service Electric Cable TV of Hunterdon	Partial Hunterdon
☐		Cablevision of Raritan Valley	Partial Middlesex, Somerset
☐		Comcast of Central NJ, NJ (Union System)	Partial Middlesex
☐		Comcast of Plainfield	Partial Middlesex, Somerset

	DURATION & FREQUENCY OF OUTREACH	**NAMES OF REGIONAL RADIO STATION(S)**	**BROADCAST AREA AND/OR RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE**
TARGETS ENTIRE HOUSING REGION 3			
AM			
☐		WFAN 660	
☐		WOR 710	
☐		WABC 770	
☐		WCBS 880	
☐		WBBR 1130	
☐		WWTR 1170	
☐		WTTM 1680	Spanish, Asian, etc.
FM			
☐		WFNY-FM 92.3	
☐		WPAT-FM 93.1	Spanish
☐		WNYC-FM 93.9	
☐		WPST 94.5	

☐		WFME 94.7	
☐		WPLJ 95.5	
☐		WQXR-FM 96.3	
☐		WQHT 97.1	
☐		WSKQ-FM 97.9	Spanish
☐		WRKS 98.7	
☐		WAWZ 99.1	Christian
☐		WBAI 99.5	
☐		WPHI-FM 100.3	
☐		WCBS-FM 101.1	
☐		WKXW-FM 101.5	
☐		WQCD 101.9	
☐		WNEW 102.7	
☐		WPRB 103.3	
☐		WKTU 103.5	
☐		WWPR-FM 105.1	
☐		WDAS-FM 105.3	
☐		WLTW 106.7	
TARGETS PARTIAL HOUSING REGION 3			
AM			
☐		WFIL 560	Hunterdon
☐		WIP 610	Hunterdon
☐		WAEB 790	Hunterdon
☐		WCHR 1040	Hunterdon
☐		WGPA 1100	Hunterdon
☐		WEEX 1230	Hunterdon
☐		WKAP 1470	Hunterdon
☐		WRNJ 1510	Hunterdon
☐		WWJZ 640	Hunterdon, Middlesex
☐		WPHY 920	Hunterdon, Middlesex

☐		WPHT 1210	Hunterdon, Middlesex
☐		WBUD 1260	Hunterdon, Middlesex
☐		WMCA 570	Middlesex (Christian)
☐		WIMG 1300	Middlesex
☐		WCTC 1450	Middlesex, Somerset
FM			
☐		WRTI 90.1	Hunterdon
☐		WCVH 90.5	Hunterdon
☐		WHYY-FM 90.9	Hunterdon
☐		WXTU 92.5	Hunterdon
☐		WAEB-FM 104.1	Hunterdon
☐		WFKB 107.5	Hunterdon
☐		WMMR 93.3	Hunterdon, Middlesex
☐		WYSP 94.1	Hunterdon, Middlesex
☐		WBEN-FM 95.7	Hunterdon, Middlesex
☐		WRDW-FM 96.5	Hunterdon, Middlesex
☐		WOGL 98.1	Hunterdon, Middlesex
☐		WUSL 98.9	Hunterdon, Middlesex
☐		WIOQ 102.1	Hunterdon, Middlesex
☐		WMGK 102.9	Hunterdon, Middlesex
☐		WJJZ 106.1	Hunterdon, Middlesex
☐		WKDN 106.9	Hunterdon, Middlesex (Christian)
☐		WAXQ 104.3	Hunterdon, Middlesex, Somerset
☐		WNTI 91.9	Hunterdon, Somerset
☐		WZZO 95.1	Hunterdon, Somerset
☐		WCTO 96.1	Hunterdon, Somerset
☐		WLEV 100.7	Hunterdon, Somerset
☐		WNJT-FM 88.1	Middlesex
☐		WRSU-FM 88.7	Middlesex
☐		WWFM 89.1	Middlesex
☐		WWPH 107.9	Middlesex

☐		WDVR 89.7	Middlesex, Somerset
☐		WVPH 90.3	Middlesex, Somerset
☐		WMGQ 98.3	Middlesex, Somerset
☐		WBLS 107.5	Middlesex, Somerset

3d. Other Publications (such as neighborhood newspapers, religious publications, and organizational newsletters) (Check all that applies)

		NAME OF PUBLICATIONS	OUTREACH AREA	RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE
TARGETS ENTIRE HOUSING REGION 3				
Weekly				
		Nuestra Communidad	Central/South Jersey	Spanish-Language
Monthly				
☐		Sino Monthly	North Jersey/NYC area	Chinese-American
X		Montgomery Township Newsletter	Montgomery Township	NA
TARGETS PARTIAL HOUSING REGION 3				
Daily				
☐		24 Horas	Bergen, Essex, Hudson, Middlesex, Passaic, Union Counties	Portuguese-Language
Weekly				
☐		Arab Voice Newspaper	North Jersey/NYC area	Arab-American
☐		Catholic Advocate, The	Essex County area	Catholic
☐		La Voz	Hudson, Union, Middlesex Counties	Cuban community
☐		Amerika Magyar Nepszava (American Hungarian Peoples' Voice)	Central/North Jersey	Hungarian-Language
☐		New Jersey Jewish News	Northern and Central New Jersey	Jewish
☐		Nuestra Communidad	Central/South Jersey	Spanish-Language
☐		Desi NJ	Central Jersey	South Asian
☐		Ukrainian Weekly	New Jersey	Ukrainian Community

3e. Employer Outreach (names of employers throughout the housing region that can be contacted to post advertisements and distribute flyers regarding available affordable housing) (Check all that applies): **See Appendix I of the Township of Montgomery Affirmative Marketing Plan**

3f. Community Contacts (names of community groups/organizations throughout the housing region that can be contacted to post advertisements and distribute flyers regarding available affordable housing) **See Appendix I of the Township of Montgomery Affirmative Marketing Plan**

3g. Direct notification of the availability of affordable housing units, along with copies of application forms shall be

provided to the following locations:
□ Fair Share Housing Center (510 Park Boulevard, Cherry Hill, NJ 08002)
□ New Jersey State Conference of the NAACP (4326 Harbor Beach Blvd. #775, Brigantine, NJ 08203)
□ The Latino Action Network (P.O. Box 943, Freehold, NJ 07728)
□ New Brunswick branch of the NAACP (PO Box 235, New Brunswick, NJ, 08903);
□ Plainfield Area branch of the NAACP (300 Central Avenue, Plainfield, NJ, 07060);
□ Perth Amboy branch of the NAACP (PO Box 1219, Perth Amboy, NJ, 08621); and,
□ Metuchen/Edison branch of the NAACP (127 Newman St., Metuchen, NJ, 08840).

IV. APPLICATIONS

Applications for affordable housing for the above units will be available at the following locations:
4a. County Administration Buildings and/or Libraries for all counties in the housing region (list county building, address, contact person) (Check all that applies) **See Appendix II of the Township of Montgomery Affirmative Marketing Plan**
4b. Municipality in which the units are located **See Appendix II of the Township of Montgomery Affirmative Marketing Plan**
4c. Sales/Rental Office for units (if applicable)

V. CERTIFICATIONS AND ENDORSEMENTS

I hereby certify that the above information is true and correct to the best of my knowledge. I understand that knowingly falsifying the information contained herein may affect the (select one: Municipality's substantive certification or DCA Balanced Housing Program funding or HMFA UHORP/MONI/CHOICE funding).

_____
Name (Type or Print)

_____
Title/Municipality

_____
Signature Date

36. Municipal Housing Liaison and Administrative Agent Appointments

HEALTH BENEFITS CONSULTANT – appointed (Township Committee)

Steve Weiner of Acrisure, LLC	1 yr.	Dec. 31, 2025

REPRESENTATIVES - appointed (Mayoral)

Delaware & Raritan Canal Commission – Rikki Massand	1 yr.	Dec. 31, 2025
Somerset Co. Solid Waste Advisory Council– Neena Singh	1 yr.	Dec. 31, 2025
Somerset Co. Cultural & Heritage Comm. – Rikki Massand	1 yr.	Dec. 31, 2025

REPRESENTATIVES - appointed (Township Committee)

Somerset County Solid Waste Advisory Council –		
VACANT	1 yr.	Dec. 31, 2025

Somerset County Municipal Wastewater Management Planning Committee

Neena Singh, Elected Official	1 yr.	Dec. 31, 2025
Mark Herrmann, Township Engineer	1 yr	Dec. 31, 2025
Christopher Lalicato, Director of Wastewater Operations	1 yr.	Dec. 31, 2025
Dave Campeas, Planning Board Chair	1 yr.	Dec. 31, 2025
James Cosgrove, Municipal Government, Wastewater Management Plan Consultant	1 yr.	Dec. 31, 2025

ANIMAL CONTROL

Animal Control Solutions	2 yr.	Dec. 31, 2025

PUBLIC WORKS DEPARTMENT

Jeff Birkland, Director, Public Works
Richard Dietrich, Assistant Director, Public Works
John Brown, Roads Foreman
Michael Greco, Building Maintenance Foreman

PARKS AND RECREATION DEPARTMENT

John Groeger, Director
Jessica Gonzalez, Assistant Director

CLEAN COMMUNITIES COORDINATOR - appointed (Township Committee)

Jeff Birkland	1 yr.	Dec. 31, 2025

RECYCLING COORDINATOR - appointed (Township Committee)

Jeff Birkland	1 yr.	Dec. 31, 2025

AMERICANS WITH DISABILITIES COMPLIANCE COORDINATOR - appointed (Township Committee)

Lori Savron	1 yr.	Dec. 31, 2025

AFFIRMATIVE ACTION COMPLIANCE OFFICIAL - appointed (Township Committee)

Lori Savron	1 yr.	Dec. 31, 2025

MUNICIPAL HOUSING LIASION – appointed (Township Committee)

Lori Savron, Township Planning Director	1 yr.	Dec. 31, 2025

Confirm with Hillsborough Court the 2025 appointments

MUNICIPAL COURT – concurrent with Hillsborough

Francesco Taddeo, Judge	3 yr.	Feb. 28, 2027

PRIMARY PROSECUTING ATTORNEY - concurrent with Hillsborough

Christopher Bateman	1 yr.	Dec. 31, 2025

DUI SPECIAL PROSECUTOR - concurrent with Hillsborough

Joseph Tauriello	1 yr.	Dec. 31, 2025