
Amended and Restated Redevelopment Plan for the Hamilton Avenue School Block 1301, Lot 19 110 Roosevelt Avenue

Township of Berkeley Heights
Union County, New Jersey

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Originally Prepared by:

Michael J. Mistretta, PP, LLA
Harbor Consultants, Inc.
320 North Avenue East
Cranford, New Jersey 07016

Amended by:

Keenan Hughes, PP, AICP
Phillips Preiss Grygiel Leheny Hughes, LLC
33-41 Newark St, 3rd Floor Suite D
Hoboken, New Jersey 07039

The original of this report was signed and
sealed in accordance with N.J.S.A. 45:14A-12.



Keenan Hughes, NJ Planners License #6169

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Planning Consultant

Keenan Hughes, PP, AICP

Phillips Preiss Grygiel Leheny Hughes, LLC

33-41 Newark St, 3rd Floor Suite D,

Hoboken, New Jersey 07030

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5. Township Council Resolution endorsing the Township Planning Board adoption of a redevelopment study where “after review and consideration of the Planning Board’s recommendation, including all documents submitted therewith, the Township Council agrees with the conclusion of the Planning Board that the Study Area meets the aforementioned criteria for redevelopment area designation...The Township Council now desires to designate the Study Area, collectively, as an area in need of non-condemnation redevelopment, pursuant to N.J.S.A. 40A:12A-6”
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A Redevelopment Plan for the Hamilton Avenue School

Township of Berkeley Heights, Union County, New Jersey

SECTION 1. INTRODUCTION

The following is the Redevelopment Plan for the Hamilton Avenue School (Block 1301, Lot 19) for the Township of Berkeley Heights.

1.1 Statutory Basis for the Redevelopment Plan

On April 21, 2015, the Township of Berkeley Heights Council adopted a resolution authorizing the Planning Board to prepare a preliminary investigation report to determine whether the properties identified as Block 1301, Lot 26, located at 290 Plainfield Avenue (“the Library Property”), Block 1301 Lot 19, located along Hamilton Avenue (hereinafter referred to as “the Hamilton Avenue Property,” “the Hamilton Avenue School Site,” “Hamilton Avenue Site,” or “the Site”), and Block 208, Lots 38, 39, and 40 located along Snyder Avenue (“the Snyder Avenue Property”) satisfy the statutory criteria pursuant to N.J.S.A. 40A:12A-1 of the Local Redevelopment and Housing Law (LRHL). The Library Property, the Hamilton Avenue Property, and the Snyder Avenue Property shall hereinafter collectively be referred to as “the Study Area.”

The Resolution further states that it allows the, “investigation of a potential land transaction with the Little Flower Church for the relocation of the Township’s municipal complex and public library, the Township finds it appropriate to commence the process to determine if the [identified properties] are in need of redevelopment, and to develop a redevelopment plan for the same.”¹ The Township must also follow the procedures and criteria set forth in the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-5 and N.J.S.A. 40A:12A-6 to determine whether the Study Area is an area in need of redevelopment. Additionally, the Study Area is to be referred as a, “Non- Condemnation Redevelopment Area.”² Lastly, the Resolution provides that the Planning Board is authorized to commence the preliminary investigation report using Harbor Consultants, Inc., Consulting Township Planners for the Township of Berkeley Heights, to research and compose this report.³

On May 6, 2015, the Planning Board of the Township of Berkeley Heights adopted a Resolution authorizing Harbor Consultants, Inc. to prepare a map of the Study Area to be used as a basis from which to conduct a study and investigation to determine if the Study Area is an area in need of Redevelopment pursuant to the criteria set forth in the LRHL.⁴

The Preliminary Investigation Report of the Church of the Little Flower – Hamilton Avenue Campus, Township Library Property and the Township Snyder Avenue Properties conducted by Harbor Consultants, dated August 31, 2015 and found that the Hamilton Avenue Property (Block 1301, Lot 19) satisfied criteria (a), (d), and (h) of the Local Redevelopment and Housing Law.

(a) The generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent, possess any of such characteristics, or are so lacking in light, air, or space, as to be conducive to unwholesome living or working conditions.

(d) Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities,

¹ Township Council of the Township of Berkeley Heights Resolution, Signed by Township Clerk: April 21, 2015.

² Township Council of the Township of Berkeley Heights Resolution, Signed by Township Clerk: April 21, 2015.

³ Township Council of the Township of Berkeley Heights Resolution, Signed by Township Clerk: April 21, 2015.

⁴ Planning Board of the Township of Berkeley Heights Resolution, Signed by Township Secretary: May 6, 2015.

excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community.

(h) The designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulation. (N.J.S.A. 40A:12A-5)

September 16, 2015, the Township Planning Board held a public presentation of the study which was also an opportunity for objection or commentary from the public. The Planning Board approved the redevelopment study via a resolution approved on September 16, 2015 and which was memorialized on September 30, 2015.

October 6, 2015, the Township of Berkeley Heights Township Council adopted Resolution No. 211- 2015, designating the Study Area as an area in need of non-condemnation redevelopment pursuant to N.J.S.A. 40A:12A-6, and that the Hamilton Avenue Property (Block 1301, Lot 19) satisfied criteria (a), (d), and (h) of the Local Redevelopment and Housing Law. The Resolution further directed the Township Planner to work with the Township Council to prepare a redevelopment plan for the Study Area.

The Township received a letter from the NJ Department of Community Affairs Commissioner, Charles Richman, to Berkeley Heights Mayor, Robert Woodruff, approving the properties listed in the Township Council's Resolution No. 211-2015 to be designated as a non-condemnation Area in Need of Redevelopment, dated November 4, 2015.

On September 20, 2016, the Township of Berkeley Heights entered into a Settlement Agreement with Fair Share Housing Center ("FSHC"), which stipulated agreed upon terms regarding the Township's Rehabilitation Obligation, Prior Round obligation, and Gap + Round 3 obligation.. The Settlement Agreement was subsequently approved by the Court via an Order entered on October 17, 2017 after a properly noticed Fairness Hearing. The Settlement Agreement included certain inclusionary projects, including a Redevelopment project on the Hamilton Avenue Property. The project was anticipated to create a total of 100 units, of which 80 would be market rate for-sale townhouses and 20 would be affordable family rental units, subject to and contingent upon the Township's acquisition of title to the property in fee, as well as the adoption of a Redevelopment Plan by the Township. The adoption of the Redevelopment Plan, which is required to be accomplished on or before October 17, 2017 pursuant to the Settlement Agreement with FSHC, would put the zoning in place on the site, and would demonstrate that the project creates a realistic opportunity for the production of affordable housing.

The Township's Planning Board subsequently adopted an Amended Housing Element and Fair Share Plan on August 16, 2017, which included the Hamilton Avenue site project, and which was subsequently endorsed by the Township Council on September 5, 2017.

This Redevelopment Plan provides for the redevelopment of the Hamilton Avenue site consistent with Township's Settlement Agreement with FSHC, the Order approving same issued by the Court on October 17, 2016 and the Township's Amended Housing Element and Fair Share Plan.

1.2 Description of the Redevelopment Plan Area

The Hamilton Avenue Redevelopment Plan involves one (1) individual parcel of land; the Hamilton Avenue Property (Block 1301, Lot 19), in the Township of Berkeley Heights. The parcel was previously owned by The Archdiocese of Newark and was used as a school affiliated with the Church of the Little Flower, a small Catholic Church that fronts on Plainfield Avenue. This Church itself neighbors the Hamilton Ave School Site, separated by an approximately 74-foot-wide parcel (Block 1301, Lot 20) owned by the Township, but is not part of the Redevelopment Area. The area of the individual parcel (Block 1301, Lot 19), is approximately 15.382 +/- acres, which is based on a survey completed by Harbor Consultants, Inc. drawn September 2015 (Appendix 7). The parcel has approximately 600 +/- feet of frontage along Roosevelt Avenue and approximately 566 +/- feet of frontage along Hamilton Avenue. The parcel is bound to the east by the Whispering Way multi-family development and to the north by a light industrial center.

The Hamilton Ave School Campus is currently developed with a school and a gymnasium (main building) and a separate Parish Center. Just south of the Parish Center is a small parking lot for employees and clergy members only. This small parking lot feeds into the main parking lot, while also abutting the auditorium and education center. The auditorium and education center are two interconnected buildings formed in an L-shape. The auditorium faces the large parking lot while the education center faces the exits towards Roosevelt Avenue.

The western portion of the Hamilton Avenue School Campus property is within the 100-year flood zone and contains delineated freshwater wetlands and transition areas which will limit the developability of the property.

The following aerial and tax maps below of the Redevelopment Area below depict Block 1301, Lot 19, and the surrounding area.



Figure 1: Aerial Map depicting the Hamilton Avenue Redevelopment Area

A Redevelopment Plan for the Hamilton Avenue School

Township of Berkeley Heights, Union County, New Jersey



Figure 2: Berkeley Heights Township Tax Map depicting the Hamilton Avenue Redevelopment Area

i. **History of the Site**

Hamilton Ave School Campus – Owned by the Church of the Little Flower

Lot 19, Block 1301

In 1961, the Archdiocese of Newark entered into a contract with the Township of Berkeley Heights to purchase the Hamilton Ave School Campus. After the property was purchased by the Church in 1961, the Church constructed a series of buildings on the property supported on a large expansive parking lot.

As part of the Redevelopment Study for this site, an interview was held with Monsignor William C. Harms of the Church of the Little Flower Parish. Monsignor Harms summarized the history of the parish and the development and use of the Hamilton Ave School Campus. The Catholic Church in the Township of Berkeley Heights dates back to the 1930's, later becoming the Church of the Little Flower Parish in 1955. The Church of the Little Flower was originally located on Plainfield Avenue. As the parish grew, a need emerged to construct a Catholic School that would have a capacity to educate children from the Kindergarten through 8th grade. In 1961, the Township advertised for the sale of the Hamilton Avenue Property. The Church of the Little Flower submitted the highest bid for the property and purchased the property from the Township. The sale as outlined in the February 1961 Deed contains the following "reverter clause":

“NOW THEREFORE, this Indenture Witnesseth, that the said party of the first part, in consideration of the sum of TWO THOUSAND TWO HUNDRED AND SEVENTY-EIGHT (\$2,278.00) DOLLARS lawful money of the United States of America, to it in hand paid by the said party of the second part, the receipt of which is hereby acknowledged, and the said party of the first part being therewith fully satisfied, contented and paid, has granted, bargained, sold, assigned, transferred and conveyed and by these presents does grant, bargain, sell, assign, transfer and convey unto the said party of the second part, its successors and assigns, for educational purposes, all and singular the above described lands and premises, with the appurtenances, privileges, and hereditaments thereto belonging or in any way appertaining.

TO HAVE AND TO HOLD THE SAME unto the said party of the second part, its successors and assigns, to the only proper use, benefit and behoof of the said party of the second part, its successors and assigns, forever, and according to the form of the statute in such case made and provided; upon condition however that the said lands and premises be used for educational purposes otherwise same is to revert to the party of the first part, its successors and assigns.”⁵

The Church proceeded to construct the Hamilton Avenue School Campus and operated the school from the mid-1960’s until the Catholic K-8 School was closed in 1987. Although the Catholic School has since closed, the Hamilton Avenue School Campus buildings are still being used and have continuously been used for educational purposes, including religious education classes, despite a slow and consistent decline in enrollment since 2006.

In 2008 – 2009, the Church retained the architectural firm of Arthur John Sikula Associates, PA (“AJSA”) “to perform a comprehensive Existing Conditions Assessment of the church [auditorium] building and education Parish Center buildings together with the site immediately surrounding those buildings. In turn, AJSA retained the multi-disciplinary engineering firm of French and Parrello Associates, PA (“FPA”) for the civil, structural, mechanical, plumbing, fire protection and electrical engineering disciplines. The site observations were performed by AJSA and FPA on July 9, 2009.”⁶

The Hamilton Avenue School Campus today exists as a complex with a one-story auditorium/meeting area has a stage at one end and a balcony at the other end attached to a two-story educational/parish wing with a two story building and a one-story office area located at its main entrance. The 149-page report entitled “Existing Conditions Assessment R.C. Church of the Little Flower 110 Roosevelt Avenue, Berkeley Heights, New Jersey” provides an in depth engineering and architectural analysis of the condition of the buildings on the Hamilton Avenue School Campus. The report concludes with a 23 page detailed construction cost assessment outlining the urgent remediation, contingent remediation and optional remediation items that are recommended to address the construction repairs needed throughout the building and the property. The grand total of the estimated construction costs calculated in 2009 was \$3,488,071. Refer to the redevelopment study, identified as Item I on the “References Documents (Under Separate Cover) list for more detailed information on the findings and conclusions of the redevelopment study.

⁵ Deed of Sale for Lot 19, Block 1301 (Book 2526, Page 202). Dated February 28, 1961.

⁶ Existing Conditions Assessment R.C. Church of the Little Flower, 110 Roosevelt Avenue, Berkeley Heights, New Jersey, dated August 11, 2009, prepared by Arthur John Sikula Associates, PA

Based on our interview with representatives of the Church of the Little Flower, the construction work performed by the Church after the release of the 2009 Architectural Study has been limited to the removal of the asbestos in the school. Asbestos remains in the other parts of the buildings as noted in the architectural report. No other significant building improvements have been made and the Hamilton Avenue School Campus remains relatively in the same condition.

In 2011, the Church of the Little Flower approached the Township with a proposed “land swap” in which the Hamilton Avenue Campus would be sold to the Township and the smaller parcel of land on which the Township Library sits would be sold to the Church to be redeveloped by the Church for the same uses that are currently found on the Hamilton Avenue Campus, however on a much smaller scale, addressing the downsized needs of the Church. The land transaction was conditionally agreed upon in a Memorandum of Understanding dated September 23, 2014. A copy of the MOU is contained as Item H in the Appendices of this report.

The Church retained McCabe Environmental Services, L.L.C. to conduct an asbestos inspection on April 26, 2012. The Hamilton Avenue School Campus building complex was found to have Asbestos Containing Materials (ACM) and the report concluded that the Church should develop an Asbestos Management Plan to abate the hazardous materials.⁷ The asbestos has been removed from the Hamilton Avenue School Campus, however not from the Gymnasium. This report is contained in the Reference Documents list (Under Separate Cover) as Item K.

ii. *Photographs of Existing Conditions*

A field survey of the property was conducted to determine the existing land use and overall condition of the Hamilton Avenue Property.



Figure 3: Left Photo: Front elevation of education center and auditorium. Right Photo: Existing parking lot with driveway access from Hamilton Avenue and Roosevelt Avenue

⁷ Asbestos Emergency Response Act: Asbestos Inspection by McCabe Environmental Services, L.L.C. for Church of the Little Flower, April 26, 2012. Page 10.

iii. Neighborhood

The Site is situated at the intersection of Hamilton Avenue to the southeast and Roosevelt Avenue to the south, with a street address of 110 Roosevelt Avenue. The Hamilton Avenue Property sits on an approximately 15.382 +/- acre parcel identified as Lot 19, Block 1301 on the Township Tax Maps.

Driveway access is from both Hamilton Avenue and Roosevelt Avenue. Across Hamilton Avenue from the Campus is the Township of Berkeley Heights Fire Department and undeveloped, environmentally sensitive wetlands and floodplains. To the east of the property is a multi-family residential housing development. To the north of the property is a light industrial center. To the west of the property is the Church of the Little Flower Catholic Church, which fronts on Plainfield Avenue (Lot 21). Separating the Hamilton Ave School Campus (Lot 19) from the Church (Lot 21) is an environmentally sensitive forested parcel (Lot 20), containing floodplains, streams and freshwater wetlands. The zoning map identified as Figure 4: depicts the zoning on the Hamilton Avenue School Site, as well as the surrounding zoning.



Figure 4: Photos of wetlands on Lot 20, the adjacent lot to the east of the Hamilton Avenue Property

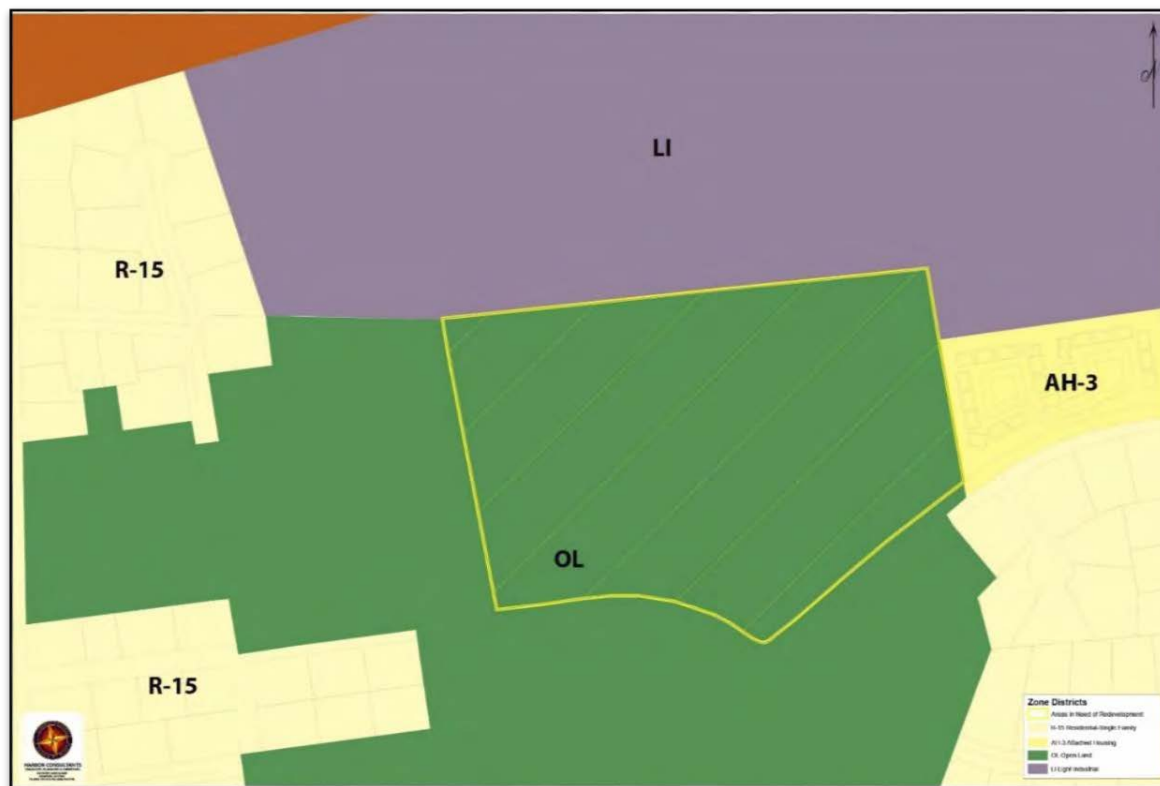


Figure 5: Berkeley Heights Township Zoning map depicting the Hamilton Avenue Redevelopment Area and its immediate surroundings

iv. Environmentally Sensitive Areas

The Site contains environmentally sensitive areas which will restrict the redevelopment of the Hamilton Avenue Property. Extensive wetland delineation and flood hazard area investigations have been completed to determine the limits of the developable portion of the property. The Township obtained a Letter of Interpretation (LOI) from the Department of Environmental Protection on May 10, 2016 (Appendix 8). This original LOI established the limits of the freshwater wetlands on the property and assigned a fifty foot transition area to the wetlands. This original LOI also contained language regarding a path and footbridge that can be found on the adjacent property extending from the subject property through the forested wetlands to the Church of the Little Flower building on Plainfield Avenue. After discussions with the NJDEP concerning the year in which the path and footbridge were originally constructed, the NJDEP later issued an amended LOI on August 18, 2017 (Appendix 9). This amended LOI contains revised language addressing the path and footbridge, stating that “The NJDEP, Bureau of Coastal and Land Use Compliance and Enforcement (BCLUCE) will review the existence of the ...gravel walkway and footbridge on the property for compliance with the Flood Hazard Area Control Act Rules and the Freshwater Wetlands Protection Act Rules. If it is determined that any of these features are not compliant within these regulations, removal or permitting will be required under the direction of BCLUCE.” The footbridge is located on Lot 20, Block 1301, which is owned by the Township and is not on the subject property.

On March 22, 2017 the NJDEP issued a Flood Hazard Area Line Verification which established the limits of the flood hazard area on the property (Appendix 11).

On August 18, 2017, the NJDEP issued an amended Freshwater Wetlands Letter of Interpretation: Line Verification (Appendix 10) which amended the transition areas associated with the delineated wetlands line. The delineated wetlands line as approved earlier by the NJDEP did not change. The NJDEP did amend the limits of the transition area along Flags W1-1 through W1-5 and W2- 1 through W2-15 to be of exceptional resource value classification with a 150-foot transition area. The NJDEP also reclassified the wetland area delineated as W3-1 through W3-28 as being ordinary resource value with no transition area.

On August 22, 2017, the NJDEP issued a series of regulatory permits identified as a Freshwater Wetlands General Permit No. 7, Freshwater Wetlands General Permit No. 17, Special Activity Transition Area Waiver and a Water Quality Certificate (Appendix 12). "The permit authorizes the permanent disturbance to 7,330 square feet (0.16 acre) of ordinary resource value wetlands for the construction of a stormwater basin; the permanent to 4,825 square feet (0.11 acre) of exceptional resource value transition areas for the construction of a pedestrian trail; and the permanent disturbance to 60,175 square feet (1.38 acre) of exceptional resource value transition areas for the construction of residential dwelling units as shown on the plans referenced on the last page of this permit."⁸

The engineering drawings referenced in the above-referenced NJDEP Land Use Regulation Permits are contained in the appendix of this report.

The Redeveloper of the Hamilton Avenue project shall be responsible for redeveloping the property within the limitations of the NJDEP Land Use Regulations Permits obtained by the Township and referenced in this redevelopment plan. The Redeveloper may, upon application to the NJDEP, amend and/or expand upon or obtain additional permits from the NJDEP over and above the Land Use Permits already issued by the NJDEP as part of a redevelopment project consistent with the goals and objectives of this redevelopment plan, and subject to NJDEP approval.

SECTION 2. THE PUBLIC PURPOSE

2.1 Adoption of a Redevelopment Plan

In accordance with the Local Redevelopment and Housing Law, N.J.A.C. 40:12A-7: No redevelopment project shall be undertaken or carried out except in accordance with a Redevelopment Plan adopted by ordinance of the municipal governing body, upon its finding that the specifically delineated project area is located in an area in need of redevelopment or in an area in need of rehabilitation, or both, according to criteria set forth in section 5 or section 14 of P.L. 1992, c. 79 (C40A:12A-5 or 40A:12A-14), as appropriate.

The redevelopment plan shall include an outline for the planning, development, redevelopment, or rehabilitation of the project area sufficient to indicate:

- (1) Its relationship to definite local objectives as to appropriate land uses, density of population, and improved traffic and public transportation, public utilities, recreational and community facilities and other public improvements.
- (2) Proposed land uses and building requirements in the project area.

⁸ DEP Division of Land Use Regulation Permit dated August 22, 2017

- (3) Adequate provision for the temporary and permanent relocation, as necessary, of residents in the project area, including an estimate of the extent to which decent, safe and sanitary dwelling units affordable to displaced residents will be available to them in the existing local housing market.
- (4) An identification of any property within the redevelopment area which is proposed to be acquired in accordance with the redevelopment plan.
- (5) Any significant relationship of the redevelopment plan to (a) the master plans of contiguous municipalities; (b) the master plan of the County in which the municipality is located, and (c) the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act," P.L. 1985, c. 398 (C.52:18A-196 et al.).

The Redevelopment Plan shall describe its relationship to pertinent municipal development regulations as defined in the "Municipal Land Use Law," P.L. 1975, c. 291 (C.40:55D-1 et seq.).

The Redevelopment Plan shall supersede applicable provisions of the development regulations of the municipality or constitute an overlay zoning district within the redevelopment area. When the Redevelopment Plan supersedes any provision of the development regulations, the ordinance adopting the redevelopment plan shall contain an explicit amendment to the zoning district map included in the zoning ordinance.

2.2 Redevelopment Goals and Objectives

The Goals and Objectives of the Hamilton Avenue Property Redevelopment Plan are as follows:

- Provide for an inclusionary housing project with a maximum of 100 units, of which not more than eighty (80) units will be market rate residential townhouses, and twenty (20) units will be set-aside in a separate portion of the project as affordable family for-sale units. This project is a component of the Settlement Agreement entered into between the Township and FSHC on September 20, 2017, as approved by Court Order on October 17, 2016 after a properly noticed Fairness Hearing, and is also a component of the Township's Amended Housing Element and Fair Share Plan, which was adopted by the Planning Board on August 16, 2017 and endorsed by the Township Council on September 5, 2017;
- Redevelop a former school site that has been found to be an area in need of redevelopment and satisfies certain criteria of the Local Redevelopment and Housing Law with a new upscale residential housing development with amenities designed to serve the residents of the community, while providing buffers to reduce any negative impacts to the environmental features of the Site, which includes, but are not limited to: wetlands, wooded areas, a stream, and wildlife habitats;
- Preserve and allow for the incorporation of green space, outdoor passive recreation areas, and other outdoor amenities within and around the residential development;
- Provide sufficient off-street parking spaces and internal vehicular circulation for all residents on the site in accordance with Residential Site Improvement Standards;
- Incorporate amenities onto the Site in order to address the social, and active and passive recreational needs of the community;

- Provide and maintain safe, on-site and off-site pedestrian connections to the surrounding uses;
- Incorporate green building technologies into the site improvements and the building design to the extent practicable, with an emphasis on low impact stormwater management, and
- To revitalize the property, create a new ratable and generate revenue in order to off-set the cost of the Municipal Redevelopment Project;
- Design the project to comply with the Part 19 – Design Standards.

2.3 Relationship to the Local Objectives

2.3.A Master Plan Goals

The Township Planning Board adopted a Land Use Plan Element of the Master Plan in September 2007, prepared by Michael Mistretta, PP, LLA of Harbor Consultants, Inc.

In the review of Zoning and Land Use Regulations, this report briefly describes information related to the Redevelopment Area's zones within the Master Plan. To further understand the benefits and effects redeveloping the site would have on the Township of Berkeley Heights, this Plan analyzes how the redevelopment relates and adheres to the overarching Township Master Plan beyond the Zoning and Land Use Regulations.

Within the Executive Summary, the Master Plan continues to state that the Township has been, "proactive in the preparation of planning studies and reports which are valuable tools and references to guide future growth and development."⁹ Therefore, the Redevelopment Area and its potential redevelopment plan would help to promote and continue growth and development towards which the Township has been striving. The redevelopment of the Hamilton Avenue School Site complements and adheres to the goals of the Township Master Plan.

2.3.B Master Plan Objectives

i. Land Use Element

Important planning considerations in the Land Use Element that apply to the redevelopment plan include the following:

- Maintain the existing suburban residential character of Berkeley Heights through the use of appropriate zoning densities and bulk requirements and, where permissible, site development standards.
- Assure that future site development is compatible with the existing pattern of single family residential, commercial, office/research, light industrial, and public uses, including open space in the community.¹⁰

⁹ Township of Berkeley Heights, New Jersey Master Plan by Michael Mistretta, PP, LLA of Harbor Consultants, Inc., September 2007. §1 – Introduction §1.1 Executive Summary, Page 13.

¹⁰ Township of Berkeley Heights Master Plan, 2007, Page 33.

- Encourage redevelopment of frequently vacant or antiquated/obsolete buildings, and encourage façade improvement for existing buildings.¹¹
- Develop zoning that reflects existing development patterns and supports appropriate infill development.

ii. Circulation and Parking Element

Important planning concepts in the Circulation and Parking Element that are applicable to the Berkeley Heights Redevelopment Plan.

- Evaluate existing pedestrian linkages throughout the Township between existing land uses (residential, commercial, institutional, open space, etc.) and the various community facilities.
- Improve the use of all available parking, both public and private.
- Improve traffic circulation.
- Identify potential changes in circulation patterns and signalization to improve traffic flow and promote implementation of both those changes in the vicinity of the Property.
- Evaluate improvements at congestion or safety “hot spots” including, but not limited to Snyder Avenue and Hamilton Avenue.

2.3.C Relation to the Township Land Use Procedures Ordinance

The Hamilton Avenue School Site Redevelopment Area is located within the Open Land (OL) Zone District as depicted on the Township of Berkeley Heights Zone Map. The following are the permitted uses in the OL Zone District:

A. Permitted Principal Uses:

1. Public parks, playgrounds, swimming pools, golf courses, and other recreational areas whether developed or undeveloped.
2. Public buildings and public and private schools and grounds.
3. Municipal buildings, parks, playgrounds and other governmental uses.
4. Public and private reservations and conservation areas.

B. Permitted Accessory Uses:

1. A Dish Antenna provided it:
 - a. Conforms to the rear and side yard setback requirements;
 - b. Is not in the front yard or between the street line and a line drawn at the front façade of the principal building extended to the sidelines of the property;
 - c. Has reflectors no larger than sixteen (16) feet in diameter; and

¹¹ Township of Berkeley Heights Master Plan, 2007, Page 34.

- d. Does not exceed twenty (20) feet in height of the highest point of the structure in any position.
- e. NO ROOF INSTALLATIONS ARE PERMITTED.

C. Conditional Uses:

- 1. Towers and/or antennae for wireless communications including cellular telephones, pagers, beepers, personal communication services and the like and related equipment and structures.

D. Height, Area, and Bulk Requirements:

- 1. See Schedule of General Regulations.

The existing bulk requirements for the OL Zone District, per Article 6.1.B of the Township Land Use Ordinance, are as follows:

Table 1: Article 6.1 - Schedule Of General Regulations B. Open Land (OL) Zone	
Item	Permitted or Required
Minimum Lot Area	---
Minimum Lot Width	---
Minimum Lot Depth Front Yard	---
<i>Principal Building</i>	
Minimum Setback - Front Yard	100
Minimum Setback - Side Yard	40
Minimum Setback – Rear Yard	40
<i>Accessory Building</i>	
Minimum Setback - Front Yard	100
Minimum Setback - Back Yard	40
Minimum Setback - Side Yard	40
Maximum Building Height	40(b) feet
Maximum Permit Coverage Building	NA
Maximum Permit Coverage Other	NA
Maximum Permit Coverage Combined	NA

SECTION 3. THE REDEVELOPMENT PLAN

3.1 Land Use Plan

The Hamilton Avenue School Site has been a part of the Township's affordable housing compliance plan since September 20, 2016, when The Township of Berkeley Heights entered into a Settlement Agreement with FSHC. As discussed above, the Hamilton Avenue School Site is also part of the Township's Amended Housing Element and Fair Share Plan, which was adopted by the Planning Board

on August 16, 2017 and endorsed by the Township Council on September 5, 2017, and is described in the plan as a site which would help fulfill the Township's Realistic Development Potential (RDP). The Hamilton Avenue School Site will be developed in accordance with the Township's Amended Housing Element and Fair Share Plan as follows:

A. Land Use Plan

1. The Project/Affordable Housing Component. The project shall consist of a maximum of 100 total units, of which not more than 80 units shall be market rate townhouse units and 20 units shall be affordable family for-sale units to be constructed in a separate building, which is a 20% affordable housing set-aside.
2. Affordability mix: The affordable family for-sale units in the project, in accordance with UHAC regulations, applicable COAH regulations, the FSHC Settlement Agreement and the Township's fair share plan, will be broken down as follows:
 - a. 10 Moderate Income units.
 - b. 7 Low Income units.
 - c. 3 Very Low-Income units.
3. Density. The site shall be redeveloped with a maximum of 100 total units that shall consist of twenty (20) affordable family dwelling units and not more than eighty (80) market rate townhouses. The market rate townhouses and affordable family units shall be for sale.
4. Height. The maximum height of a townhouse or affordable housing building may be a maximum of three stories and thirty-eight (38) feet. The townhouses shall have the appearance of a two and a half (2 ½) story building along the front building elevation of the townhouse.
5. Amenities. The redeveloper shall provide the infrastructure for residents to participate in passive recreation on the site. This entails the creation of a network of walking paths within the interior of the development which should be at least 4 feet wide. The paths should be constructed with benches and bump outs where practicable and as approved by the Planning Board.
6. Parking. Off-site parking shall conform to Residential Site Improvement Standards (RSIS). The 20-unit inclusionary housing building component may utilize surface parking. Visitor parking shall be in the form of bump outs in groups of a maximum of ten (10) parking spaces throughout the site as needed to conform to the RSIS visitor parking requirements. The use of pavers or other visually appealing pervious materials is encouraged, but is not required, for the construction of the visitor parking areas along with low level landscaping on the perimeter in order to minimize the visual impact of surface parking. The Developer shall provide the Township a complete layout of the parking component. This can be included as a part of another proposal or section under review, but it must clearly state the number and location of all parking on the site with a visual component.
7. Architectural Design. The Developer shall provide to the Township, for review and approval floor plans for all floors, front, side, and rear building elevations, building heights, and proposed building materials for both the townhouses and affordable housing building components, as well as a cross-section across the Property. The building elevations shall

comply with the Township's Design Standards (Part 19 of the Land Development Ordinance). The Townhouses and the inclusionary housing units shall be constructed with similar building materials and, to the maximum extent practicable, the similar architectural building elevations and design.

8. Concept Plan. The Developer shall provide to the Township, for review and approval, a comprehensive concept plan of the entire site, including passive recreation areas, stormwater management areas, off-street parking and traffic circulation. In preparation of the Concept Plan, the Township will make available to the Redeveloper the referenced documents relating to the site; including the boundary and topographic survey, wetlands delineation map and the flood hazard area line verification map, and wetlands permit plans as referenced in this redevelopment plan.

The concept plan included in Appendix 16 of this document was produced as a yield map only, and to implement the requirements of the Township's Amended Housing Element and Fair Share Plan. The redeveloper is encouraged to use this concept as a starting point, taking into consideration all of the requirements and constraints described in this plan, and improve upon this plan or prepare an entirely different concept plan within the terms of this Redevelopment Plan. The Township encourages the redeveloper to be creative and to put together an innovative and attractive design and layout which will provide for a high quality of life for all of the residents who will eventually inhabit this community.

9. Preservation of Wooded Area and Green Space: The preservation of the tree line around the perimeter of the property is strongly encouraged, particularly along the northern property line, along the light industrial zone district as well as along the eastern property line, along the existing Whispering Woods residential development. At least thirty feet (30') of the existing mature forested woods shall be preserved along both the northern and eastern property lines. The redeveloper is strongly encouraged to preserve an even greater amount of the existing mature forested woodlands on the property by means of smart land planning techniques, retaining walls where necessary, and creative grading and design.
10. The redevelopment of the Hamilton Avenue site with a maximum of 100 residential units—20 affordable family for-sale units and not more than 80 market rate townhouses, is subject to and contingent upon the Township's acquisition of title to the property in fee, as well as the adoption of this redevelopment plan. Pursuant to the Settlement Agreement with FSHC, the Township to adopt this redevelopment plan on or before October 17, 2017, for the establishment of a realistic opportunity for affordable housing in accordance with the terms of this Agreement. In the event that the Township is unable to close on the acquisition of property or unable to obtain free and clear title to the property, for whatever reason, this redevelopment plan shall become null and void and have no force or effect. In this case, the Hamilton Avenue site will remain within the OL Open Land Zone District. Furthermore, in the event the Township does not acquire ownership of the property, the Township reserves the right to amend its Fair Share Housing Plan and Housing Element to relocate the twenty (20) affordable units being attributed to this property to another site within the Township, subject to the Court's approval.

3.1.A Permitted Uses in the Hamilton Avenue School Site Redevelopment Plan

3.1.A.1 Permitted Principal Uses:

1. Inclusionary development consisting of twenty (20) affordable family for-sale units and not more than eighty (80) market rate townhouses to be developed in accordance with the Settlement Agreement entered into between the Township and Fair Share Housing Center on September 20, 2016, which was subsequently approved by Court Order on October 17, 2016, and made part of the Township's Amended Housing Element and Fair Share Plan, which was adopted by the Planning Board on August 16, 2017 and endorsed by the Township Council on September 5, 2017.

3.1.A.2 Permitted Accessory Uses:

1. Common outdoor public or private spaces, plazas and terraces;
2. Pedestrian walking paths;
3. Amenities within the interior of the inclusionary housing building, including but not limited to, storage, and similar non-residential uses designed to support the residential use;
4. Streetscape improvements;
5. Conservation areas, parks, and open space;
6. Parking lots, surface parking, private driveways,
7. Enclosed structured parking which is contained within, or attached to the inclusionary housing building(s). Parking structures shall be enclosed and shall be constructed with the same types of building materials and finishes as the affordable housing building component of the project the structure is servicing.
8. Gardens, hardscape patio areas, landscape features, and courtyards;
9. Green Building Techniques and Green Roofs;
10. Mechanical equipment and trash enclosures;
11. Emergency Access driveways;
12. Storm water management systems; and
13. Signs.

3.1.A.3 Conditional Uses:

1. Public utility uses.

3.1.B Building, Area, and Yard Requirements – Proposed Conditions

The Redevelopment Plan shall comply with the building, area, and yard requirements as outlined under Table 2.

Table 2: Bulk Requirements for the Hamilton Avenue Redevelopment Area

<u>Density of Development</u> A maximum density of one hundred (100) residential units comprised of 20 affordable family for-sale units and not more than 80 market rate townhouses.	
Min. Lot Area	14 Acres
Min. Lot Width	400 Feet
Min. Lot Depth	600 Feet
Min. Front Yard Setback (ft) – Hamilton Avenue	50 Feet ¹
Min. Front Yard Setback (ft) – Roosevelt Avenue	50 Feet ¹
Min. Rear Yard Setback (ft) – North Property Line (Light Industrial)	50 Feet ¹
Min. East Side Yard Setback (ft) – East Property Line (Whispering Way)	50 Feet ¹
Min. West Side Yard Setback (ft) – West Property Line	NJDEP Land Use Regulations & Requirements
Max. Building Coverage (%) ^(a)	35% ^(a)
Max. Impervious Lot Coverage (%) ^(b)	60% ^(b)
Max. Building Height (ft) – Affordable Housing	38 Feet
Max. Building Height (ft) – Townhouse	38 Feet
Max. Height (ft.) – Accessory Building or Structure	One Story & 18 feet
Min. Distance between 2 Buildings – Side Elevation to Side Elevation	30 Feet ²
Min. Distance between 2 Buildings – Side Elevation to Rear Elevation	40 Feet ³
Min. Distance between 2 Buildings – Rear Elevation to Rear Elevation	40 Feet ¹
Max. Number of Building Stories – Townhouses	3 Stories provided that the third (3 rd) story is built into the roof of the building or structure to give the appearance of two and one-half (2 ½) stories at the street level
Max. Number of Building Stories – Affordable Housing	3 Stories provided that the third (3 rd) story is built into the roof of the building or structure to give the appearance of two and one-half (2 ½) stories at the street level
Affordable Unit Bedroom Distribution: The 20 family for-sale units in the Inclusionary Development shall consist of 3 very low, 7 low, and 10 moderate income affordable units. The affordable units shall comply with UHAC, applicable COAH affordable housing regulations, and other applicable laws, as modified by the Settlement Agreement entered into between the Township and Fair Share Housing Center on September 20, 2017, and any applicable orders of the Court, including any Judgment of Compliance and Repose orders.	

<i>Parking Requirements</i>	
Off-Street Parking for Residents	Residential Site Improvement Standards (RSIS)
Off-Street Parking for Visitors	Residential Site Improvement Standards (RSIS)
Min. Distance between Garage Door and Sidewalk	Residential Site Improvement Standards (RSIS)
Min. Distance between any Building or structure and any Parking Space/ Drive Aisles/ Street	10 Feet
Min. Distance between any Property Line and any Parking Space/ Drive Aisles/ Street	40 Feet
<p>^(a) The maximum building coverage includes all buildings parts, including patios, porches, balconies, and other projections.</p> <p>^(b) The maximum impervious coverage includes the building coverage and all impervious coverage, with the exception of any bike paths or jogging trails, which are exempt from the impervious coverage calculations.</p>	
<p>¹ Minimum setback to exclude decks, patios and trash enclosures, which may encroach up to 10 feet into the required setback, and retaining walls and stormwater management facilities.</p> <p>² Minimum setback to exclude bay windows, porches, eaves, stairs and chimneys, which may encroach up to 5 feet into the required setback.</p> <p>³ Minimum setback to exclude decks and patios, which may encroach up to 10 feet into the required setback, and porches, eaves, stairs and chimneys, which may encroach up to 5 feet into the required setback.</p>	

3.2 Development Requirements

3.2.A Parking and Traffic Circulation Standards

Parking, Driveway and Loading Spaces shall comply with Part 11 of the Township Land Use Procedures Ordinances with the following exceptions:

1. All required off-street parking and loading spaces shall be provided on-site.
2. Structured parking may be contained within, under or attached to the inclusionary housing building(s). Underground, or enclosed parking shall be ventilated and allow for airflow from the outside. Parking structures or podium-type parking under buildings, may not front toward the public space or Hamilton Avenue or Roosevelt Avenues. Parking structures shall be enclosed and must be constructed with the same types of building materials and finishes as the affordable housing component of the project the structure is servicing.
3. A surface parking lot is permitted for the affordable housing component.
4. The minimum number of off-street parking spaces provided within the redevelopment area shall be as described in Table 2.
5. The affordable housing component must provide at least one secured, enclosed bicycle storage space per residential unit and bike racks shall be provided at a rate of 1 multi-loop bike rack per twenty (20) parking spaces.
6. All internal roads shall be constructed in accordance to Township subdivision and land ordinances and the Residential Site Improvement Standards.

7. A Traffic Circulation Plan shall be provided depicting the turning radius of emergency vehicle routes through the site. No emergency vehicle or truck circulation routes shall interfere with any permitted on-street parking spaces or driveways.
8. The Traffic Circulation Plan shall also depict ingress and egress points into the site. Two points of ingress/ egress are strongly recommended with one ingress/egress onto Hamilton Avenue and the other onto Roosevelt Avenue for efficient circulation and traffic management.
9. Fire lanes and restricted parking areas shall be provided as directed by the Township Fire Official.
10. All parking spaces, loading spaces, fire lanes, and circulation routes shall be striped and signed in accordance with the Manual on Uniform Traffic Control Devices (MUTCD). All such striping and signage shall be depicted on the Traffic Circulation Plan.
11. If proposed, any areas designated for truck circulation and deliveries shall be paved with an asphalt or concrete material.
12. The redeveloper shall provide a traffic study supporting the overall layout and design of the proposed development, including but not limited to emergency vehicle circulation, off- street parking, sight distances and overall traffic movement throughout the site. In addition, the developer's traffic report shall address off-site and off-tract impacts to street intersections on Roosevelt Avenue, Hamilton Avenue, Snyder Avenue and Plainfield Avenue, after taking into consideration the proposed projects described within the Township's Fair Share Housing Plan and Housing Element, as last amended.

3.2.B Project Design Standards and Conditions

As part of, and in addition to, the Part 19 Design Standards as they apply to this Redevelopment Plan, the following conditions shall likewise be met:

1. The use of green building technologies is strongly encouraged, but not required, to be incorporated into all aspects of the project design. 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.
2. Upon the demolition of any existing building or structure, in whole or in part, the Site shall be properly graded and stabilized unless new construction is to commence on the same area of the property within thirty (30) days.
3. Location and Area of Amenities – The developer is responsible for putting together and presenting a package of amenities that will be available within the affordable housing component. Required amenities include, but are not limited to onsite storage that is either ground level or on each floor to be utilized by the units on that level. The developer is also responsible for presenting a plan to fulfill the passive recreation amenities which are to be used by all residents (affordable and market) described in this redevelopment plan.
4. Parking to conform to Residential Site Improvement Standards (RSIS).

5. A comprehensive landscape plan, which includes the streetscape plans described in this redevelopment plan, shall be prepared by a Licensed Landscape Architect. All areas of the site not covered by buildings, pavement, walkways and other permissible impervious surfaces shall contain lawn or plantings. The use of perennial and native species is encouraged, invasive species are not permitted.
6. The developer must provide for the establishment of a Home Owners Association or similar organization for the ownership and perpetual maintenance of any common open space. The Home Owners Association, or similar organization is responsible for the maintenance of the grounds including maintaining the landscaping, litter removal, the storm water basin, snow removal on sidewalks, paths, and parking areas, as well as the maintenance of all other communal areas including, but not limited to lighting, benches, sidewalks, etc. The Home Owners Association or similar organization shall be regulated and subject to all applicable standards and conditions of State statute.
7. The Developer shall provide to the Township for review and approval floor plans for all three floors, along with building elevations for front and side elevations, depicting the proposed building heights (after taking into consideration the design flood elevation), and a cross-section across the Property. The building elevations shall comply with the Township's Design Standards (Part 19 of the Land Development Ordinance).
8. In addition to the Township Design Standards and the conditions above, all definitions per the Berkeley Heights Township ordinances remain valid for this Redevelopment Plan.
9. The bedroom distribution for affordable units will comply with all UHAC regulations for bedroom size and number, as well as all other applicable COAH affordable housing regulations, any applicable order of the Court, and other applicable laws.

3.2.C Building and Architectural Design Standards and Programming

1. Both the market rate townhouses not to exceed eighty (80) units and the twenty (20) unit affordable housing component shall be constructed with the same building materials and to the same degree of architectural elements and design. It is encouraged that they look as similar as possible. This may be accomplished through the appearance of a stacked townhouse design or other architectural design features for the affordable units.
2. The following design standards shall be adopted for the market rate townhouses:
 - a. Each interior townhouse unit shall be at least 26 feet wide;
 - b. Each end unit townhouse until shall be at least 30 feet wide;
 - c. No townhouse building shall be permitted to measure longer than 205 feet any plane.
 - d. No more than six (6) townhouses shall be attached in a series;
 - e. No more than two (2) contiguous townhouse dwelling units shall be located on the same setback line;
 - f. Variations in front setbacks between contiguous townhouse dwelling units, except as provided herein, shall not be less than two (2) feet;

- g. There shall be a variety of design and architectural elements and exterior building facades, including brick, stone or stucco, for the purpose of presenting an aesthetically desirable overall effect of the townhouse development and to avoid uniformity;
 - h. Adequate facilities shall be provided for the handling of garbage and other refuse by providing and maintaining an enclosed and screened area or separate buildings within which all garbage and refuse containers shall be stored; and
 - i. No townhouse unit shall exceed 3 stories and 38 feet in height provided that the third (3rd) story is built into the roof of the building or structure to give the appearance of two and one-half (2 ½) stories at the street level.
 - j. Each townhouse unit may have an outdoor terrace, patio, or deck (outdoor hardscape) attached to the rear of each unit. The design and configuration of any such outdoor hardscape area shall be open, unenclosed, to the sky. The design and configuration of any outdoor hardscape area shall be reviewed and approved as part of the site plan application before the planning board.
3. Affordability Requirements (for affordable units only): The 20 family for-sale affordable units in the Inclusionary Development shall consist of 3 very low, 7 low, and 10 moderate income affordable units. The affordable units shall comply with UHAC regulations applicable COAH affordable housing regulations, and other applicable laws, as modified by the Settlement Agreement entered into between the Township and Fair Share Housing Center on September 20, 2017, and any applicable orders of the Court, including any Judgment of Compliance and Repose orders.
4. Bedroom Distribution Requirements (for affordable units only):
- a. The combined number of efficiency and one-bedroom units is no greater than 20 percent of the total low- and moderate-income units;
 - b. At least 30 percent of all low- and moderate-income units are two-bedroom units;
 - c. At least 20 percent of all low- and moderate-income units are three-bedroom units; and
 - d. The remainder, if any, may be allocated at the discretion of the developer.
5. Passive Recreation Areas: The project shall include passive recreation areas for all of the residents (both the residents of the market rate as well as the residents of the affordable component) to use. These passive recreation areas include, but are not limited to internal walking paths, as well as benches and other seating areas.

i. Architectural Building Elevation

The building elevations shall be typical for all four sides of all buildings to be constructed on the property, including all accessory buildings or structures.

3.2.D Open Space, Amenities, and Environmental Considerations

1. The redevelopment project shall include, but is not limited to, the following open space and amenities as accessory uses: walking paths within the site at least 4 feet wide that can accommodate two-way traffic, particularly strollers, wheelchairs, and bicycles. These paths shall have benches, bump outs, or areas to rest off of the path everywhere practicable.
2. All recreational facilities, both whether active or passive in nature, shall be constructed to blend in with the natural environment, and should be unobtrusive to the extent possible.
3. The existing Hamilton Avenue School Site is located within a designated floodplain area. The Redeveloper is responsible for obtaining all necessary permits and approvals from the NJDEP, Land Use Regulation, prior to the start of any construction activities.
4. Development shall comply with the Tree Removal Chapter of the Code of the Township of Berkeley Heights. (Ord. 30-40 § 1 (part))
5. The Developer should consult with the Environmental Commission to a) organize efforts to maintain paths and enhance plantings within the development, and b) identify any potential opportunities that the project creates to help the Township renew their Sustainable Jersey Certification.
6. The developer shall provide easily accessible recycling options for residents in order to further the Township's goal of increasing the amount that residents and business owners recycle.
7. The developer is encouraged to minimize the amount of impervious surface within the development. Use of pervious pavement or pavers rather than asphalt, especially for visitor parking areas, should be considered but is not required.

3.2.E Landscape Treatment Standards

1. All plants, trees, and shrubs shall be installed in accordance with the landscape plan prepared by a Licensed Landscape Architect.
2. Landscaping shall be provided throughout the redevelopment project to create definition or separation of different areas of the development, shade, visual interest, seasonal color, and visual buffering.
3. Native and perennial plant species shall primarily be specified within the redevelopment project. Any landscaping which is not resistant to the environment, or that dies within two years of planting shall be replaced by the developer.
4. Cisterns, and rain gardens may be utilized in landscaped spaces to provide irrigation, stormwater management, and recharge to the wetlands within the site to the extent feasible.
5. Landscaped areas shall be irrigated. It is strongly encouraged that all plantings are drought tolerant native species.

3.2.F Signs

All signs in the project shall comply with Part 5 and Part 19 of the Township's Municipal Land Use Procedures Ordinance.

Notwithstanding Part 5 and Part 19 of the of the Township's Municipal Land Use Procedures Ordinance, the developer shall be permitted to construct a total of two (2) signs at each entrance to the project. The face of each sign shall not exceed a total of six square feet (6 sq. ft) per side, which square footage limitation shall not include the support structures for such signs. In no event shall such sign, inclusive of support structures, exceed a total height of seven feet (7'). Such entrance signs may be illuminated with ground mounted fixtures.

3.2.G Pedestrian Access and Streetscape Improvements

The developer shall construct a sidewalk along the entire property frontage and extend the sidewalk on the northern side of Roosevelt Avenue to Plainfield Avenue. The Township Engineer shall determine whether any existing sidewalk may remain in lieu of reconstructing same.

3.2.H Redevelopment Area Phasing Plan

It is envisioned that the project will be constructed in two phases. Phase I would involve the demolition of the existing buildings and structures. Additional requirements and considerations related to the portion of the site currently utilized by the Township and/or the Library are further described in section 3.5.D. Phase II would involve the construction of the residential buildings and all associated amenities, as well as all on-site, off-site and off-tract improvements. The residential phase may be further broken down into smaller phases provided that each phase constructed satisfies all applicable rules related to the phasing of the affordable housing units. All on-site, off-site and off-tract streetscape improvements described in this redevelopment plan shall be completed prior to the issuance of the first certificate of occupancy for the Hamilton Avenue School Site redevelopment project. All affordable units will be phased in as the project is constructed in accordance with N.J.A.C. 5:93-5.6(d).

3.2.I Utilities

1. All new electric, telephone, television, cable, gas, and other utility service lines servicing the buildings shall be installed underground, to the extent such underground service is commercially reasonable, available and permitted by the applicable utility companies, and in all events, shall be installed in accordance with the prevailing standards and practices of the respective utility or other companies providing such services.
2. All utility connection permits and road opening permits shall be obtained from the respective utility authority prior to the start of construction. All municipal roadways damaged by the redevelopment of the Site shall be restored and/or repaved as directed by the Township of Berkeley Heights Engineer.
3. The Township acknowledges that in order for the Developer to construct its Inclusionary Development, the Developer will be required to obtain any and all necessary and applicable agreements, approvals, and permits from all relevant public entities and utilities; such as, by

way of example only, the Township, the Planning Board, the County of Union, the Union County Planning Board, the , the New Jersey Department of Transportation, the Somerset-Union Soil Conservation District and the like, including the Township's ordinance requirements as to site plan and subdivision (the "Required Approvals") and the Redevelopment Plan. The Township agrees to use all reasonable efforts, at no monetary cost to the Township, to assist the Developer in its undertakings to obtain the Required Approvals.

3.3 Provisions Related to Off-Site Improvements

3.3.A Pedestrian Access and Circulation

The developer shall extend the sidewalks on one side of Roosevelt Avenue to Plainfield Avenue. The Township Engineer shall determine whether any existing sidewalk may remain in lieu of reconstructing same.

3.4 Provisions Related to Affordable Housing

Per the Settlement Agreement entered into between the Township and Fair Share Housing Center on September 20, 2016, which was subsequently approved by Court Order on October 17, 2016, and made part of the Township's Amended Housing Element and Fair Share Plan, which was adopted by the Planning Board on August 16, 2017 and endorsed by the Township Council on September 5, 2017 the following terms regarding the affordable units created on this site shall be adhered to:

1. The Redeveloper shall have an obligation to construct 20 family for-sale units affordable to very low, low, and moderate income households, which is a twenty percent (20%) affordable housing set-aside of the maximum 100 total residential units that may be constructed on the site. All such affordable units shall comply with UHAC regulations, applicable COAH affordable housing regulations, the FSHC Settlement Agreement entered into on September 20, 2017, the Township's Amended Housing Element and Fair Share Plan, any applicable orders of the Court, and other applicable laws.
 - a. For all of the affordable units created as part of this project, the Redeveloper will comply with bedroom distribution requirements, very low (13%) / low (37%) / moderate (50%) income split requirements, pricing requirements, integration of affordable units, affirmative marketing requirements, COAH Prior Round phasing requirements (N.J.A.C. 5:93-5.6(d)), candidate qualification and screening requirements and deed restriction requirements. The minimum sizes of the affordable units will be subject to N.J.A.C. 5:43-2.4(f) and (g).
 - b. The Redeveloper shall have an obligation to deed restrict the Affordable Units as very low, low or moderate income affordable units for a period of thirty (30) years (the "Deed-Restriction Period") so that the Township may count the Affordable Units against its obligation to provide family affordable housing. The affordability controls shall expire at the end of 30 years after the date of the initial occupancy of the respective Affordable Unit except that the affordability controls shall remain in effect until the date on which an affordable unit shall become vacant, provided that the occupant household continues to earn a gross annual income of less than 80 percent of

the applicable median income. See 5:80-26.11(b). If, at any time after the end of 30 years after the date of initial occupancy, an affordable unit household's income is found to exceed 80 percent of the regional median income, the rental rate restriction shall expire at the later of either the next scheduled lease renewal or 60 days. Ibid.

- c. The Redeveloper shall contract with an experienced and qualified third party administrative agent, which may be the Township's administrative agent ("Administrative Agent") for the administration of the Affordable Units and shall have the obligation to pay all costs associated with properly deed restricting the Affordable Units in accordance with UHAC and other applicable laws for the Deed-Restriction Period. Redeveloper and its Administrative Agent shall work with the Township and the Township's administrative agent, should the Redeveloper's and Township's administrative agent not be one and the same, regarding any affordable housing monitoring requirements imposed by COAH or the Court. Redeveloper shall provide, within thirty (30) days of written notice, detailed information requested by the Township or the Township's administrative agent, should the Redeveloper's and Township's administrative agent not be one and the same, concerning Redeveloper's compliance with UHAC and other applicable laws.

3.5 Redevelopment Actions

3.5.A Demolition

The Redevelopment Plan will involve the demolition of the main school building, the Parish Center the existing parking lot and all associated buildings and structures. During the demolition and construction phases, the Developer is permitted to use the existing parking lot as a staging area subject to review and approval by the Planning Board. However, the developer will be responsible for the demolition of the parking lot as a part of the project. Additional requirements and considerations related to the portion of the site currently utilized by the Township and/or the Library are further described in section 3.5.D.

3.5.B New Construction

The Redevelopment Plan will involve the new construction of a maximum of 100 residential units, including a 20-unit affordable housing component and not more than 80 market rate townhouses; along with all related roadways, pedestrian pathways, and parking, both on-site, off-site and off-tract, as further described in this redevelopment plan.

3.5.C Properties to be Acquired

This Redevelopment Plan will not involve the taking of any privately owned property.

3.5.D Relocation

No residents will need to be relocated as part of this redevelopment plan.

In connection with the transaction between the Township and the Church of the Little Flower for the exchange of the Library and Hamilton Avenue Property there will have to be a phasing of construction as well as relocation. Pursuant to the agreement between the Township and the Church, post-closing on the transaction the Church will continue to utilize the school and a gymnasium (main building) while the Church proceeds with the renovation of the Library property for a period of

seven (7) months, which is subject to a Use and Occupancy Agreement, dated August 15, 2017. Since the Library property will be vacated prior to closing so that the Church can commence its construction work, the Library will be temporarily relocate to the rectory building on the Hamilton Avenue Property pending the completion of the new Municipal Complex at Park Avenue.

While the Township understands that there may be a potential “gap period” where the new library structure is not yet completed, and construction will start on the Hamilton Avenue Property by the redeveloper, the Township intends on minimizing this “gap period” as much as possible. Therefore, in connection with the redevelopment of the Hamilton Avenue Property, the Township will look for the redeveloper selected to phase the development and/or schedule construction/demolition in such a manner as to allow the Library to continue to utilize and operate out of the rectory building as long as possible, or at a minimum until such time the project is ready to break ground and start construction on the portion of the property currently occupied by the rectory building. In other words, the redeveloper will allow the Library to remain in use at the rectory building, at a minimum, during the design, engineering, and regulatory approval process for the new residential development subject to terms to be negotiated within the redevelopers agreement. The redeveloper will have to provide sufficient written notice to the Library and the Township prior to the start of construction in order to allow enough time for the Library to vacate the premises, the specific terms of which shall be further negotiated between the parties.

SECTION 4. RELATIONSHIP TO THE LAND USE AND ZONING ORDINANCE

4.1 Berkeley Heights Zoning Code and Map Amendment

This Redevelopment Plan shall supersede all provisions of the Zoning and Development Regulations of the Township of Berkeley Heights regulating development in the area addressed by this Redevelopment Plan. Final adoption of this Plan by the Township Council shall be considered an amendment of the Township of Berkeley Heights Zoning Map.

The zoning district map in the zoning ordinances of the Township shall be amended to include the boundaries described in the Redevelopment Plan and the provisions therein. All of the provisions of the Redevelopment Plan shall supersede the applicable development regulations of the Township’s ordinances, as and where indicated, for the Redevelopment Area. In the event of any inconsistencies between the provisions of this Redevelopment Plan and any prior ordinance of the Township of Berkeley Heights, the provisions hereof shall be determined to govern.

SECTION 5. SUSTAINABILITY GUIDELINES

5.1 Green Design and Elements

Any measures taken during demolition and reconstruction are encouraged to incorporate principles of green building into all aspects of the project design. 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. Broadly speaking, green building design goals include reduced energy and water use; use of sustainable, renewable, non-toxic and locally produced materials; improved indoor air quality; environmentally-conscious site planning; and a location in a central, developed area with existing services and resources.

5.2 Sustainability

On March 10, 2009, the Township of Berkeley Heights adopted a resolution registering and authorizing the Township to pursue the Sustainable Jersey Municipal Certification process. Sustainable Jersey helps communities become more sustainable by providing a checklist of activities that address a variety of issues, from climate change to biodiversity. Berkeley Heights applied for and received the Bronze Certification in 2009, being among the first group of towns to go through the program. With the help of volunteers, the Environmental Commission formed seven Green Teams and together completed projects to earn enough points for Berkeley Heights to be a Sustainable Jersey silver certified applicant in 2011, the highest level of certification offered by the program. The most recent recertification of Berkeley Heights in the program was in October of 2014. The Township is currently not certified because recertification must occur at least every three years. The mayor and Township Council have routinely expressed that maintaining the Township's silver certification status is a priority. The location of the Hamilton Avenue redevelopment project in an environmentally sensitive area presently offers the opportunity to address many of the Township's sustainability objectives which are listed below:

- Protect and preserve environmentally sensitive areas including flood plains, recharge areas, wetlands, steep slopes, rock outcrops and concentrations of hardwood forested areas.
- Protect and restore the riparian forest buffer along the Passaic River, to minimize, to the extent practical, any increase in storm water runoff from future development, and to prevent, to the greatest extent feasible, an increase in nonpoint pollution.
- Incorporate principles of green design and renewable energy when updating site plan and subdivision requirements, to reduce greenhouse gas emissions.
- Reduce solid waste and increase recycling.
- Promote the preservation of green space and promote healthy shade trees.

In order to be consistent with the Township's commitment to sustainability, this Redevelopment Plan contains the following goals and objectives:

Goal: Encourage the incorporation of sustainability principles into both private development and public infrastructure projects.

Objectives:

- Encourage "green" development standards and projects that are designed in conformance with the Leadership in Energy and Environmental Design (LEED) Green Building Rating System. It is not recommended that this project obtain LEED certification, however it is recommended that this redevelopment project is designed to satisfy the goals and objectives of the LEED rating system.
- Encourage universal design to be integrated early on into any public or private development.
- Reduce impervious surface areas and encourage the use of "green" roofs.
- Encourage transit, pedestrian and bicycle-friendly development and roadways.

5.3 Berkeley Heights Adoption of Sustainability Ordinance

The Township of Berkeley Heights adopted an ordinance on April 22, 2014 addressing the concept of green design and environmental sustainability within the municipality. The Township Council developed the ordinance with a vision of a greener and more sustainable Berkeley Heights, including redevelopment projects such as this one. The ordinance was established so that prospective developers could incorporate green design and sustainability into their plan and design for downtown redevelopment. It is a goal and objective of this Redevelopment Plan to set a standard for all future redevelopment projects in the Township to design and construct or rehabilitate existing buildings and structures using sustainable building materials.

SECTION 6. RELATIONSHIP TO OTHER PLANS

6.1 Plans of Adjacent Municipalities

The redevelopment area is located in the central/northern part of Berkeley Heights Township along Hamilton Avenue and Roosevelt Avenue. The surrounding Municipalities include: The Borough of New Providence, Long Hill Township, Chatham Township, Borough of Watchung, Warren Township, Mountainside Borough, Summit City, and Scotch Plains Township.

i. Borough of New Providence

The Borough of New Providence is located northeast of Berkeley Heights and is connected via Springfield Avenue. Springfield Avenue is largely residential when first entering New Providence. The road continues past Jaycees Park, New Providence High School, and the corresponding sports/recreational fields. Springfield Avenue follows through a business district that includes a mix of small shops, restaurants, a gas station, and the New Providence Municipal Building. New Providence may be marginally affected by new development along Springfield Avenue, as the site has been vacant for a few years, and thus the Former Kings Site Redevelopment Plan has the potential for a small traffic impact.

ii. Township of Long Hill

The Township of Long Hill is located northwest of Berkeley Heights and is connected via Springfield Avenue. Springfield Avenue turns into Valley Road upon entering the Village of Gillette, which is a district of Long Hill Township. Valley Road is largely a residential area, but commercial uses along it include a restaurant and an inn. Along Valley Road, there is an elementary school for the Village of Gillette. Just past the school lies Riverside Park, the Long Hill Township Municipal Center, and a mix of shops and Restaurants. Therefore, the Former Kings Site Redevelopment Plan has the potential for a small traffic impact on the Township of Long Hill because of the new development along the shared road, Springfield Avenue.

iii. Chatham Township

Chatham Township is located directed north of Berkeley Heights and is connected via Snyder Ave, which turns into Bridge Ave as you enter Chatham. Only the very southern tip of Chatham touches Berkeley Heights, which is Passaic River Park that traverses between the two towns. Chatham will not be affected by the Former Kings Site Redevelopment Plan. Snyder Ave, which is one block east of the site past Lone Pine Drive, feeds into Springfield Ave, and thus the Former

Kings Site Redevelopment Plan has the potential for a small traffic impact on Chatham Township.

iv. Borough of Watchung

The Borough of Watchung is located along the most of the southwest portion of Berkeley Heights. Plainfield Ave runs north to south and continues from the Southern portion of Berkeley Heights into Watchung. The north west of Watchung stretches along I-78, which bisects the two municipalities and buffers residential development on either side of the expressway. The north eastern portion of Watchung that touches Berkeley Heights is adjacent to the Connell Company Corporate Campus and is separated by Valley Road. Watchung will not be affected by the Former Kings Site Redevelopment Plan.

v. Warren Township

Warren Township is located along the westernmost portion of Berkeley Heights, and is connected via Emerson Lane to the south and Mountain Ave to the north. Mountain Ave splits as it enters into Warren and continues south as Mountain Ave, and briefly turns into Hillcrest Rd until it reaches Long Hill. Warren will not be affected by the Former Kings Site Redevelopment Plan.

vi. Mountainside Borough

Mountainside Borough is located along the southeast portion of Berkeley Heights and is connected only by the Watchung Reservation. Mountainside will not be affected by the Former Kings Site Redevelopment Plan.

vii. Summit City

Summit City is located along the easternmost tip of Berkeley Heights and is mainly connected via I-78 and the Watchung Reservation. Governor Livingston High School and its associated athletics fields is located in Berkeley Heights, but it sits on the border between Summit and Berkley Heights. Summit will not be affected by the Former Kings Site Redevelopment Plan.

viii. Scotch Plains Township

Scotch Plains Township is located to the south of Berkeley Heights and is connected by the Watchung Reservation and Valley Road, which becomes Sky Top Drive as it enters the Reservation. Scotch Plains will not be affected by the Former Kings Site Redevelopment Plan.

6.2 Union County Master Plan

“The Union County Master Plan has a variety of planning goals and objectives designed to address major issues and influences that impact Union County’s housing, land use, transportation/circulation and economic development. The County goals and objectives recognize the interrelationships of related policies of municipalities, regional agencies and the State regarding the future development of Union County.”¹²

The Union County Master Plan sets guidelines for the municipalities of Union County and aims to spur economic growth through commercial, residential and transportation development. The Union County

¹² Union County Master Plan: June 1998 featured in 2007 Berkeley Heights Master Plan, Michael Mistretta of Harbor Consultants, Inc., 76.

Master Plan promotes development and redevelopment consistent with surrounding areas while revitalizing “older suburban areas through...commercial adaptive reuse...upgrading of community infrastructure, and upgrading transportation and transit facilities.”¹³

6.3 New Jersey State Development and Redevelopment Plan

All of the properties in the redevelopment area are mapped within the Metropolitan Planning Area PA I as depicted on the New Jersey State Development and Redevelopment Plan. “In the Metropolitan Planning Area, the State Plan’s intention is to provide for much of the state’s future redevelopment; revitalize cities and towns; promote growth in compact forms; stabilize older communities; redesign areas of sprawl; protect the character of existing stable communities”¹⁴

In 2001, the New Jersey State Planning Commission adopted The New Jersey State Development and Redevelopment Plan. A Final Draft of the State Development and Redevelopment Plan was reissued in 2010. The State Planning Act contains three key provisions that mandate the approaches the Plan must use in achieving State Planning Goals. The Plan must encourage development, redevelopment and economic growth in locations that are well situated with respect to present or anticipated public services or facilities and to discourage development where it may impair or destroy natural resources or environmental qualities; reduce sprawl; and promote development and redevelopment in a manner consistent with sound planning and where infrastructure can be provided at private expense or with reasonable expenditures of public funds. (N.J.S.A. 52:18A-196. et seq.)

The general redevelopment plan strategy is to achieve all the State Planning Goals by coordinating public and private actions to guide future growth into compact, ecologically designed forms of development and redevelopment, and to protect the Environs, consistent with the Statewide Policies and the State Plan Policy Map.

The New Jersey State Plan Policy Map integrates the two critical spatial concepts of the State Plan—Planning Areas, and Center and Environs—and provides the framework for implementing the Goals and Statewide Policies. Each Planning Area has specific intentions and Policy Objectives that guide the application of the Statewide Policies. The Policy Objectives ensure that the Planning Areas guide the development of location of Centers and protect the Environs.

Applying the Statewide Policies through the State Plan Policy Map will achieve the goals of the State Planning Act.

According to the New Jersey State Development and Redevelopment Plan, the Hamilton Avenue Site Redevelopment Area is located in the Metropolitan Planning Area, PA1. PA1 provides for much of the state’s future redevelopment: revitalize cities and towns; promote growth in compact forms; stabilize older suburbs; redesign areas of sprawl; and protect the character of existing stable communities. As the name implies, the communities in this Planning Area often have strong ties to, or are influenced by, major metropolitan centers—the New York/Newark/Jersey City metropolitan region in the northeastern counties. The investment in passenger rail service in the Metropolitan Planning Area is represented by over 130 stations on eleven (11) heavy rail lines, two (2) rapid transit lines, two (2) light rail lines, and one (1) subway line.

¹³ Union County Master Plan: June 1998, 1-3 – 1-4

¹⁴ State Development and Redevelopment Plan, New Jersey State Planning Commission, adopted March 1, 2001, page 190.

Over the years, both the public and private sectors have made enormous investments in building and maintain a wide range of facilities and services to support these communities. The massive public investment is reflected in thousands of miles of streets, trade schools and colleges, libraries, theaters, office buildings, parks and plazas, transit terminals and airports. Most of these communities are fully developed, or almost fully developed, with little vacant land available for new development. Much of the change in land uses, therefore, will take the form of redevelopment. These communities have many things in common: mature settlement patterns resulting in a diminished supply of vacant land; infrastructure systems that generally are beyond or approaching their reasonable life expectancy; the need to rehabilitate housing to meet ever changing market standards; the recognition that redevelopment is, or will be the not-too-distant future, the predominant form of growth; and a growing realization of the need to regionalize an increasing number of services and systems in light of growing fiscal restraints. In addition, the wide and often affordable choice of housing in proximity to New York and Philadelphia has attracted significant immigration, resulting in noticeable changes in demographic characteristics over time. This Redevelopment Plan is consistent with and will reinforce the goals and objectives of the State Development and Redevelopment Plan.

SECTION 7. GENERAL PROVISIONS

7.1 Role of the Township of Berkeley Heights

i. Redeveloper Selection

In order to assure that the vision of the Hamilton Avenue Site Redevelopment Plan will be successfully implemented in an effective comprehensive and timely way and in order to promptly achieve the public purpose goals of the Redevelopment Plan, the Township Council, would first need to create and publish a Request for Proposals and a Request for Qualifications. Once the responses have been evaluated by the Township Council and deemed to be consistent with the Redevelopment Plan, a redeveloper's agreement must be created and deemed satisfactory and authorized by the Township Council.

The concept plan included in Appendix 16 of this document was produced as a yield map only to demonstrate that 80 market rate townhouses, 20 affordable for-sale units, and other associated improvements could fit on the property. The redeveloper is encouraged to use this concept as a starting point, taking into consideration all of the requirements and constraints described in this plan, and improve upon this plan or prepare an entirely different concept plan within the terms of this Redevelopment Plan. The Township encourages the redeveloper to be creative and to put together an innovative and attractive design and layout which will provide a high quality of life for the residents who eventually inhabit the project.

7.2 Approvals Process

This Redevelopment Plan changes the process by which approvals for the development of land are typically granted. For a typical development application, a property owner submits plans and an application to the Planning Board or Zoning Board of Adjustment, and the board schedules a hearing on the application. However, in order to comply with this Redevelopment Plan and to streamline the review process, the following procedure will be followed:

i. Township Council Review

The Township Council acting as the Redevelopment Entity shall review all proposed redevelopment projects within the redevelopment area to ensure that such project(s) is consistent with the Redevelopment Plan and relevant redeveloper agreement(s). Such review shall occur prior to the submission of the redevelopment project(s) to the Planning Board. As part of its review, the Township Council may require the redeveloper(s) to submit the proposed site plan applications to the Township Council or to a subcommittee organized by the Township Council prior to the submission of such applications to the Planning Board. Such Subcommittee may include members of the Township Council and any other members and/or professionals as determined necessary and appropriate by the Township Council. Such Subcommittee shall make its recommendations to the Mayor and Council.

In undertaking its review, the Township Council shall determine whether the proposal is consistent with this Redevelopment Plan and relevant redeveloper agreement(s). In addition, the review may address the site and building design elements of the project to ensure that the project adequately addresses the goals and objectives of this Plan.

ii. Planning Board Review Process

All development applications shall be submitted to the Township of Berkeley Heights Planning Board through the normal site plan and subdivision procedures as outlined in N.J.S.A. 40:55D-1 et seq. The Planning Board shall deem any application for redevelopment for any property subject to this Redevelopment Plan incomplete if the applicant has not been designated by the Township Council as a redeveloper(s) and the project plan has not been reviewed and approved by the Township Council. Additionally, the Planning Board shall deem any application for redevelopment for any property subject to this Redevelopment Plan incomplete if the applicant has not received approval from the Township Council or any committee that it may designate for such purpose, stating that the application is consistent with the Redevelopment Plan and Redevelopment Agreement.

iii. Variances & Design Waivers

Neither the Planning Board nor the Board of Adjustment shall grant any deviations from the terms and requirements of this Redevelopment Plan, including the granting of any “d” variances, unless otherwise specified in this Plan. Also, unless otherwise specified in this Plan, proposed changes to the Redevelopment Plan shall be in the form of an amendment to the Redevelopment Plan adopted by the Township Council in accordance with the procedures set forth in the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.

The Planning Board may waive specific bulk, parking, sustainability, or design requirements if specifically authorized to do so by the Mayor and Township Council, provided the redeveloper demonstrates that such waiver or variance is necessary for the feasibility of the project, will not substantially impair the goals and objectives of the redevelopment plan, particularly how its related to meeting state, federal, or environmental permit requirements, and will not present any detriment to the public health, safety and welfare.

7.3 Easements

All existing easements or agreements on-site or off-site shall be documented by the redeveloper as part of the redeveloper’s concept plan. Any modification or alteration to any easement or agreement or right-of-way shall require the notification and approval of all involved parties.

7.4 Site Plan Review

i. Site Plan and Subdivision Review

Site plans should be submitted to the Township Council (as redevelopment agency) for approval prior to review and approval by the Planning Board. Prior to commencement of construction, site plans for the construction and/or rehabilitation of improvements within the Redevelopment Area, prepared in accordance with the requirements of the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), shall be submitted by the applicants for review and approval by the Township Planning Board.

ii. Approvals by Other Agencies

The redeveloper shall be required to provide the Township with copies of all permit applications made to federal, state and county agencies upon filing such applications, as will be required by the Redeveloper's Agreement to be executed between the redeveloper and the Township.

iii. Certificate of Completion and Compliance

Upon the inspection, verification and approval by the Township Council that the redevelopment of a parcel subject to a Redevelopment Agreement has been completed, a Certificate of Completion and Compliance will be issued to the redeveloper and such parcel will be deemed no longer in need of redevelopment.

iv. Severability

The provisions of this Redevelopment Plan are subject to approval by Ordinance. If a Court of competent jurisdiction finds any word, phrase, clause, section, or provision of this Redevelopment Plan to be invalid, illegal, or unconstitutional, the word, phrase, clause, section, or provision shall be deemed severable, and the remainder of the Redevelopment Plan and implementing Ordinance shall remain in full force and effect.

v. Adverse Influences

No use or reuse shall be permitted which, when conducted under proper and adequate conditions and safeguards, will produce corrosive, toxic or noxious fumes, glare, electromagnetic disturbance, radiation, smoke, cinders, odors, dust or waste, undue noise or vibration, or other objectionable features so as to be detrimental to the public health, safety or general welfare.

vi. Non-Discrimination Provisions

No covenant, lease, conveyance or other instrument shall be affected or executed by the Township Council or by a developer or any of his successors or assignees, whereby land within the Redevelopment Area is restricted by the Township Council, or the developer, upon the basis of race, creed, color, or national origin in the sale, lease, use or occupancy thereof. Appropriate covenants, running with the land forever, will prohibit such restrictions and shall be included in the disposition instruments. There shall be no restrictions of occupancy or use of any part of the Redevelopment Area on the basis of race, creed, color or national origin.

vii. Infrastructure and Public Improvements

The redeveloper, at the redeveloper's sole cost and expense, shall provide all necessary engineering studies for, and construct or install all on- and off-site municipal infrastructure improvements and capacity enhancements or upgrades required in connection with the provision of water, sanitary sewer, and stormwater sewer service to the project, in addition to all required tie- in or connection fees. The redeveloper shall also be responsible for providing, at the redeveloper's cost and expense, all sidewalks, curbs, streetscape improvements (street trees and other landscaping), street lighting, and on- and off-site traffic controls and road improvements for the project or required as a result of the impacts of the project. The Redevelopment Agreement between the Township and the redeveloper will contain the terms, conditions, specifications, and a description of required performance guarantees (such as performance bonds or other acceptable performance security) pertaining to redeveloper's obligation to provide the infrastructure and improvements required for the project.

viii. Duration of the Plan

The provisions of this Plan specifying the redevelopment of the Redevelopment Area and the requirements and restrictions with respect thereto shall be in effect for a period of 30 years from the date of approval of this plan by the Township Council.

ix. Procedure for Amending the Approved Plan

The Township of Berkeley Heights Township Council, at its sole discretion, may amend the Redevelopment Plan from time to time upon compliance with the requirements of state law.

- i. All of the provisions of the Redevelopment Plan shall supersede the applicable development regulations of the Township's ordinances, as and where indicated, for the Redevelopment Area.
- ii. If any article, section, subsection, sentence, clause or phrase of this Redevelopment Plan is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.
- iii. In the event of any inconsistencies between the provisions of this Redevelopment Plan and any prior ordinance of the Township of Berkeley Heights, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Township of Berkeley Heights are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 8. APPENDIX

A Redevelopment Plan for the Hamilton Avenue School

Township of Berkeley Heights, Union County, New Jersey

Appendix 1

99-2015

Agenda Item No.: 2

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, in connection with the Township of Berkeley Heights investigation of a potential land transaction with the Little Flower Church for the relocation of the Township's municipal complex and public library, the Township finds it appropriate to commence the process to determine if the Township owned property identified as Block 1301, Lot 26, located at 290 Plainfield Avenue, consisting of approximately 1.33± acres, upon which the Berkeley Heights Public Library (the "Library") is currently situated (the "Library Property"), and the property owned by the Little Flower Church, identified as Block 1301, Lot 19, consisting of approximately 15.6± acres, located along Hamilton Avenue, and all or a portion of Township owned properties located along Snyder Avenue, identified as Block 208, Lot 38, Lot 39 and Lot 40, consisting of approximately 12.176 +/- acres, (collectively the "Study Area"), are in need of redevelopment, and to develop a redevelopment plan for same; and

WHEREAS, the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq. (the "Redevelopment Law"), sets forth the procedures for the Township to declare an area in need of redevelopment, along with the development and effectuation of a redevelopment plan; and

WHEREAS, pursuant to the required redevelopment procedures, specifically set forth in N.J.S.A. 40A:12A-6, no area of a municipality shall be determined a redevelopment area unless the governing body of the municipality shall, by resolution, authorize the Planning Board to undertake a preliminary investigation to determine whether a proposed area is a redevelopment area according to the criteria set forth in N.J.S.A. 40A:12A-5; and

WHEREAS, pursuant to P.L. 2003, Chapter 159, "[t]he resolution authorizing the planning board to undertake a preliminary investigation shall state whether the redevelopment area determination shall authorize the municipality to use all those powers provided by the Legislature for use in a redevelopment area other than the use of eminent domain (hereinafter referred to as a 'Non-Condensation Redevelopment Area') or whether the redevelopment area determination shall authorize the municipality to use all those powers provided by the Legislature for use in a redevelopment area, including the power of eminent domain (hereinafter referred to as a 'Condensation Redevelopment Area')"; and

WHEREAS, the Township Council of the Township of Berkeley Heights finds it to be in the best interest of the Township and its residents to authorize the Township Planning Board to undertake such preliminary investigation of the Study Area as a Non-Condensation Redevelopment Area.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Berkeley Heights, in the County of Union, and State of New Jersey, that the Planning Board is hereby authorized to undertake a preliminary investigation, utilizing Harbor Consultants, Inc., pursuant to the notice, hearing and other requirements of the Local Redevelopment and Housing

Law, N.J.S.A. 40A:12A-1, *et seq.*, as amended, in order to recommend to the Township Council whether the properties identified as Block 1301, Lots 19, and 26 and all of a portion of Block 208, Lots 38, 39, 40, in the Township of Berkeley Heights, or any portion thereof, are areas in need of redevelopment according to the criteria set forth in N.J.S.A. 40A:12A-5.

BE IT FURTHER RESOLVED that, pursuant to New Jersey P.L.2013, c.159, the redevelopment area determination shall authorize the Township to use all those powers provided by the Legislature for use in a redevelopment area other than the use of eminent domain, also know as a "Non-Condernation Redevelopment Area."

BE IT FURTHER RESOLVED that a certified copy of this Resolution is to be forwarded to the Township Planning Board.

BE IT FURTHER RESOLVED that this Resolution shall take effect pursuant to law.

APPROVED this 21st day of April, 2015.

ATTEST:



Ana Minkoff
Township Clerk

ROLL CALL	AYE	NAY	ABSTAIN	ABSENT
DELIA		✓		
FAECHER	✓			
HALL	✓			
KINGSLEY	✓			
PASTORE	✓			
PIRONE	✓			
TIE:				
MAYOR WOODRUFF				

Appendix 2

MEMORANDUM OF UNDERSTANDING

BY AND BETWEEN

TOWNSHIP OF BERKELEY HEIGHTS, UNION COUNTY, NEW JERSEY

AND

THE CHURCH OF THE LITTLE FLOWER

REGARDING

LAND EXCHANGE

IN

**THE TOWNSHIP OF BERKELEY HEIGHTS
COUNTY OF UNION, STATE OF NEW JERSEY**

WHEREAS, the Township of Berkeley Heights (the "Township") and the Church of the Little Flower ("Little Flower") have negotiated the exchange of land in the Township of Berkeley Heights; and

WHEREAS, the Township owns the property identified as Block 1301, Lot 21, located at 290 Plainfield Avenue, consisting of approximately 1.33± acres, upon which the Berkeley Heights Public Library (the "Library") is currently situated (the "Library Property"); and

WHEREAS, Little Flower owns the property identified as Block 1301, Lot 19, located at 110 Roosevelt Avenue, consisting of approximately 15.60± acres (the "Little Flower Property"); and

WHEREAS, pursuant to N.J.S.A. 40A:12-16, the Township is authorized to exchange any lands or any rights or interests therein owned by the Township, for other lands or rights or interests therein desired for public use; and

WHEREAS, any lands to be conveyed to the Township in exchange for Township land shall be valued at no more than the "full and fair value" determined for the land; and

WHEREAS, the Township shall provide cash consideration where the lands to be conveyed by the Township is less than lands to be conveyed to the Township, and the Township's acquisition is more advantageous to the Township for public use than the lands to be conveyed from the Township, and it is in the public interest that such exchange of land be consummated; and

WHEREAS, the Township and Little Flower negotiated the exchange of the Library Property and the Little Flower Property, along with all improvements thereon; and

WHEREAS, the Township and Little Flower each obtained an independent appraisal of the Library Property and the Little Flower Property; and

WHEREAS, the parties agree that based on the analysis of the appraisals obtained, value of the Library Property is \$1,486,257.00, and the Little Flower Property is \$4,331,621.20; and

WHEREAS, the value of the Little Flower Property exceeds the value of the Library Property by the sum of \$2,845,000.00; and

WHEREAS, the Township intends on utilizing the Little Flower Property as a new municipal complex and site for the Berkeley Heights Public Library; and

WHEREAS, there are numerous contingencies relating to the potential land exchange, including, without limitation, the redevelopment of the existing Township municipal complex; and

WHEREAS, the Township and Little Flower wish to enter into this Memorandum of Understanding setting forth the general terms of the proposed land exchange, setting forth the various contingencies in connection therewith, with the specific terms and conditions of said transfer of land to be further negotiated and agreed to in additional agreements.

NOW, THEREFORE, for and in good and valuable consideration in hand paid, receipt of which is hereby acknowledged, and in consideration of the mutual covenants and obligations hereinafter set forth, the Township and Little Flower hereby set forth in this Memorandum of Understanding that the following general terms shall apply to the future exchange of the Library Property and Little Flower Property pursuant to the terms and conditions set forth herein as follows:

1. The Township agrees to transfer the Library Property, in addition to the payment of the sum of \$2,845,000.00, to Little Flower for and in exchange of the receipt of the Little Flower Property, subject to the following contingencies:
 - a. The Township's final adoption of a redevelopment plan and sale of the existing Township municipal complex pursuant to the redevelopment plan.
 - b. The Township entering into an agreement with the Library for the utilization of the statutory millage towards the purchase and development of the Little Flower Property.
 - c. Township's final adoption of a bond ordinance, along with any requisite public referendum approving same, to fund the purchase and development of the Little Flower Property as the new Township municipal complex and public library.
 - d. Due diligence inspections of the Little Flower Property, including, without limitation, wetlands delineations, title insurance, and environmental and structural deficiencies.
 - e. Final resolution of any and all litigations and appeals of any of the actions and approvals of the Township and any of its boards, commissions or committees, provided that such resolution does not invalidate or bar any such Township action or approval, or the expiration of the applicable Statute of Limitation

appeal period in connection with same.

2. Little Flower agrees to transfer the Little Flower Property to the Township for and in exchange of the receipt of the Library Property, in addition to the acceptance of the sum of \$2,845,000.00, subject to the following contingencies:

- a. Little Flower's receipt of final approval of the transaction from the Archdiocese.
- b. Little Flower's collection and receipt of sufficient funding to complete its development of the worship space (310 Plainfield Avenue, Berkeley Heights, New Jersey) and the Library Property.
- c. Due diligence inspections of the Library Property, including, without limitation, wetlands delineations, title insurance, and environmental and structural deficiencies.

IT IS further the understanding of the parties that the Township and Little Flower hereby agree that this transaction is governed by the express and implied covenants of good faith and the parties agree to treat each other accordingly in the further negotiation and preparation of the Contract of Sale for the transfer and exchange of the Library Property and Little Flower Property. This Memorandum of Understanding is subject to standard terms and conditions that are customary and standard in a contract to sell real estate; said terms include, but are not limited to, good and marketable title insurable at regular rates. The Library Property and Little Flower Property, along with the improvements thereon, are to be transferred and accepted by the parties "AS IS."

IT IS further the understanding of the parties that this Memorandum of Understanding is only to set forth the parties understanding of the general terms of the proposed land exchange of the Library Property and Little Flower Property. Nothing herein shall bind or otherwise restrict the parties from negotiating and agreeing to the specific terms and conditions of the transfer and exchange of the properties herein identified, except that the general terms set forth herein. This Memorandum of Understanding shall expire on April 1, 2015, unless the parties enter into a binding contract for sale for the Library Property and the Little Flower Property, which includes the terms set forth herein, or otherwise extended by agreement of the parties in writing.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding on the dates set forth herein below.

TOWNSHIP OF BERKELEY HEIGHTS

By:

Name: Joseph Bruno

Title: Mayor

THE CHURCH OF THE LITTLE FLOWER

By:

Name: Reverend Andrew M. Prachar

Title: Pastor

Agenda Item No.: 5

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, the Township of Berkeley Heights (the "Township") and the Church of the Little Flower ("Little Flower") have discussed and negotiated the potential exchange of land in the Township of Berkeley Heights; and

WHEREAS, the Township owns the property identified as Block 1301, Lot 21, located at 290 Plainfield Avenue, consisting of approximately 1.33± acres, upon which the Berkeley Heights Public Library (the "Library") is currently situated (the "Library Property"); and

WHEREAS, Little Flower owns the property identified as Block 1301, Lot 19, located at 110 Roosevelt Avenue, consisting of approximately 15.60± acres (the "Little Flower Property"); and

WHEREAS, pursuant to N.J.S.A. 40A:12-16, the Township is authorized to exchange any lands or any rights or interests therein owned by the Township, for other lands or rights or interests therein desired for public use; and

WHEREAS, any lands to be conveyed to the Township in exchange for Township land shall be valued at no more than the "full and fair value" determined for the land; and

WHEREAS, the Township shall provide cash consideration where the lands to be conveyed by the Township is less than lands to be conveyed to the Township, and the Township's acquisition is more advantageous to the Township for public use than the lands to be conveyed from the Township, and it is in the public interest that such exchange of land be consummated; and

WHEREAS, the Township and Little Flower negotiated the exchange of the Library Property and the Little Flower Property, along with all improvements thereon; and

WHEREAS, the Township intends on utilizing the Little Flower Property as a new municipal complex and site for the Berkeley Heights Public Library; and

WHEREAS, the Township and Little Flower each obtained an independent appraisal of the Library Property and the Little Flower Property; and

WHEREAS, based on the analysis of the appraisals obtained, the value of the Little Flower Property exceeds the value of the Library Property by the sum of \$2,845,000.00; and

WHEREAS, there are numerous contingencies relating to the potential land exchange, including, without limitation, the redevelopment of the existing Township municipal complex; and

WHEREAS, the Township and Little Flower wish to enter into a Memorandum of Understanding setting forth the general terms of the proposed land exchange, setting forth the various contingencies in connection therewith, with the specific terms and conditions of said transfer of land to be further negotiated and agreed to in additional agreements; and

WHEREAS, the Memorandum of Understanding, in the form attached hereto, has been reviewed and approved by the Township Attorney, along with the attorney for Little Flower Church; and

WHEREAS, the Township Council finds it to be in the best interest of the Township to enter into the Memorandum of Understanding with Little Flower Church setting forth the terms of the potential land swap, along with setting forth the contingencies for same.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, as follows:

1. The Mayor and Township Clerk are hereby authorized and directed to execute the attached Memorandum of Understanding setting forth the terms and conditions of the potential land exchange with Little Flower Church, along with the contingencies in connection with same.
2. If the Township determines to proceed with the land exchange with Little Flower Church, the Township and Little Flower Church shall negotiated and enter into a binding Contract for Sale of Real Property that shall set forth all the terms and conditions of the land exchange. No funds shall be expended or appropriated for this land exchange until such Contract is negotiated, executed and the sale is authorized by appropriate resolution and ordinance.

BE IT FURTHER RESOLVED that this Resolution shall take effect pursuant to law.

APPROVED this 8th day of July, 2014.

ATTEST:



Ana Minkoff
Township Clerk

ROLL CALL		AYE	NAY	ABSTAIN	ABSENT
DELIA					
HALL		✓	✓		
KINGSLEY		✓			
PASTORE		✓			
PIRONE		✓			
WOODRUFF		✓			
TIE:					
MAYOR BRUNO					

Appendix 3

**PLANNING BOARD
TOWNSHIP OF BERKELEY HEIGHTS**

RESOLUTION

WHEREAS, the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq. ("LRHL"), authorizes municipalities to determine whether certain parcel(s) of land situated within the municipality constitute an area in need of redevelopment; and

WHEREAS, pursuant to the LRHL, no parcel(s) of land shall be declared an area in need of redevelopment without the municipality having first authorized its planning board, by way of resolution, to undertake a preliminary investigation to determine whether the subject parcel(s) meet the statutory criteria of an area in need of redevelopment as defined in the LRHL; and

WHEREAS, the Township Council of the Township of Berkeley Heights ("Township Council"), by way of Resolution No. 99-2015, adopted on April 21, 2015, authorized the Township of Berkeley Heights Planning Board ("Board") to undertake a preliminary investigation of the area consisting of Block 1301, Lot 26, located at 290 Plainfield Avenue, consisting of approximately 1.33+(-) acres, upon which the Berkeley Heights Public Library (the "Library") is currently situated (the "Library Property"), and the property owned by the Little Flower Church, identified as Block 1301, Lot 19, consisting of approximately 15.6+(-) acres, located along Hamilton Avenue, and all or a portion of Township owned properties located along Snyder Avenue, identified as Block 208, Lot 38, Lot 39 and Lot 40, consisting of approximately 12.176+(-) acres, or any part thereof, as identified on the Official Tax Map of the Township of Berkeley Heights, (collectively the "Study Area"), to determine if the Study Area meets the criteria set forth in the LRHL and should be designated as an area in need of redevelopment except that any redevelopment area determination shall not authorize the Township of Berkeley Heights to exercise the power of condemnation or eminent domain to acquire any property in the delineated area; and

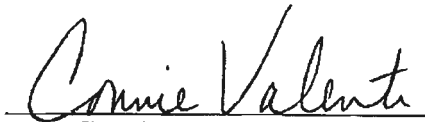
WHEREAS, on May 6, 2015, the Board considered, upon referral from the Township Council, Resolution No. 99-2015 and voted to authorize Harbor Consultants to prepare a map of the Study Area, including a statement setting forth the basis for the investigation, the preparation of a map of the Study Area, and to perform a preliminary investigation of the Study Area to determine whether the Study Area is an area in need of non-condemnation redevelopment pursuant to the LRHL; and

WHEREAS, the Board took action to authorize Harbor Consultants to prepare a map of the Study Area, including a statement setting forth the basis for the investigation, the preparation of a map of the Study Area, and to perform a preliminary investigation of the Study Area to determine whether the Study Area is an area in need of non-condemnation redevelopment pursuant to the LRHL at the meeting on May 6, 2015 and this Resolution constitutes a memorialization of that action.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board of the Township of Berkeley Heights on this 6th day of May, 2015, hereby memorializes by this Resolution the action taken by the Board on May 6, 2015 authorizing Harbor Consultants, Inc., to prepare a map of the Study Area, a statement setting forth the basis for the investigation and conduct a preliminary investigation of the Study Area to determine whether the Study Area meets the criteria set forth in the LRHL and should be designated as an area in need of non-condemnation redevelopment.

BE AND THE SAME IS HEREBY AUTHORIZED BY THE BOARD

I hereby certify that the above Resolution is a true copy of the Resolution adopted by the Planning Board of the Township of Berkeley Heights on May 6, 2015.



Connie Valenti, Secretary

Motion to Approve: Mr. Einbinder

Second: Mayor Woodruff

Ayes: Mr. Einbinder, Mr. Johnson, Mayor Woodruff, Mr. Niceforo,
Mr. Beal, Mr. Bocchino, and Mr. Cunningham

Nays: None

Abstentions: None

Absences: Mr. Monaco, Mr. Graziano, Mr. Pirone, and Ms. Perna

Appendix 4

PLANNING BOARD
TOWNSHIP OF BERKELEY HEIGHTS

RESOLUTION

RESOLUTION OF THE TOWNSHIP OF BERKELEY HEIGHTS PLANNING BOARD RECOMMENDING THAT THE PROPERTY IDENTIFIED AS BLOCK 1301, LOT 19; BLOCK 1301, LOT 26; BLOCK 208, LOT 38; A PORTION OF BLOCK 208, LOT 39; AND A PORTION OF BLOCK 208, LOT 40 BE DESIGNATED AS AN AREA IN NEED OF NON-CONDEMNATION REDEVELOPMENT.

A. Introduction

WHEREAS, the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq. ("Redevelopment Law"), authorizes municipalities to determine whether certain parcels of land within the municipality constitute an area in need of non-condemnation redevelopment, as described in N.J.S.A. 40A:12A-5; and

WHEREAS, the Council of the Township of Berkeley Heights ("Council"), by Resolution No. 99-2015, directed the Township of Berkeley Heights Planning Board ("Board") to undertake a preliminary investigation pursuant to the Redevelopment Law to determine whether the property identified as Block 1301, Lot 19; Block 1301, Lot 26; Block 208, Lot 38; a portion of Block 208, Lot 39; and a portion of Block 208, Lot 40, as shown on the Township of Berkeley Heights Tax Map ("Study Area"), constitute an "area in need of non-condemnation redevelopment" in accordance with the criteria set forth in N.J.S.A. 40A:12A-5; and

WHEREAS, on May 6, 2015, the Board authorized the undertaking of the investigation to determine whether the Study Area, or any portion thereof, constitutes an area in need of non-condemnation redevelopment in accordance with the Redevelopment Law, and authorized Michael J. Mistretta, P.P., of Harbor Consultants, Inc. ("Planning Consultant") to prepare a Preliminary Investigation Report ("Study") of the Study Area; and

WHEREAS, the Planning Consultant prepared a Study, dated August, 2015, which details the findings and recommendations relevant to whether the Study Area should be designated as an "area in need of non-condemnation redevelopment;" and

WHEREAS, the Board published notice of its scheduled consideration and public hearing regarding the Study in the official newspaper, and provided notice to the Township of Berkeley Heights Clerk, the property owner and interested parties: Camille Aragona, Cosema Crawford, Thomas Foregger, Vincent James Freda and Carol Matula, in accordance with the Redevelopment Law; and

WHEREAS, with notice having been provided, and all jurisdictional requirements of the Redevelopment Law having been met, the Board has jurisdiction over the proceeding; and

WHEREAS, on September 16, 2015, the Planning Consultant made a presentation of the Study, along with his findings and conclusions, to the Board; and

WHEREAS, the Board did not receive any written comments or written objections to the Study prior to the close of the public hearing on September 16, 2015; and

WHEREAS, the Board, after carefully considering the evidence presented by the Planning Consultant, the Study, and all evidence submitted at the public hearing, made the following factual findings and conclusions of law:

B. Testimony

1. The Planning Consultant appeared before the Board, having been sworn and qualified as an expert in professional planning, and presented the Study to the Board.

2. The following documents were admitted into evidence and relied upon by the Board in making its determination:

<u>Exhibit</u>	<u>Description</u>
PB-1	Affidavit of Service
PB-2	Redevelopment Study Area Map - Township Snyder Avenue Properties
PB-3	Redevelopment Study Area Map - Township Library Property and Little Flower Church - Hamilton Avenue Campus

- PB-4 Preliminary Investigation Report of the Church of the Little Flower - Hamilton Avenue Campus, Township Library Property and Snyder Avenue Properties, Volume 1
- PB-5 Referenced Documents (Under Separate Cover), Volume 2.
3. Also admitted into evidence were the following proffered by Thomas Foregger:
- PB-6 2015 Financial Disclosure Statement for Richard F. Niceforo
- PB-7 Property Record Details as of January 10, 2015 Richard and Diane Niceforo, 579 Plainfield Avenue, Berkeley Heights, New Jersey
- PB-8 Church of Little Flower Bulletin, dated May 16, 2010
- PB-9 Church of Little Flower Bulletin, dated December 4, 2011.

FINDINGS OF FACT

C. Description and History of Study Area

4. The Planning Consultant investigated the land development characteristics of the Study Area.

5. The Study Area consists of all or a portion of five (5) parcels of land in the Township of Berkeley Heights. The area of the five parcels is a total of approximately 27.8 acres based on municipal tax records. The Study Area consists of Block 1301, Lot 19 (110 Roosevelt Avenue); Block 1301, Lot 26 (290 Plainfield Avenue); Block 208, Lot 38 (41 Snyder Avenue); a portion of Block 208, Lot 39 (31 Snyder Avenue); and a portion of Block 208, Lot 40 (21 Snyder Avenue). The Study Area is noted as five (5) parcels of land, which are located in different sections of the Township. The three (3) parcels of land located along Snyder Avenue (Block 208, Lots 38, 39, and 40) are known as the Snyder Avenue properties. To the south of the Snyder Avenue properties are the other two (2) parcels of land in the Hamilton Avenue School Campus (Block 1301, Lot 19), and the Township Library (Block 1031, Lot 26). The Township owns the Snyder Avenue properties and the Library property. The Archdiocese of Newark owns the Church of the Little Flower -

Hamilton Avenue Campus property (Block 1301, Lot 19).

i. Snyder Avenue Properties

6. Snyder Avenue runs alongside the eastern edge of the Snyder Avenue properties. The Snyder Avenue properties are located within a diverse area of land, utilized for various purposes. Directly across Snyder Avenue from the three parcels of land are residential properties and the Passaic River Park, which is part of the Union County Park System. The park rests along the Passaic River, which also runs north of the Study Area and the Sewage Treatment Plant. Across the Passaic River is the Township of Chatham in Morris County.

7. The Township designated the Snyder Avenue properties for affordable housing development in accordance with the Council on Affordable Housing ("COAH") Third Round Rules. The 2008 Housing Element and Fair Share Plan calls for fifty-seven (57) units of affordable senior housing identified as "Snyder Senior Housing" on Block 208, Lots 38 and 39, excluding Lot 40.

8. Lots 38 and 39 on Snyder Avenue are considered Planning Area PA1 also known as a Special Resource Area Designation under the State Development and Redevelopment Plan ("SDRP"). Under the SDRP, PA1 is considered land that, "encourage[s] development, redevelopment and economic growth in locations that are well situated with respect to present or anticipated public services or facilities and...discourage[s] development where it may impair or destroy natural resources." The goals of developing the Snyder Avenue properties are to revitalize the area through economic growth, preserve and add to the greenery in the area, provide sufficient public facilities and resources to the area, and provide an environmental impact analysis to ensure that the area is not environmentally sensitive, contaminated, and has not been designated as historically or architecturally important. Designation of these parcels as a Redevelopment Area remains consistent with the recognition as a site for affordable housing, because for an affordable housing development to be viable, a Payment in Lieu of Taxes ("PILOT") Program, Tax Abatement Program or tax credits may be necessary to assist with financing.

9. Without the designation of an area in need of non-condemnation redevelopment, potential developers will remain discouraged from undertaking the improvements necessary to construct an affordable housing development on the Snyder Avenue properties. Specifically, the Redevelopment Law authorizes the

municipality to (1) prepare a Redevelopment Plan that will serve as an overlay zone, (2) negotiate a PILOT with a prospective developer and (3) offer a Tax Abatement Program as an incentive to construct a 100% affordable housing development on the property.

10. The Snyder Avenue properties consist of three (3) properties, two (2) of which are partially developed with the Township Sewage Treatment Plant and the other containing a single family home.

11. The existing topographic conditions of the Snyder Avenue properties ranges from a low point of elevation 211 near the northern most corner of the overall tract to elevation 246 at the southernmost corner of the tract. The 35 foot rise in elevation across the property encourages the use of the property as a single parcel in order to minimize the use of and height of retaining walls systems which could result in a cost prohibitive design if the properties were developed individually.

12. The undeveloped portions of Lot 40 and the undeveloped Lot 38 equal an area of approximately 90,000 square feet of vacant, unproductive municipal lands which, when combined with Lot 39 will create an overall tract of land containing approximately 125,000 square feet. As the parcels exist now, their piecemeal nature with scattered development discourages the undertaking of any improvements on the properties. As the parcels exist now, they are isolated at the northernmost part of the Township, there is a 35 foot rise in elevation across the property, and most of the land cannot be developed on the scattered acreage that remains in between other development.

13. By assembling the parcels and portions of parcels from Block 208, Lots 38, 39, and 40, a comprehensive and contiguous property will be created. This overall tract will provide an opportunity for a productive use of municipal land by relieving the property of irregular shape, isolation, and unproductive nature. In addition, redevelopment will relieve the prohibitive conditions that have caused their stagnant state with a range of flexible financing options and design criteria.

14. The current configuration of the undeveloped portions of Lot 40 and Lot 39 render these publically owned tracts of land as unproductive land that discourage the undertaking of development because of their location, topography, irregular shape, and isolated nature. In their current state, these three tracts will remain in an isolated and irregular condition that

will continue to result in a stagnant and unproductive condition of land that could otherwise be useful and valuable for contributing to and serving the public health, safety, and welfare of the Township.

Lot 40, Block 208 of the Snyder Avenue Properties

15. Lot 40 is a parcel which has been substantially developed as the Township Sewage Treatment Plant. That portion of Lot 40 that has been developed as the Sewage Treatment Plant is not part of the Study Area. The irregularly shaped parcel has been made more difficult for future development because of the Sewage Treatment Plant situated in the center of the parcel, leaving two extending pieces of undeveloped land along the southern portion of the parcel and along Snyder Ave. These two irregular and isolated extensions of undeveloped portions of Lot 40 are the areas being considered as part of the Study Area, identified as Parcels A and B of Lot 40 on the Study Area maps.

16. While Parcels A and B are not separate tax lots, they can only be considered as such in order to work contiguously with the surrounding Lots 38 and 39. The isolated and separate portions of Lot 40 are located at the southern extension of land running along the western edge of Block 208, Lot 38 and a portion of the lot bordering the northern edge of Block 208, Lot 39, which fronts on Snyder Avenue, where the road meets the eastern entranceway into the Sewage Treatment Plant. Portions of Parcels A and B are heavily wooded areas that partially landscape the edges of Lot 40 along the southern lots. The neighboring developments have wooded buffers at the edges of the properties that back up onto Lot 40, making Parcels A and B superfluous.

17. Parcel A of Lot 40, when considered as a separate tract, is land locked and does not contain any street frontage. Access to Parcel A of Lot 40 can only be reached across Lot 38 or via the Sewage Treatment Plant. However, access through the lands developed as the Sewage Treatment Plant results in a security risk because the Sewage Treatment Plant is gated and locked to keep the public from entering the facility. Because of the unique configuration of these two undeveloped tracts of land, Parcels A and B of Lot 40 satisfy Criteria (e) of the Redevelopment Law. These two tracts of land demonstrate "[a] growing lack or total lack of proper utilization of areas caused by the condition of title, diverse ownership of the real properties therein or other similar conditions which impede land assemblage or discourage the undertakings of improvements,

resulting in a stagnant and unproductive condition of land potentially useful and valuable for contributing to and serving the public health, safety, welfare, which condition is presumed to be having a negative social or economic impact or otherwise bring detrimental to the safety, health, morals, or welfare of the surrounding area or the community in general." The parcels' topography and irregular shape as an extension from a developed piece of land make them undesirable for development and leave the land in a stagnant and unproductive state. Lack of use of the properties that make up the Study Area represents a deleterious activity that contributes nothing to the economic well-being of the Township at large as it relates to the provision of ratables and quality housing opportunities on the site. However, when assembled with surrounding properties, these undeveloped tracts have the potential to benefit the community. Unproductive publicly owned lands can have a disparate economic impact on the community, and in contrast these parcels in particular offer an opportunity to provide and serve the Township's need for low and moderate income housing in accordance with the Township's Housing Element and Fair Share Plan.

18. Parcels A and B of Lot 40, Block 208 also satisfy Criteria (c) of the Redevelopment Law because both tracts of land are owned by the Township and have "remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality... is not likely to be developed through the instrumentality of private capital." The land has been vacant, and even after the 2008 Housing Element and Fair Share Plan identified these properties for designation of affordable housing 6 years ago, no development plans have been proposed or materialized by a private developer.

Lot 39, Block 208 of the Snyder Avenue Properties

19. Lot 39 is also partially developed with the Sewage Treatment Plant on the western portion of the property, as well as a single family residence with a driveway extending to Snyder Avenue on the eastern portion of the property. The rented residence is on the eastern edge of the lot and is owned by the Township. Behind the residence, a triangular-shaped, wooded portion of Lot 39 is isolated from the developed portions of the lot and can only be accessed via Lot 38.

20. This property satisfies Criteria (c) of the Redevelopment Law because it is "[l]and that is owned by the municipality...that has remained so for a period of ten years prior to adoption of the resolution, that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality or topography...is not likely to be developed through the instrumentality of private capital". Because of the nature of the Township's title and ownership of Lot 39, it has been split in use. The Sewage Treatment Plant and the residential uses on the property are separated by a barbed wire fence. The residence has become isolated from similar uses and stands alone as a single home adjacent to the municipal works use. While the parcel exists as both a Township owned single-family residence and part of the Sewage Treatment Plant, the diverse uses have made the residential use isolated and severely restricted on this parcel. These two diverse land uses create an unusual land use condition that will impede the assemblage of the Snyder Avenue properties.

21. Lot 39 also satisfies Criteria (e) because "[a] growing lack or total lack of proper utilization of areas caused by the condition of title, diverse ownership of the real properties therein or other similar conditions, which impede land assemblage or discourage the undertakings of improvements, resulting in a stagnant and unproductive condition of land potentially useful and valuable for contributing to and serving the public health, safety, welfare, which condition is presumed to be having a negative social or economic impact or otherwise bring detrimental to the safety, health, morals, or welfare of the surrounding area or the community in general." The residence was built in 1953 and purchased by the Township on July 11, 1979 for \$72,500. The lot has become contorted by the multiple uses on the property, causing a unique lot configuration that is restrictive to future development. According to the assessment records, the house has been assessed at \$238,000 since 1999. Construction permits and records for Lot 39 show that no improvements have been made to the residence, and it has been economically stagnant. As a residence that is isolated from any other homes or similar uses, it represents a deleterious activity that will remain stagnant and continue to discourage the undertaking of improvements. In considering Criteria (c) and (e) of the Redevelopment Law, a new assembly and arrangement of these parcels would relieve the property of its stagnant condition which has limited development potential because of the lack of access, poor design, and over use of the parcel. If this property were assembled with the surrounding parcels in the Study Area, this site would benefit the community as a potential

site for low and moderate income housing that will serve a growing need in the Township, rather than remain unproductive.

Lot 38, Block 208 of the Snyder Avenue Properties

22. Of the three lots which comprise the Snyder Avenue properties, the only full parcel of land, Block 208, Lot 38, is an entirely wooded, undeveloped, municipally owned lot. Lot 38 provides access to the otherwise land locked Parcel A of Lot 40 from Snyder Avenue. Lot 38 is owned by the municipality and is "unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography...is not likely to be developed through the instrumentality of private capital" satisfying Criteria (c) of the Redevelopment Law.

23. Lot 38 also is included under N.J.S.A. 40A:12A-3 because "a redevelopment area may include lands, buildings, or improvements which of themselves are not detrimental to the public health, safety or welfare, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part." This parcel will be virtually obsolete if left out because it is sandwiched between an existing residential development and the two developed Lots 39 and 40.

ii. Hamilton Ave School Campus - Owned by the Church of the Little Flower - Lot 19, Block 1301

24. The Church of the Little Flower is a Catholic Church that fronts on Plainfield Avenue. The Church neighbors the Hamilton Avenue School Campus, but is not part of the Study Area.

25. The Hamilton Avenue School Campus is situated at the intersection of Hamilton Avenue to the southeast and Roosevelt Avenue to the south, with a street address of 100 Roosevelt Avenue. The Campus sits on an approximately 14.5 +/- acre parcel identified as Lot 19, Block 1301 on the Tax Maps. After the property was purchased by the Church in 1961, the Church constructed a series of buildings on the property supported on a large expansive parking lot. Driveway access is from both Hamilton Avenue and Roosevelt Avenue. Across Hamilton Avenue from the Campus is the Township of Berkeley Heights Fire Department and undeveloped, environmentally sensitive wetlands and floodplains. To the east of the property is a multi-family

residential housing development. To the north of the property is a light industrial center. And to the west of the property is the Church of the Little Flower, which fronts on Plainfield Avenue. Separating the Hamilton Avenue School Campus from the Church is an environmentally sensitive forested parcel containing floodplains, streams and freshwater wetlands.

26. The Hamilton Avenue School Campus contains a school and a gymnasium (main building) and a parish center. South of the parish center is a small parking lot for employees and clergy members only. This small parking lot feeds into the main parking lot while also abutting the auditorium and education center. The auditorium and education center are two interconnected buildings formed in an L-shape. The auditorium faces the large parking lot while the education center faces the exits towards Roosevelt Avenue.

27. The Catholic Church in the Township of Berkeley Heights dates back to the 1930's, later becoming the Church of the Little Flower in 1955. The Church of the Little Flower was originally located on Plainfield Avenue. As the parish grew, a need emerged to construct a Catholic School that would have a capacity to educate children from the Kindergarten through 8th grade. In 1961, the Township advertised for sale the Hamilton Avenue property. The Church of the Little Flower submitted the highest bid for the property and purchased the property from the Township.

28. The Church proceeded to construct the Hamilton Avenue School Campus and operated the school from the mid-1960's until the Catholic K-8 School was closed in 1987. Although the Catholic School has since closed, the Hamilton Avenue School Campus buildings are being used and have continuously been used for educational purposes, including religious education classes.

29. In 2008 - 2009, the Church of the Little Flower retained the architectural firm of Arthur John Sikula Associates, PA "to perform a comprehensive Existing Conditions Assessment of the church [auditorium] building and education/parish center buildings together with the site immediately surrounding those buildings. In turn, AJSA retained French and Parrello Associates, PA for the civil, structural, mechanical, plumbing, fire protection and electrical engineering disciplines. The site observations were performed by AJSA and FPA on July 9, 2009."

30. The Hamilton Avenue School Campus consists of a one-story auditorium/meeting area, with a stage at one end and a balcony at the other end attached to a two-story educational/parish wing with a two story building and a one-story office area located at its main entrance. The 149-page report entitled "Existing Conditions Assessment R.C. Church of the Little Flower 110 Roosevelt Avenue, Berkeley Heights, New Jersey" ("School Report") provides an in depth engineering and architectural analysis of the condition of the buildings on the Hamilton Avenue School Campus. The School Report concludes with a twenty-three page detailed construction cost assessment outlining the urgent remediation, contingent remediation and optional remediation items that are recommended to address the construction repairs needed throughout the building and the property. The total estimated construction costs calculated in 2009 was \$3,488,071.

31. The "Structural Observations" section of the School Report details the various existing conditions and recommendations by the architect and engineers for the Hamilton Avenue School Campus. A number of structural issues with parts of the building include: the chimney, utility tunnels, the masonry walls and brick veneer, masonry concrete block, plaster soffit at the auditorium's roof.

32. The School Report notes that "the most immediate concern is the damaged masonry in both the brick veneer and concrete masonry block." The School Report details several reasons for the damage, which may arise from water getting behind the brick veneer, freezing, and then popping the brick, or other structural detailing of the building. First, there is a continuous angle supported by the roof and floor spandrel beams at the strip windows. While the drawings require flashing, no weep holes were shown on the drawings. Second, the structural drawings show the angles are to stop at the edge of the strip window openings. However, in the field it appears that the angles continue beyond the edge of the opening which allows for moisture to penetrate the veneer at these locations. Finally, the spandrel beams supporting the brick, especially at the second floor, may have rotated slightly outwards because of torsional loads which cause stresses in the brick veneer that ultimately could have led to the fractures. There are no control or expansion joints in the masonry along the long faces of the building. These joints allow movement from settlement, thermal expansion, and moisture changes. The lack of joints also caused damage to the masonry.

33. The School Report highlights that, in conjunction with a high cost for rehabilitation, the extent of the damage requires a time frame ranging from immediate to long-term repairs that include both critical remediation and contingent remediation. Within 1-5 years, the School Report recommends that all the damaged masonry be repaired. The brick should be replaced, and control/expansion joints should be provided at the outside corners of the building where the masonry has already cracked vertically. The block located above the balcony floor at the auditorium is cantilevered off of the steel beam and may require reinforcing to resist the lateral loads. Any cracking in concrete foundation walls should be repaired concurrently with the brick spandrel panels. There is apparent concrete floor slab cracking taking place at each column line of the auditorium interior, as evidenced by the fracturing of the finish floor material. This is a systemic defect in the building design and construction caused by the lack of control and expansion joints throughout the building and in this case at the floor slabs.

34. Other urgent remediation includes the removal and replacement of: all flat roofs and skylights, all steep roofs and roof accessories, re-pitched gutter trough at the auditorium roof with additional roof drains and downspouts, auditorium eave soffits with metal panels or in-kind stucco. Finally, the School Report recommends that door finish hardware is made code compliant, and that the exterior hollow metal frames and doors be replaced.

35. The School Report documented as much of the roof as possible, but most of the rafters and sheathing over the auditorium portion of the building could not be observed because of the ceiling construction. The School Report notes that the asphalt shingles appear to be over twenty (20) years old and have little of any serviceable life left. The roof is not adequately ventilated at the soffits or at the ridge and has contributed towards its deterioration. The School Report also noted that the flat roof over the classrooms leaks, especially during the winter when ice dams. The School Report recommended that once the old roof insulation is removed during any re-roofing project, the roof deck may be observed to determine if there is any structural damage to it and it can be repaired at that time.

36. The final area of concern that the School Report highlights is the moisture in the utility tunnels, where it notes that "when a hatch was opened to observe the utility tunnel a musty odor was detected".

37. The School Report also lists the conditions and recommendations for the structure's HVAC and plumbing systems in the "Mechanical, Plumbing, and Fire Protection" section. The School Report makes recommendations that the most urgent, necessary remediations to the HVAC system are: the updating of ventilation to code standards, including air conditioning of the auditorium; providing exhaust to restrooms, and to correct the bleed vent valve repairs. For plumbing, the School Report recommends that: the building be installed with roof drain protective screens and a solenoid gas valve that is interlocked to the exhaust hood fire suppression system be added. Many pipes had damaged insulation, or none at all, which should be fixed to avoid moisture and mold issues. The School Report urges that the kitchen should be used for purposes of cooking only if an exhaust hood fire suppression system is provided.

38. After consideration of the School Report, together with the K-8 school being closed since 1987, enrollment in religious education classes declining, the Church of the Little Flower concluded that the Hamilton Avenue School Campus was in need of redevelopment (although not as defined in the Redevelopment Law). All of these factors resulted in the Church realizing that the future use of the building and grounds would become conducive to unwholesome living and working conditions. The Church continues to have a need and plans to continue offering religious education classes, but the recommendations for rehabilitation, estimated at nearly \$3.5M are cost prohibitive.

39. The Planning Consultant relied upon the School Report to provide evidence that the "generality of the buildings were substandard and obsolescent and in need of substantial repair in order to bring the buildings up to date and be conducive to wholesome living and working conditions" and that the Campus was an "area with buildings and improvements which, by reason of dilapidation, obsolescence, and an obsolete layout which were detrimental to the safety, health, morals and welfare of the community." The School Report is the basis for finding that this particular property met Criteria (a) and Criteria (d) of the Redevelopment Law.

40. The construction work performed by the Church after the release of the School Report has been limited to the removal of the asbestos in the school. Asbestos remains in the other parts of the buildings. No other significant building improve-

ments have been made and the Hamilton Avenue School Campus remains in the same condition.

iii. Township Library (Block 1301, Lot 26)

41. The Township Public Library is located on Block 1301, Lot 26, with frontage along the easterly right-of-way of Plainfield Avenue. The southern property boundary and the western property boundary of the Library property borders the Church of the Little Flower property which contains the Church proper. Lot 26 is a rectangular shaped lot with the exception of a small rectangular bump out along the northern property line. The Library is a pre-existing non-conforming structure constructed approximately 85 years ago. The Mt. Carmel Society built their first hall in 1925, which operated as the first Catholic Church within the Township until the Little Flower Church was completed in 1930. In 1952, the Society sold the hall to the Township and the Library was established in the building. After construction and additions to the building ten (10) years later, the Library tripled from its original size, and it was rededicated in 1966. While the interior has changed significantly since the time of its dedication, few exterior improvements occurred. The Library is located approximately 17 feet from the Plainfield Avenue right-of-way, where the front yard setback in the Open Lands Zone District is 100 feet. The Library is located approximately 10 feet from the side yard property line, where the side yard setback requirement is 40 feet. Therefore, the Library building is a pre-existing non-conforming structure in the OL Zone District.

42. Regarding the non-conforming variance conditions described above, "The first point that must be made in a discussion of the nature of variances, and which must be kept in mind throughout any discourse on any aspect of variances, is that variances are disfavored because the zoning ordinances, from which the proposal requiring a variance seeks to diverge, presumptively further the purposes of zoning embodied in the [Municipal Land Use Law]. Every variance, therefore, must to some limited extent at least presumptively create some detriment to the public interest as defined by the ordinance."¹

43. Article 3.1.1 of the Use Regulations of the Township Ordinances states that "No building shall hereafter be erected and no existing building shall be moved, structurally altered, added to or enlarged, or rebuilt nor shall any land be designed,

¹ Cox & Koenig, New Jersey Zoning and Land Use Administration (Gann 2012) Chapter 28, Nature of Variances.

used or intended to be used for any purpose other than those included among the uses listed as permitted in the applicable zone except as may be specifically permitted in Part 8 of this Ordinance. Nor shall any open space contiguous to any building be encroached upon or reduced in any manner except in conformity to the yard, lot area, building location, building to building dimensions, percentage of lot coverage, off-street parking space, shared parking provisions, and such other regulations designated in the Schedule of General Regulations and other provisions of this Ordinance for the zone in which such building or space is located."

44. The Library entrance feeds into a parking lot with angular parking along the northern edge of the building and a standard parking lot in the back of the Library. In order to exit the parking lot, vehicles must continue to drive around the rear of the Library, and exit along a driveway that is common with the parking lot of the Church of the Little Flower, then proceed back to the Plainfield Avenue right-of-way. The current driveway and parking circulation operates in conjunction with the Church of the Little Flower. If the properties were separated and forced to operate individually, then the only driveway providing egress onto Plainfield Avenue would be either eliminated or undersized and nonconforming, creating a hazard to the public using the Library.

45. In 2013, the Township retained GRA Architects and Arcari + Iovino Architects PC to evaluate the eighty year-old building and to develop a "Study of the Township Library" ("Library Report"). The deficiencies in the Library building are divided into four categories, (1) Barrier Free/ADA Items, (2) Safety/Security Items, (3) Energy Items and (4) General/Functional Items.

46. The Library Report found deficiencies in Barrier Free and ADA items that includes the main entrance parking space being positioned distant from the entrance along a slope; the main entrance ramp into building appearing too steep; no vertical accessibility (elevator) within the building; door knobs where they should be replaced with levers; and all doors not currently conforming to a minimum of 36 inches wide. Safety and security items for the Library range from: having three main entrances - which are difficult to monitor; the meeting room and storage area are out of staff view and accessed from children's area; there is asbestos in the attic piping and in the floor tiles in the meeting room; and the rear exterior stairs are in need of repair and upgrade. The Library Study shows that the

building lacks energy efficiency because of: single-pane non-insulated windows; malfunctioning air conditioning system; a need for HVAC upgrades throughout the entire building; need for installation of more power and data outlets; and electrical wiring, devices, and switches in the meeting room area need to be upgraded. Other general and functional items identified in the Library Study include the observations that: the 2-story layout is inefficient for the staff; the meeting room has low ceilings; a loud HVAC system, and columns that interrupt the layout and useable space; water infiltration at the side entrance;...and the occurrences of sewage back-ups in the children's area old bathrooms, which occurred last time during Hurricane Irene.

47. In summary, the Library Study identifies ADA standards that are not to code, safety and security issues, design flaws that allow for inefficiencies in energy-use, layout, water and sewage problems, and an overall outdated design of the Library. Additionally, there are inefficiencies in the parking lot with oddly designed entrance and exit route for visitors.

48. The construction work necessary to upgrade the Library to code is extensive and cost prohibitive. Through a detailed analysis in the Library Study, it was the opinion of the architects that it is more economical for the Township to construct a new library as part of the overall redevelopment of Municipal Complex at Park Avenue, instead of investing money into an outdated, substandard, and obsolete 85 year-old deficient building. The Library Study is evidence that the Library can be reasonably determined to be an "[a]rea with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors" can be concluded are detrimental to the safety, health, morals and welfare of the community and satisfy Criteria (d) of the Redevelopment Law. Additionally, the list of deficiencies in the Library building as noted in the Library Study is evidence satisfying Criteria (a) of the Redevelopment Law, "[t]he generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent, or possess any of such characteristics, or are so lacking in light, air, or space, as to be conducive to unwholesome living or working conditions."

D. Summary of Study Area Neighborhood

49. As stated, the Study Area is located in two different sections of the Township. The Snyder Avenue properties are located along Snyder Avenue and end right before Snyder Avenue becomes Bridge Avenue in the Township of Chatham in Morris County across the Passaic River. The Snyder Avenue properties are nestled between a largely residential area and the Sewage Treatment Plant. Running south of the Snyder Avenue properties is Springfield Avenue where many of the Township's local businesses reside. The Snyder Avenue properties are located in both the Open Land (OL) Zone and the Residential Single Family (R-15) Zone. Block 208, Lot 40 is located in the Open Land (OL) Zone, while Block 208 Lots 38 and 39 are located in the Residential Single Family (R-15) Zone.

50. Located between the two sections of the Study Area is the Berkeley Heights Train Station along Springfield Avenue. The Snyder Avenue properties are 0.7 miles from the station, while the Library is 0.4 miles away and the Hamilton Avenue School Campus is about 0.6 miles away, placing all portions of the Study Area in close proximity to public transportation.

51. The Library and the Hamilton Avenue School Campus are both located in the Open Land (OL) Zone. The Township Library is located in the southern section of the Study Area, along Plainfield Avenue, while the Hamilton Avenue School Campus is located along Roosevelt and Hamilton Avenues. To the west are residential zones. Surrounding and between the lots are large, wooded areas. To the southeast of the Hamilton Avenue School Campus is the Township Fire Department and to the north are several local businesses located along Industrial Road and Snyder Avenue, which are within the Light Industrial (LI) Zone.

52. Several zone districts exist around the Study Area. Surrounding the Snyder Avenue properties are two Residential Single Family Zones (R-10 and R-15), and one Attached Housing Zone (AH-5). Surrounding the Library and the Hamilton Avenue School Campus are the Light Industrial (LI) Zone to the north, an Attached Housing (AH-3) Zone to the east, and the Residential Single Family (R-15) Zone to the south and west. The AH-3 Zone contains an inclusionary development of multi-family affordable housing units known as the Whispering Way Condominiums.

E. Public Hearing

53. The hearing was opened to the public for both comment and cross-examination of the Planning Consultant.

54. Thomas Foregger asked whether any Planning Board Members had a conflict and presented Exhibits PB-6, PB-7, PB-8 and PB-9 and questioned whether Richard Niceforo had a conflict.

55. That evidence was reviewed by the Planning Board Attorney with Mr. Foregger, and after a recess in the public hearing, the Board Attorney advised that after consulting with the Planning Board Chair and Mr. Niceforo, that while the Board Attorney did not believe that Mr. Niceforo had a conflict of interest, Mr. Niceforo, out of an abundance of caution, decided to recuse himself from hearing the matter and Mr. Niceforo stepped down.

56. Mr. Foregger questioned the Planning Consultant regarding the criteria and whether each element of each criteria was met as to each property in the Study Area.

57. Mr. Foregger asked whether the Planning Consultant could properly rely upon the School Report and the Library Report because each was not prepared by the Planning Consultant. The Board Attorney ruled that the Planning Consultant could rely upon these Studies, because as the Planning Consultant testified, these are facts or data "of a type reasonably relied upon by experts in the particular field in forming opinions." See N.J.R.E. 703.

58. Carol Matula asked whether Robert Bocchino had a conflict because he is a Township employee. The Planning Board Attorney found that the Municipal Land Use Law specifically requires that a "Class II - one of the officials of the municipality other than a member of the governing body, to be appointed by the mayor", N.J.S.A. 40:55D-23, must be a member of the planning board, and that because the Legislature contemplated municipal employees serving on the planning board, that a conflict did not exist.

59. Ms. Matula also questioned the Planning Consultant regarding the criteria and whether each element of each criteria was met as to each property in the Study Area.

60. Edward Delia questioned whether the redevelopment was appropriate for the Study Area.

61. William Machado explained that he believed that the criteria had been met for each property in the Study Area, advising that on a recent visit to the Library that he almost fell as a result of the condition of the interior of the Library.

62. Charles Pratt questioned whether the redevelopment designation placed the Township in jeopardy of a Mount Laurel suit.

63. There were no further public questions or comments and no professional planning testimony presented by the public.

F. Criteria for Redevelopment Area Determination

A delineated study area may be determined to be in need of redevelopment if, after investigation, notice and hearing as provided N.J.S.A. 40A:12A-6, the governing body of the municipality by resolution concludes that any of the following conditions are found within the study area:

a. The generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent, or possess any of such characteristics, or are so lacking in light, air, or space, as to be conducive to unwholesome living or working conditions.

b. The discontinuance of the use of buildings previously used for commercial, manufacturing, or industrial purposes; the abandonment of such buildings; or the same being allowed to fall into so great a state of disrepair as to be untenable.

c. Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital.

d. Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and

sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community.

e. A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real properties therein or other similar conditions which impede land assemblage or discourage the undertaking of improvements, resulting in a stagnant and unproductive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare, which condition is presumed to be having a negative social or economic impact or otherwise bring detrimental to the safety, health, morals, or welfare of the surrounding area or the community in general.

f. Areas, in excess of five contiguous acres, whereon buildings or improvements have been destroyed, consumed by fire, demolished or altered by the action of storm, fire, cyclone, tornado, earthquake or other casualty in such a way that the aggregate assessed value of the area has been materially depreciated.

g. In any municipality in which an enterprise zone has been designated pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) the execution of the actions prescribed in that act for the adoption by the municipality and approval by the New Jersey Urban Enterprise Zone Authority of the zone development plan for the area of the enterprise zone shall be considered sufficient for the determination that the area is in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) for the purpose of granting tax exemptions within the enterprise zone district pursuant to the provisions of P.L.1991, c.431 (C.40A:20-1 et seq.) or the adoption of a tax abatement and exemption ordinance pursuant to the provisions of P.L.1991, c.441 (C.40A:21-1 et seq.). The municipality shall not utilize any other redevelopment powers within the urban enterprise zone unless the municipal governing body and planning board have also taken the actions and fulfilled the requirements prescribed in P.L.1992, c.79 (C.40:12A-1 et al.) for determining that the area is in need of redevelopment or an area in need of rehabilitation and the municipal governing body has adopted a redevelopment plan ordinance including the area of the enterprise zone.

h. The designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulation.

Additionally, N.J.S.A. 40A:12A-3 provides that a redevelopment area may include lands, buildings, or improvements which of themselves are not detrimental to the public health, safety or welfare, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part.

G. Evaluation of the Study Area

64. The substantial and uncontroverted evidence presented allows the Planning Board to conclude that each of the parcels satisfies each of the following criteria of the Redevelopment Law:

Summary of Redevelopment Criteria						
Parcel	Criteria					Section 3
	Criteria (a)	Criteria (c)	Criteria (d)	Criteria (e)	Criteria (h)	
Block 208						
Lot 38		✓			✓	✓
Lot 39		✓		✓	✓	
Lot 40		✓		✓	✓	
Block 1301						
Lot 19	✓		✓		✓	
Lot 26	✓		✓		✓	

65. The entire Study Area is located within the Metropolitan Planning Area PA1 as depicted on the New Jersey State Development and Redevelopment Plan. "In the Metropolitan Planning Area, the State Plan's intention is to provide for much of the state's future redevelopment; revitalize cities and towns; promote growth in compact forms; stabilize older communities; redesign areas of sprawl; protect the character of existing stable communities."

CONCLUSIONS OF LAW

H. Conclusions

WHEREAS, the Board found the Planning Consultant's Study and testimony credible establishing criteria by substantial evidence and found that the public questions and comments did not erode the Planning Consultant's testimony or conclusions; and

WHEREAS, the Board found that it could rely on the Study prepared by the Planning Consultant because of the Consultant's extensive experience with the Township, including the Consultant's preparation of the 2007 "Township of Berkeley Heights Master Plan"; and

WHEREAS, the testimony presented by the Planning Consultant was the only expert testimony received by the Board and the Board fully accepts the Planning Consultant's testimony; and

WHEREAS, the Board being fully familiar with the Study Area found that each property within the Study Area meets each of the criteria identified in Paragraph 64 of this Resolution for an area in need of non-condemnation redevelopment pursuant to N.J.S.A. 40A:12A-5; and

WHEREAS, all of the Study Area is mapped within the Metropolitan Planning Area PA 1 as depicted on the New Jersey State Development and Redevelopment Plan. In the Metropolitan Planning Area PA 1, the State Plan's intention is to provide for much of the State's future redevelopment; revitalize cities and towns; promote growth in compact forms; stabilize older communities; redesign areas of sprawl, and protect the character of existing stable communities; and

WHEREAS, the Board found that the Study Area meets criterion (h) because the Study Area is within Metropolitan Planning Area PA 1, includes a train station and is within the Downtown Business Districts; and

WHEREAS, the Board then entertained a motion to recommend that the Study Area be designated as an area in need of non-condemnation redevelopment; the motion was seconded and the Board voted to make such recommendation to the Council of the Township of Berkeley Heights, and to adopt a memorializing Resolution,

which this Resolution is intended to fulfill.

I. Recommendation

NOW, THEREFORE, BE IT RESOLVED by the Township of Berkeley Heights Planning Board, in Union County, New Jersey as follows:

1. Recommendation - Area in Need of Non-Condensation Redevelopment. After consideration of the Study, the testimony and presentation of the Planning Consultant, the questions, comments and testimony of the public, the Board concludes that each property within the Study Area meets each of the criteria identified in Paragraph 64 of this Resolution; and, therefore, the Board hereby recommends to the Council of the Township of Berkeley Heights that the following parcels be designated as an area in need of non-condemnation redevelopment: Block 1301, Lot 19; Block 1301, Lot 26; Block 208, Lot 38; a portion of Block 208, Lot 39; and a portion of Block 208, Lot 40.

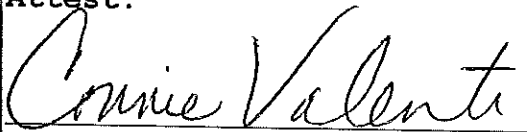
2. The Study, and the findings of fact and conclusions contained therein, is hereby incorporated by reference.

3. The Board Secretary is hereby directed to transmit a copy of the Study and this Resolution to the Council of the Township of Berkeley Heights.

4. This Resolution shall take effect immediately.

BE IT FURTHER RESOLVED, that this Resolution, adopted this 30th day of September, 2015, memorializes the action taken by the Board at its September 16, 2015 meeting.

Attest:



Connie Valenti
Planning Board Secretary
Township of Berkeley Heights

Date Approved: September 16, 2015

Date Memorialized: September 30, 2015

<u>VOTE ON DECISION</u>	<u>BOARD MEMBER</u>	<u>VOTE ON RESOLUTION</u>
<u>(7-0)</u>		<u>(5 - 0)</u>
Yes	Michael Einbinder	Yes
Yes	Craig Johnson	(Absent)
Yes	Daniel Monaco	Yes
Yes	Rick Beal	Yes
Yes	Robert Bocchino	Yes
Yes	Lawrence Cunningham, Alt.#1	Yes
Yes	Elaine Perna, Alt.#2	(Absent)

Appendix 5

211-2015

Agenda Item No.: 7

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, the New Jersey 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 with the municipality constitute areas in need of non-condemnation redevelopment; and

WHEREAS, the Township Council (the "Council") of the Township of Berkeley Heights (the "Township"), by way of a Resolution No. 99-2015, authorized and directed the Berkeley Heights Planning Board (the "Planning Board") to conduct a preliminary investigation pursuant to the Redevelopment Law to determine whether the properties identified as Block 1301, Lot 19; Block 1301, Lot 26; Block 208, Lot 38; a portion of Block 208, Lot 39; and a portion of Block 208, Lot 40, as shown on the Tax Map of the Township (the "Study Area"), constitute an area in need of non-condemnation redevelopment in accordance with the criteria set forth in N.J.S.A. 40A:12A-5; and

WHEREAS, the Study Area consists of all or a portion of five (5) parcels of land in the Township: Block 208, Lots 38, 39 and 40 (the "Snyder Avenue properties"); Block 1301, Lot 19 (the "Hamilton Avenue School Campus"); Block 1301, Lot 26 (the "Township Library"), with the Snyder Avenue properties and the Township Library being owed by the Township; and

WHEREAS, on May 6, 2015, the Planning Board authorized Michael J. Mistretta, P.P., of Harbor Consultants, Inc. (the "Planning Consultant") to conduct an investigation to determine whether the Study Area, or any portion thereof, constitutes an area in need of non-condemnation redevelopment in accordance with the Redevelopment Law, and to prepare a preliminary investigation report of the Study Area (the "Study"); and

WHEREAS, the Planning Consultant prepared a Study dated August 2015 (the "Report"), which details the findings and recommendations relevant to whether the Study Area should be designated as an area in need of non-condemnation redevelopment; and

WHEREAS, the Planning Board, having provided the requisite notices and all jurisdictional requirements of the Redevelopment Law having been met, conducted public hearing on September 16, 2015, whereat the Planning Consultant, being sworn and qualified as an expert in professional planning, made a presentation of the Study and the Report to the Planning Board; and

WHEREAS, in addition to the presentation of the Planning Consultant, at the public hearing the Planning Board heard testimony and evidence from members of the general public, who also were given an opportunity to cross-examine the Planning Consultant and address questions to the Planning Board concerning the potential designation of the Study Area as an area in need of non-condemnation redevelopment; and

WHEREAS, the Planning Consultant concluded that the Study Area satisfies the criteria of the Redevelopment Law, N.J.S.A. 40:A:12A-5 as follows:

Block 208, Lot 38	-	Criteria (c), (h) & Section 3
Block 208, Lot 39	-	Criteria (c), (e) & (h)
Block 208, Lot 40	-	Criteria (c), (e) & (h)
Block 1301, Lot 19	-	Criteria (a), (d) & (h)
Block 1301, Lot 26	-	Criteria (a), (d) & (h);

and that the Study Area as an area in need of non-condemnation redevelopment; and

WHEREAS, the Planning Board did not receive any written comments or objections to the Study or Report prior to the close of the public hearing on September 16, 2015; and

WHEREAS, at the conclusion of the public hearing, the Planning Board found that the Planning Consultant's conclusions in the Report and his testimony provide substantial evidence to support the findings that the Study Area satisfies criteria of the Redevelopment Law, N.J.S.A. 40:A:12A-5, that the public questions and comments did not erode the Planning Consultant's testimony or conclusions, and that the collective designation of the Study Area as an area in need of non-condemnation redevelopment is necessary for the effective redevelopment of the Study Area; and

WHEREAS, by a vote of 7 to 0, the Planning Board unanimously voted to recommend that the Township Council of the Township of Berkeley Heights find that the Study Area be designated a an area in need of non-condemnation redevelopment meeting criteria of the Redevelopment Law, N.J.S.A. 40:A:12A-5 as set forth by the Planning Consultant; and

WHEREAS, on September 30, 2015, the Planning Board adopted a Resolution memorializing the public hearing and decision on September 16, 2015; and

WHEREAS, the Planning Board submitted the memorializing Resolution, along with a copy of the Report and all exhibits presented at the public hearing to the Township Clerk for distribution to the Mayor and Township Council for consideration thereof; and

WHEREAS, after review and consideration of the Planning Board's recommendation, including all documents submitted therewith, the Township Council agrees with the conclusion of the Planning Board that the Study Area meets the aforementioned criteria for redevelopment area designation, and the Township Council finds that such conclusion is supported by substantial evidence; and

WHEREAS, the Township Council further agrees with the recommendation of the Planning Board that the Study Area, collectively, be designated as an area in need of non-condemnation redevelopment pursuant to the Redevelopment Law, and

WHEREAS, the Township Council now desires to designate the Study Area, collectively, as an area in need of non-condemnation redevelopment, pursuant to N.J.S.A. 40A:12A-6; and

WHEREAS, the Township Council further desires to authorize and direct the Township Planner to work with the Township Council to prepare a redevelopment plan for the Study Area and present same to the entire Township Council pursuant to N.J.S.A. 40A:12A-7f.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Berkeley Heights, in the County of Union, and State of New Jersey, as follows:

1. The aforementioned recitals, including the Study, Report and exhibits presented at the September 16, 2015 public hearing before the Planning Board are incorporated herein as though fully set forth at length.

2. The Township Council hereby designates the Study Area as an area in need of non-condemnation redevelopment pursuant to N.J.S.A. 40A:12A-6, satisfying criteria of the Redevelopment Law, N.J.S.A. 40A:12A-5 as follows:

Block 208, Lot 38	-	Criteria (c), (h) & Section 3
Block 208, Lot 39	-	Criteria (c), (e) & (h)
Block 208, Lot 40	-	Criteria (c), (e) & (h)
Block 1301, Lot 19	-	Criteria (a), (d) & (h)
Block 1301, Lot 26	-	Criteria (a), (d) & (h);

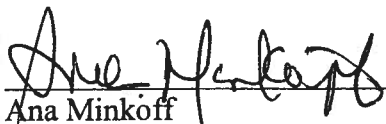
3. The Township Planner is hereby directed to work with the Township Council to prepare a redevelopment plan for the Study Area (to be hereinafter referred to as the Redevelopment Area), and present same to the entire Township Council pursuant to N.J.S.A. 40A:12A-7f.

4. The Clerk of the Township shall forward a copy of this Resolution to the Commissioner of the New Jersey Department of Community Affairs for review and approval by regular and certified mail (return receipt requested).

BE IT FURTHER RESOLVED that this Resolution shall take effect pursuant to law.

APPROVED this 6th day of October, 2015.

ATTEST:


Ana Minkoff
Township Clerk

ROLL CALL	AYE	NAY	ABSTAIN	ABSENT
DELIA		✓		
FAECHER	✓			
HALL			✓	✓
KINGSLEY				
PASTORE	✓			
PIRONE	✓			
TIE:				
MAYOR WOODRUFF				

Appendix 6



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
PO Box 800
TRENTON, NJ 08625-0800
(609) 292-6420

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

CHARLES A. RICHMAN
Commissioner

November 4, 2015

Honorable Bob Woodruff
Mayor
Township of Berkeley Heights
29 Park Avenue
Berkeley Heights, New Jersey 07922

Dear Mayor Woodruff:

We are in receipt of Ana Minkoff's letter of October 7, 2015 and Resolution 211-2015 designating the identified properties as an Area in Need of Redevelopment (non-condemnation).

The State Development and Redevelopment Plan (2001) designates these properties as situated within the Metropolitan Planning Area (PA1). PA1, PA2 and Designated Centers are areas where the SDRP encourages development and redevelopment. In accordance with N.J.S.A. 40A:12A-6.b.(5)(c), the municipality's approval took effect upon transmittal to the Department of Community Affairs and no further action is necessary from the department to effectuate your designation.

The Township or redeveloper may also find the New Jersey Business Action Center (866) 534-7789, located in the Department of State, helpful in identifying other sources of State financing that might be available to facilitate the redevelopment of these properties.

This designation is a tribute to the work Berkeley Heights has done. Please feel free to contact James Requa, Director, Special Projects at (609) 984-3981 if you need further assistance.

Sincerely,

Charles A. Richman
Commissioner

cc: Gerard Scharfenberger, N.J. Business Action Center
Ana Minkoff, Township of Berkeley Heights

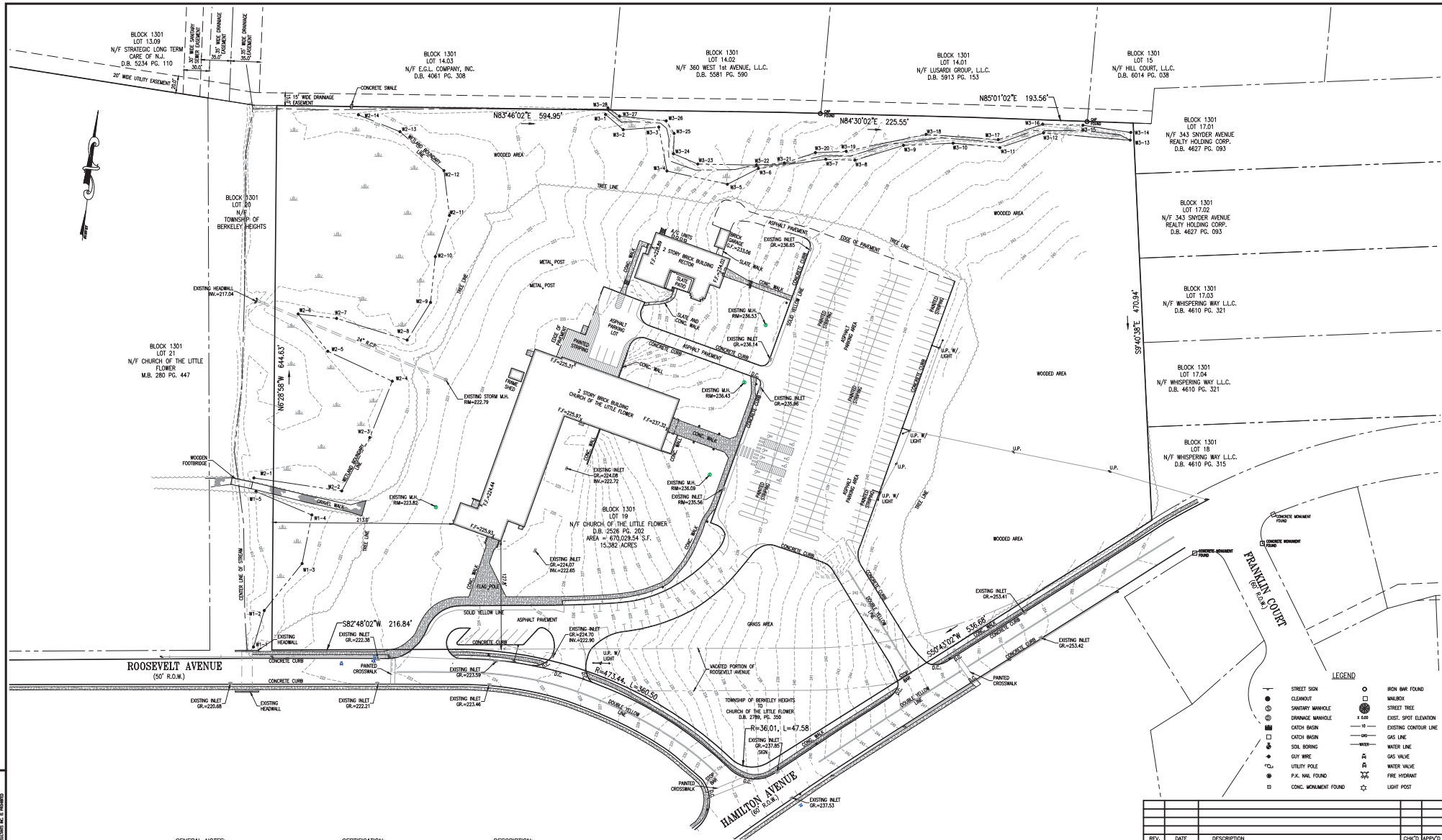
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TWP. CLERK



Appendix 7



GENERAL NOTES:-

1. THIS SURVEY HAS BEEN DRAWN WITH THE BENEFIT OF A TITLE INSURANCE POLICY, THE RECORDING OF WHICH IS REQUIRED BY THE STATE OF NEW JERSEY, AND THE RECORDING OF WHICH IS REQUIRED BY THE STATE OF NEW JERSEY, AND THE RECORDING OF WHICH IS REQUIRED BY THE STATE OF NEW JERSEY.
2. THE INFORMATION SHOWN HEREIN IS BASED ON THE RECORDING OF THE TITLE INSURANCE POLICY, THE RECORDING OF WHICH IS REQUIRED BY THE STATE OF NEW JERSEY, AND THE RECORDING OF WHICH IS REQUIRED BY THE STATE OF NEW JERSEY.
3. THE INFORMATION SHOWN HEREIN IS BASED ON THE RECORDING OF THE TITLE INSURANCE POLICY, THE RECORDING OF WHICH IS REQUIRED BY THE STATE OF NEW JERSEY, AND THE RECORDING OF WHICH IS REQUIRED BY THE STATE OF NEW JERSEY.
4. THE INFORMATION SHOWN HEREIN IS BASED ON THE RECORDING OF THE TITLE INSURANCE POLICY, THE RECORDING OF WHICH IS REQUIRED BY THE STATE OF NEW JERSEY, AND THE RECORDING OF WHICH IS REQUIRED BY THE STATE OF NEW JERSEY.
5. THE INFORMATION SHOWN HEREIN IS BASED ON THE RECORDING OF THE TITLE INSURANCE POLICY, THE RECORDING OF WHICH IS REQUIRED BY THE STATE OF NEW JERSEY, AND THE RECORDING OF WHICH IS REQUIRED BY THE STATE OF NEW JERSEY.

CERTIFICATION:-

I CERTIFY THAT THIS PLAN IS THE RESULT OF A FIELD SURVEY MADE ON SEPTEMBER 2015, BY ME OR UNDER MY DIRECT SUPERVISION, IN ACCORDANCE WITH THE REQUIREMENTS OF THE "STATE BOARD OF PROFESSIONAL ENGINEERS & LAND SURVEYORS".

THE INFORMATION SHOWN HEREIN CORRECTLY REPRESENTS THE CONDITIONS FOUND AT, AND AS OF THE DATE OF THE FIELD SURVEY, EXCEPT SUCH APPROXIMATIONS OR ESTIMATES, IF ANY, BELOW THE SURFACE AND NOT VISIBLE.

SUBJECT TO SUCH FACTS AS AN ACCURATE TITLE SEARCH MAY DISCLOSE.

DESCRIPTION:-

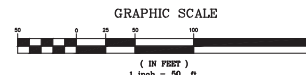
BEING HEREIN AND HEREUNDER AS LOT 19 IN BLOCK 1301, TOWNSHIP OF BERKELEY HEIGHTS, COUNTY OF UNION, NEW JERSEY, AS SHOWN ON THE RECORDING OF THE TITLE INSURANCE POLICY, THE RECORDING OF WHICH IS REQUIRED BY THE STATE OF NEW JERSEY.

NOTES:-

1. REFERENCES WERE MADE TO DEED BOOK 200, PAGE 202.
2. AT THE REQUEST OF THE OWNERS, PROPERTY CORNERS WERE NOT SET AT THIS TIME.
3. DIMENSIONS AS SHOWN ARE NOT INTENDED FOR THE CONSTRUCTION OF FENCES OR FENCEMENT STRUCTURES.
4. OFFSETS SHOWN ARE MEASURED FROM THE FRAME OF THE STRUCTURE.

CAUTION: IF THIS DOCUMENT DOES NOT CONFORM TO THE REQUIREMENTS OF THE PROFESSIONAL ENGINEER & LAND SURVEYOR, IT IS NOT AN AUTHORIZED ORIGINAL DOCUMENT AND MAY HAVE BEEN ALTERED.

ELEVATIONS SHOWN ARE BASED ON NAVD 88



Harbor Consultants Inc.
Engineers & Surveyors
320 NORTH AVENUE EAST
CRANFORD, N.J. 07016
Phone (908) 276-2715 Fax (908) 709-1738

SURVEY OF PROPERTY

LOT 19, BLOCK 1301
TOWNSHIP OF BERKELEY HEIGHTS UNION COUNTY NEW JERSEY

VICTOR E. VINEGRA
PROFESSIONAL ENGINEER & LAND SURVEYOR
NEW JERSEY LICENSE NO. 34480
CERTIFICATE OF AUTHORIZATION NO. 240427962100 PROJECT NO. 2015008.05A

Appendix 8



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

May 10, 2016

Township of Berkeley Heights
29 Park Ave
Berkeley Heights, NJ 07922

RE: Freshwater Wetlands Letter of Interpretation: Line Verification
DLUR File No.: 2001-16-0001.1
Activity Number: FWW 160001
Applicant: Township of Berkeley Heights
Block: 1301 and Lot: 19
Township of Berkeley Heights, Union County

Dear Sir or Madame:

This letter is in response to your request for a Letter of Interpretation to have Division of Land Use Regulation (Division) staff verify the boundary of the freshwater wetlands and/or State open waters on the referenced property.

In accordance with agreements between the State of New Jersey Department of Environmental Protection (NJDEP), the U.S. Army Corps of Engineers (USACOE) Philadelphia and New York Districts, and the U.S. Environmental Protection Agency (USEPA), the Division 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 a site inspection conducted by Division staff on March 9, 2016, the Division has determined that the wetlands and waters boundary line(s) as shown on the plan map entitled: "NJDEP Wetlands Delineation Plan, Lot 19, Block 1301, Township of Berkeley Heights, Union County, New Jersey", consisting of 1 sheet, dated November 9, 2015, last revised March 31, 2016, and prepared by Harbor Consultants, Inc., is accurate as shown.

Wetlands Resource Value Classification ("RVC")

The Division has determined that the resource value and the standard transition area or buffer required adjacent to the delineated wetlands are as follows:

Intermediate: Flags W1-1 through W1-5, W2-1 through W2-14, W3-4 through W3-6 and W3-22 through W3-24. [50 foot wetland buffer]

Ordinary: Flags W3-1 through W3-4, W3-6 through W3-22, and W3-24 through W3-28. [No wetland buffer]

State Open Water: Off-site. [No wetland buffer]

In addition, the wetlands on-site are considered USEPA Priority wetlands because it drains into the Passaic River Basin. RVC may affect requirements for wetland and/or transition area permitting. This classification may affect the requirements for an Individual Wetlands Permit (see N.J.A.C. 7:7A-7), the types of Statewide General Permits available for the property (see N.J.A.C. 7:7A-4 & 5) and any modification available through a transition area waiver (see N.J.A.C. 7:7A-6). Please refer to the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.) and implementing rules for additional information.

Wetlands resource value classification is based on the best information available to the Department. The classification is subject to reevaluation at any time if additional or updated information is made available, including, but not limited to, information supplied by the applicant.

Under N.J.S.A. 13:9B-7a(2), if the Division 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 at the address at the top of this letter.

General Information

Pursuant to the Freshwater Wetlands Protection Act Rules, you are entitled to rely upon this jurisdictional determination for a period of five years from the date of this letter unless it is determined that the letter is based on inaccurate or incomplete information. Should additional information be disclosed or discovered, the Division reserves the right to void the original letter of interpretation and issue a revised letter of interpretation.

Regulated activities proposed within a wetland, wetland transition area or water area, as defined by N.J.A.C. 7:7A-2.2 and 2.6 of the Freshwater Wetlands Protection Act rules, require a permit from this office unless specifically exempted at N.J.A.C. 7:7A-2.8. The approved plan and supporting jurisdictional limit information are now part of the Division's public records.

This letter in no way legalizes any fill which may have been placed, or other regulated activities which may have occurred on-site. **Please note that the Division is currently**

considering the existing underground 24" RCP pipe and associated outfall structure, the gravel walkway, and footbridge as "illegal". Therefore, within 60 days of receipt of this letter, the applicant shall submit applications for permits to legalize the 24" RCP pipe and associated outfall structure, gravel walkway, and footbridge.

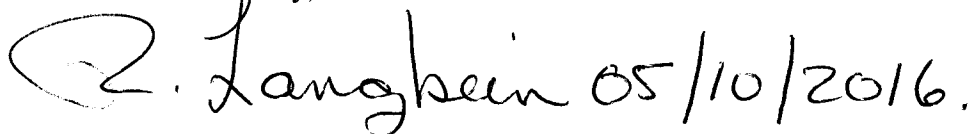
This determination of jurisdiction extent or presence does not make a finding that wetlands or water areas are "isolated" or part of a surface water tributary system unless specifically called out in this letter as such. Furthermore, obtaining this determination does not affect your responsibility to obtain any local, State, or Federal permits which may be required.

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 of the date 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, P.O. Box 402, Trenton, NJ 08625-0402. This request must include a completed copy of the Administrative Hearing Request Checklist found at www.state.nj.us/dep/landuse/forms. Hearing requests received after 30 days of publication notice may be denied. The DEP Bulletin is available on the Department's website at www.state.nj.us/dep/bulletin. In addition to your hearing request, you may file a request with the Office of Dispute Resolution to engage in alternative dispute resolution. Please see the website www.nj.gov/dep/odr for more information on this process.

Please contact Joslin Tamagno of our staff by e-mail at Joslin.Tamagno@dep.nj.gov or by phone at (609) 633-6563 should you have any questions regarding this letter. Be sure to indicate the Department's file number in all communication.

Sincerely,

A handwritten signature in black ink that reads "R. Langbein 05/10/2016". The signature is written in a cursive, flowing style.

Richard Langbein, Section Chief
Division of Land Use Regulation

c: Township of Berkeley Heights Clerk
Township of Berkeley Heights Construction Official
Mr. E. Kuc, ESEA, Agent (original)

Appendix 9



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

May 19, 2016

Township of Berkeley Heights
29 Park Ave
Berkeley Heights, NJ 07922

RE: Freshwater Wetlands Letter of Interpretation: Line Verification - Addendum
File No.: 2001-16-0001.1
Activity Number: FWW160001
Applicant: Township of Berkeley Heights
Block: 1301; and Lot: 19
Township of Berkeley Heights, Union County

Dear Sir or Madame:

This Letter of Interpretation (LOI) addendum letter shall serve as a replacement to the original LOI letter issued by the Division on May 10, 2016.

In accordance with agreements between the State of New Jersey Department of Environmental Protection (NJDEP), the U.S. Army Corps of Engineers (USACOE) Philadelphia and New York Districts, and the U.S. Environmental Protection Agency (USEPA), the Division 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 a site inspection conducted by Division staff on March 9, 2016, the Division has determined that the wetlands and waters boundary line(s) as shown on the plan map entitled: "NJDEP Wetlands Delineation Plan, Lot 19, Block 1301, Township of Berkeley Heights, Union County, New Jersey", consisting of 1 sheet, dated November 9, 2015, last revised March 31, 2016, and prepared by Harbor Consultants, Inc., is accurate as shown.

Wetlands Resource Value Classification ("RVC")

The Division has determined that the resource value and the standard transition area or buffer required adjacent to the delineated wetlands are as follows:

Intermediate: Flags W1-1 through W1-5, W2-1 through W2-14, W3-4 through W3-6 and W3-22 through W3-24. [50 foot wetland buffer]

Ordinary: Flags W3-1 through W3-4, W3-6 through W3-22, and W3-24 through W3-28. [No wetland buffer]

State Open Water: Off-site. [No wetland buffer]

In addition, the wetlands on-site are considered USEPA Priority wetlands because it drains into the Passaic River Basin. RVC may affect requirements for wetland and/or transition area permitting. This classification may affect the requirements for an Individual Wetlands Permit (see N.J.A.C. 7:7A-7), the types of Statewide General Permits available for the property (see N.J.A.C. 7:7A-4 & 5) and any modification available through a transition area waiver (see N.J.A.C. 7:7A-6). Please refer to the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.) and implementing rules for additional information.

Wetlands resource value classification is based on the best information available to the Department. The classification is subject to reevaluation at any time if additional or updated information is made available, including, but not limited to, information supplied by the applicant.

Under N.J.S.A. 13:9B-7a(2), if the Division 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 at the address at the top of this letter.

General Information

Pursuant to the Freshwater Wetlands Protection Act Rules, you are entitled to rely upon this jurisdictional determination for a period of five years from **the original LOI date of May 10, 2016** unless it is determined that the letter is based on inaccurate or incomplete information. Should additional information be disclosed or discovered, the Division reserves the right to void the original letter of interpretation and issue a revised letter of interpretation.

Regulated activities proposed within a wetland, wetland transition area or water area, as defined by N.J.A.C. 7:7A-2.2 and 2.6 of the Freshwater Wetlands Protection Act rules, require a permit from this office unless specifically exempted at N.J.A.C. 7:7A-2.8. The approved plan and supporting jurisdictional limit information are now part of the Division's public records.

This letter in no way legalizes any fill which may have been placed, or other regulated activities which may have occurred on-site. **Please be advised that the NJDEP, Bureau of**

Coastal and Land Use Compliance and Enforcement (BCLUCE) will review the existence of the 24-inch pipe and associated outfall structure, the gravel walkway and footbridge on the property for compliance with the Flood Hazard Area Control Act Rules and the Freshwater Wetlands Protection Act Rules. If it is determined that any of these features are not compliant within these regulations, removal or permitting will be required under the direction of BCLUCE.

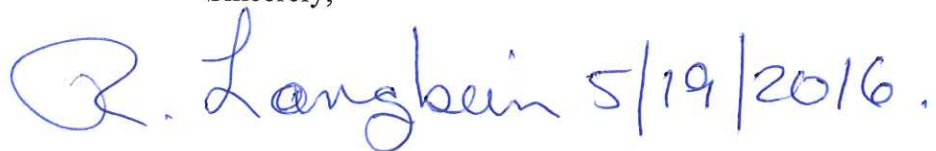
This determination of jurisdiction extent or presence does not make a finding that wetlands or water areas are "isolated" or part of a surface water tributary system unless specifically called out in this letter as such. Furthermore, obtaining this determination does not affect your responsibility to obtain any local, State, or Federal permits which may be required.

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 of the date 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, P.O. Box 402, Trenton, NJ 08625-0402. This request must include a completed copy of the Administrative Hearing Request Checklist found at www.state.nj.us/dep/landuse/forms. Hearing requests received after 30 days of publication notice may be denied. The DEP Bulletin is available on the Department's website at www.state.nj.us/dep/bulletin. In addition to your hearing request, you may file a request with the Office of Dispute Resolution to engage in alternative dispute resolution. Please see the website www.nj.gov/dep/odr for more information on this process.

Please contact Joslin Tamagno of our staff by e-mail at Joslin.Tamagno@dep.nj.gov or by phone at (609) 633-6563 should you have any questions regarding this letter. Be sure to indicate the Department's file number in all communication.

Sincerely,

A handwritten signature in blue ink that reads "R. Langbein" followed by the date "5/19/2016".

Richard Langbein, Section Chief
Division of Land Use Regulation

c: Township of Berkeley Heights Clerk
Township of Berkeley Heights Construction Official
Mr. E. Kuc, ESEA, Agent (original)

Appendix 10



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

August 18, 2017

Township of Berkeley Heights
c/o Major Robert Woodruff
29 Park Avenue
Berkeley Heights, NJ 07922

RE: Freshwater Wetlands Letter of Interpretation: Line Verification
DLUR File No.: 2001-16-0001.1
Activity Number: FWW 160001
Applicant: Township of Berkeley Heights
Block: 1301 and Lot: 19
Township of Berkeley Heights, Union County

Dear Major Woodruff:

Pursuant to the Freshwater Wetlands Protection Act Rules at N.J.A.C. 7:7A-3.6, please be advised that the Division of Land Use Regulation (Division) has void the Letter of Interpretation (LOI) issued by the Division on May 10, 2016 and an addendum letter issued by the Division on May 19, 2016. This letter shall serve as a replacement to the two letters referenced above.

In accordance with agreements between the State of New Jersey Department of Environmental Protection (NJDEP), the U.S. Army Corps of Engineers (USACOE) Philadelphia and New York Districts, and the U.S. Environmental Protection Agency (USEPA), the Division 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 a site inspection conducted by Division staff on March 9, 2016, the Division has determined that the wetlands and waters boundary line(s) as shown on the plan map entitled: "NJDEP Wetlands Delineation Plan, Lot 19, Block 1301, Township of Berkeley Heights, Union County, New Jersey" consisting of 1 sheet, dated November 9, 2015, last revised March 9, 2017, and prepared by Harbor Consultants, Inc., is accurate as shown.

Wetlands Resource Value Classification ("RVC")

The Division has determined that the resource value and the standard transition area or buffer required adjacent to the delineated wetlands are as follows:

Exceptional: Flags W1-1 through W1-5 and W2-1 through W2-14. [150 foot wetland buffer]

Ordinary: Flags W3-1 through W3-28. [No wetland buffer]

State Open Water: Off-site. [No wetland buffer]

In addition, the wetlands on-site are considered USEPA Priority wetlands because it drains into the Passaic River Basin. RVC may affect requirements for wetland and/or transition area permitting. This classification may affect the requirements for an Individual Wetlands Permit (see N.J.A.C. 7:7A-7), the types of Statewide General Permits available for the property (see N.J.A.C. 7:7A-4 & 5) and any modification available through a transition area waiver (see N.J.A.C. 7:7A-6). Please refer to the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.) and implementing rules for additional information.

Wetlands resource value classification is based on the best information available to the Department. The classification is subject to reevaluation at any time if additional or updated information is made available, including, but not limited to, information supplied by the applicant.

Under N.J.S.A. 13:9B-7a(2), if the Division 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 at the address at the top of this letter.

General Information

Pursuant to the Freshwater Wetlands Protection Act Rules, you are entitled to rely upon this jurisdictional determination for a period of five years from **the original LOI date of May 10, 2016** unless it is determined that the letter is based on inaccurate or incomplete information. Should additional information be disclosed or discovered, the Division reserves the right to void the original letter of interpretation and issue a revised letter of interpretation.

Regulated activities proposed within a wetland, wetland transition area or water area, as defined by N.J.A.C. 7:7A-2.2 and 2.6 of the Freshwater Wetlands Protection Act rules, require a permit from this office unless specifically exempted at N.J.A.C. 7:7A-2.8. The approved plan and supporting jurisdictional limit information are now part of the Division's public records.

This letter in no way legalizes any fill which may have been placed, or other regulated activities which may have occurred on-site. **Please be advised that the NJDEP, Bureau of Coastal and Land Use Compliance and Enforcement (BCLUCE) will review the existence of the 24-inch pipe and associated outfall structure, the gravel walkway and footbridge on the property for compliance with the Flood Hazard Area Control Act Rules and the Freshwater Wetlands Protection Act Rules. If it is determined that any of these features are not compliant within these regulations, removal or permitting will be required under the direction of BCLUCE.**

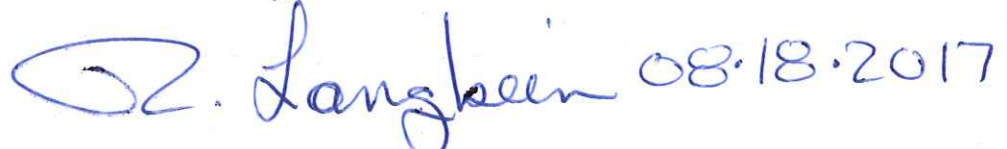
This determination of jurisdiction extent or presence does not make a finding that wetlands or water areas are "isolated" or part of a surface water tributary system unless specifically called out in this letter as such. Furthermore, obtaining this determination does not affect your responsibility to obtain any local, State, or Federal permits which may be required.

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 of the date 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, P.O. Box 402, Trenton, NJ 08625-0402. This request must include a completed copy of the Administrative Hearing Request Checklist found at www.state.nj.us/dep/landuse/forms. Hearing requests received after 30 days of publication notice may be denied. The DEP Bulletin is available on the Department's website at www.state.nj.us/dep/bulletin. In addition to your hearing request, you may file a request with the Office of Dispute Resolution to engage in alternative dispute resolution. Please see the website www.nj.gov/dep/odr for more information on this process.

Please contact Joslin Tamagno of our staff by e-mail at Joslin.Tamagno@dep.nj.gov or by phone at (609) 633-6563 should you have any questions regarding this letter. Be sure to indicate the Department's file number in all communication.

Sincerely,

A handwritten signature in blue ink that reads "R. Langbein" followed by the date "08.18.2017". The signature is written in a cursive, flowing style.

Richard Langbein, Section Chief
Division of Land Use Regulation

c: Mr. E. Kuc, ESEA, Agent (original)
Township of Berkeley Heights Construction Official

Appendix 11



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

CHRIS CHRISTIE
Governor

Division of Land Use Regulation
Mail Code 501-02A
P.O. Box 420
Trenton, New Jersey 08625-0420
www.state.nj.us/dep/landuse

BOB MARTIN
Commissioner

KIM GUADAGNO
Lt. Governor

MAR 24 2016

John T. Bussiculo, Administrator
Township of Berkeley Heights
29 Park Avenue
Berkeley Heights, NJ 07922

Re: Flood Hazard Area Verification
File No.: 2001-16-0001.1
Activity Number: FHA160001
Applicant: Township of Berkeley Heights
Block and Lot: [1301, 19]
Berkeley Heights Township, Union County

Dear Mr. Bussiculo:

This letter is in response to your request for a flood hazard area verification along the Snyder's Brook which is located off-site, along the western property boundary line of the above referenced site. The Department has reviewed your submittal and hereby verifies the flood hazard area elevation and riparian zone limits on this site, as depicted on the approved plans described below. The floodway is also located at the site. Since the floodway verification was not requested, the limits of the floodway were not verified under this verification.

The flood hazard area was established using

Method 3 (FEMA fluvial method) as described at N.J.A.C. 7:13-3.4(e), which is based on existing FEMA flood mapping in a fluvial flood hazard area.

The riparian zone extends 50 feet from the top of bank along both sides of each regulated water on this site. If a discernible bank is not present along a regulated water, the riparian zone is measured in accordance with N.J.A.C. 7:13-4.1(b). This riparian zone width onsite is 50-feet.

Please note that altering land cover or topography in a flood hazard area, as well as clearing, cutting and/or removing vegetation within a riparian zone, is regulated by the Flood Hazard Area Control Act rules, and may be prohibited or restricted in some cases. A flood hazard area permit is required prior to undertaking any regulated activity within a flood hazard area or riparian zone described at N.J.A.C. 7:13-2.4. Some projects may qualify for a permit-by-rule at N.J.A.C. 7:13-7.2. All other projects must receive a general permit under N.J.A.C. 7:13-8 or an individual permit under N.J.A.C. 7:13-9. Projects situated entirely outside both the flood hazard area and riparian zone do not require a flood hazard area approval.

This verification is based on the best information presently available to the Department, and is subject to change if this information is no longer accurate or if additional information is made available to the Department including, but not limited to, information supplied by the applicant.

The drawing hereby approved was prepared by Harbor Consultants Inc., dated November 9, 2015, last revised March 16, 2016, and entitled:

“NJDEP FLOOD HAZARD AREA VERIFICATION PLAN DETAIL OF FLOOD HAZARD AREA VERIFICATION PLAN LOT 19, BLOCK 1301 TOWNSHIP OF BERKELEY HEIGHTS UNION COUNTY NEW JERSEY”, sheet 1.

Within 90 calendar days of the date of this letter, the applicant shall submit the following information to the clerk of each county in which the site is located, and shall send proof to the Department that this information is recorded on the deed of each lot referenced in the verification:

1. The Department file number for the verification;
2. The approval and expiration dates of the verification;
3. A metes and bounds description of any flood hazard area limit approved under the verification;
4. The flood hazard area design flood elevation, or range of elevations if variable, approved under the verification; and
5. The following statement: “The State of New Jersey has determined that all or a portion of this lot lies in a flood hazard area. Certain activities in flood hazard areas are regulated by the New Jersey Department of Environmental Protection and some activities may be prohibited on this site or may first require a permit. Contact the Division of Land Use Regulation at (609) 777-0454 for more information prior to any construction onsite.”

Failure to have this information recorded in the deed of each lot and/or to submit proof of recording to the Department constitutes a violation of the Flood Hazard Area Control Act rules and may result in suspension or termination of the verification and/or subject the applicant to enforcement action pursuant to N.J.A.C. 7:13-19.

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. Please note that this letter in no way legalizes any fill that may have been previously placed onsite, or any other regulated activities that may have previously occurred. Also this determination does not affect the applicant's responsibility to obtain any local, State or Federal permits that may be required.

This verification is valid for five years from its issuance date. A verification shall not be extended but it can be transferred at the time of sale of a property to which the verification applies to a new owner pursuant to N.J.A.C. 7:13-14.1. Pursuant to N.J.A.C. 7:13-6.1(f), if the Department issues a verification for a site, and within five years issues a general permit authorization or an individual permit for a regulated activity that references or relies upon the verification at that site, the Department shall automatically reissue the verification upon approval of the permit or authorization so that the verification and permit or authorization have the same expiration date. This automatic reissuance shall occur only once per verification and there is no fee for this reissuance. The reissued verification shall reflect any alterations to the flood hazard area design flood elevation, flood hazard area limit and/or floodway limit that will result from the regulated activities authorized under the individual permit or general permit authorization.

All pre-construction and post-construction elevations and limits shall be demarcated on drawings approved under the reissued verification.

In accordance with N.J.A.C. 7:13-18.1, 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. The DEP Bulletin is available through the Department's website at www.state.nj.us/dep and the Checklist is available through the Division's website at www.state.nj.us/dep/landuse/forms/index.html.

Please contact Neelofar Qureshi of my staff at [neelofar.qureshi @dep.nj.gov](mailto:neelofar.qureshi@dep.nj.gov) or by telephone at (609) 633-6563 should you have any questions regarding this letter. Be sure to indicate the Division's file number in all communication.

Sincerely,



Dennis Contois

Supervising Environmental Engineer
North/Central Engineering Section

- c. Applicant
 Municipal Clerk
 Municipal Construction Official
 Municipal Engineer

Appendix 12



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
Telephone: (609) 777-0454 or Fax: (609) 777-3656
www.state.nj.us/dep/landuse



PERMIT

Approval Date
August 22, 2017

Expiration Date
August 21, 2022

In accordance with the laws and regulations of the State of New Jersey, the Department of Environmental Protection hereby grants this permit to perform the activities described below. This permit is revocable with due cause and is subject to the limitations, terms and conditions listed below and on the attached pages. For the purpose of this document, "permit" means "approval, certification, registration, authorization, waiver, etc." Violation of any term, condition or limitation of this permit is a violation of the implementing rules and may subject the permittee to enforcement action.

Permit Number(s):

2001-16-0001.1; FWW 170001, 170002
and 170003

Type of Approval(s):

Freshwater Wetlands General Permit
No. 7, Freshwater Wetlands General
Permit No. 17, Special Activity
Transition Area Waiver, Water
Quality Certificate

Enabling Statute(s):

NJSA 12:3-1 et seq.
NJSA 13:9B et seq.
NJSA 58:10A-1 et seq.
NJSA 58:11A-1 et seq.

Permittee:

Township of Berkeley Heights
c/o Mayor Robert Woodruff
29 Park Ave
Berkeley Heights, NJ 07922

Site Location:

Block: 1301 & Lot: 19
Municipality: Township of Berkeley Heights
County: Union

Description of Authorized Activities:

This permit authorizes the permanent disturbance to 7,330 s.f. (0.16-acre) of ordinary resource value wetlands for the construction of a stormwater basin; the permanent disturbance to 4,825 s.f. (0.11-acre) of exceptional resource value transition areas for the construction of a pedestrian trail; and the permanent disturbance to 60,175 s.f. (1.38-acre) of exceptional resource value transition areas for the construction of residential dwelling units as shown on the plans referenced on the last page of this permit.

Section 7:7A-6 of the Freshwater Wetlands Protection Act Rules discusses the conditions under which the standard transition area may be modified if the Department determines that the modification will result in minimal environmental impact and that the modified transition area will continue to feature the purposes and functions set forth in N.J.A.C. 7:7A-2.5. Based upon a review of the submitted information, the Division of Land Use Regulation (Division) has determined that the proposed modified transition area as shown on the plans referenced below will continue to serve the functions of a transition area as detailed in the Act and implementing rules, provided that standard conditions set forth in section 7:7A-6 and all permit conditions are met. Any additional un-permitted disturbance of freshwater wetlands, State open waters and/or transition areas besides that shown on the approved plans referenced herein shall be considered a violation of the Freshwater Wetlands Protection Act Rules unless the activity is exempt or a permit is obtained from the Department prior to the start of the proposed disturbance.

This permit is not valid and no disturbance of any wetland transition areas is authorized until the conservation restriction as noted in Pre-Construction condition number 4 is recorded with the appropriate County officials and a record of said filing is submitted to the Division of Land Use Regulation.

Prepared by:

Joslin Tamagno

If the permittee undertakes any regulated activity authorized under a permit, such action shall constitute the permittee's acceptance of the permit in its entirety as well as the permittee's agreement to abide by the permit and all conditions therein.

**Received and/or Recorded by
County Clerk:**

This permit is not valid unless authorizing signature appears on the last page.

PRE-CONSTRUCTION CONDITIONS:

1. The authorized activities meet the definition of a "major development" as defined at N.J.A.C. 7:8-1.2. Prior to the commencement of site clearing, grading or construction, the permittee shall submit information demonstrating compliance with the Stormwater Management Rules at N.J.A.C. 7:8. No regulated activities shall begin until the Department has reviewed and approved the stormwater information.
2. Timing: If this permit contains a condition that must be satisfied prior to the commencement of construction, the permittee must comply with such condition(s) within the time required by the permit or, if no time specific requirement is imposed, then within six months of the effective date of the permit, or provide evidence satisfactory to the Division that such condition(s) cannot be satisfied.
3. , the permittee shall have a silt fence or sediment barrier erected at the limits of disturbance authorized herein and at the limits of the modified transition area as authorized herein. These fences shall serve as both a siltation and debris barrier as well as a physical barrier protecting the wetland and modified transition area from encroachment by construction vehicles or activities. These fences shall be kept in place and maintained throughout the duration of construction, until such time that the site is stabilized. No regulated activities, including grading or clearing may occur in the wetland or modified transition area on site without the prior approval of the Department.
4. Pursuant to N.J.A.C. 7:7A-6.1(b)3, prior to construction of the structure (including site preparation), the permittee shall install a split rail fence or equivalent physical barrier along the limits of the modified transition area to ensure that subsequent activities on site do not encroach into the conservation restricted wetlands and transition areas. The modified transition area and wetlands shall remain undisturbed and natural, and not be maintained as a mowed or landscaped area. These areas shall be allowed to revert to a natural habitat. The permittee shall erect permanent signs on the barrier that denotes the area beyond the fence as deed restricted.
5. Within 90 days of the permit issuance and/or prior to construction (whichever occurs first), the property owner shall sign a Department-approved conservation restriction for the modified transition area on the subject parcel(s) in accordance with N.J.A.C. 7:7A-6.1(e). The conservation restriction shall apply to all wetlands and wetland transition areas on the site (not only those areas modified) and shall preclude future wetland and transition area disturbance on-site, unless said activity is permissible pursuant to the language of the deed restriction. The restriction shall be included on the deed, and recorded in the office of the County Clerk (the Registrar of Deeds and Mortgages), in the county wherein the lands included in the waiver are located. Said restriction shall run with the land and be binding upon all successive owners. All individual lot surveys shall show the approved wetland and transition area boundaries. Any regulated activities undertaken on the site before a copy of this recorded restriction is submitted to the Department will be considered in violation of the Freshwater Wetlands Protection Act. The conservation restriction shall conform, verbatim, to the format and content of the model Conservation Restriction/Easement for Transition Area & Associated Wetlands on the Division's website at http://www.nj.gov/dep/landuse/download/lur_019.pdf. A copy of the recorded conservation

restriction shall be forwarded to the Division's project manager via email at Joslin.Tamagno@dep.nj.gov before beginning regulated activities.

SPECIAL CONDITIONS FOR A FRESHWATER WETLANDS PERMIT:

1. If the permittee, before or during the work authorized, encounters a possible historic property, as described at N.J.A.C. 7:7A-12.2(l), that is or may be eligible for listing in the New Jersey or National Register, the permittee shall preserve the resource, and immediately notify the Department and proceed as directed.
2. No tree removal is permitted within the exceptional resource value transition area, adjacent to wetlands flag number W1-1 through W1-5 and W2-1 through W2-14, for any activities related to the construction of the pedestrian trail and residential dwelling units.
3. The Transition Area Waiver authorization is based upon a Letter of Interpretation Line Verification (DLUR file no. 2001-16-0001.1; FWW 160001) issued by the Division on May 19, 2016, and re-issued on **August 18, 2017**. The Division has determined that the freshwater wetlands, identified by flags W1-1 through W1-5 and W2-1 through W2-14 on the approved site plan, present on the property are of Exceptional resource value and have a standard required transition area of 150 feet.
4. All temporary disturbances must be permanently discontinued within six months after they are begun, and all temporary disturbed areas must be restored to their original conditions.
5. **Material Disposal:** All excavated material and construction debris shall be disposed of in a lawful manner. The material shall be placed outside of any flood hazard area, riparian zone, regulated water, freshwater/coastal wetlands and adjacent transition area, and in such a way as to not interfere with the positive drainage of the receiving area.

STANDARD CONDITIONS:

1. The issuance of a permit shall in no way expose the State of New Jersey or the Department to liability for the sufficiency or correctness of the design of any construction or structure(s). Neither the State nor the Department shall, in any way, be liable for any loss of life or property that may occur by virtue of the activity or project conducted as authorized under a permit.
2. The issuance of a permit does not convey any property rights or any exclusive privilege.
3. The permittee shall obtain all applicable Federal, State, and local approvals prior to commencement of regulated activities authorized under a permit.
4. A permittee conducting an activity involving soil disturbance, the creation of drainage structures, or changes in natural contours shall obtain any required approvals from the Soil Conservation District having jurisdiction over the site.

5. The permittee shall take all reasonable steps to prevent, minimize, or correct any adverse impact on the environment resulting from activities conducted pursuant to the permit, or from noncompliance with the permit.
6. The permittee shall immediately inform the Department by telephone at (877) 927-6337 (Warn DEP Hotline) of any noncompliance that may endanger the public health, safety, and welfare, or the environment. In addition, the permittee shall inform the Division of Land Use Regulation by telephone at (609) 777-0454 of any other noncompliance within two working days of the time the permittee becomes aware of the noncompliance, and in writing within five working days of the time the permittee becomes aware of the noncompliance. Such notice shall not, however, serve as a defense to enforcement action if the project is found to be in violation of this chapter. The written notice shall include:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times;
 - c. If the noncompliance has not been corrected, the anticipated length of time it is expected to continue; and
 - d. The steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
7. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the authorized activity in order to maintain compliance with the conditions of the permit.
8. The permittee shall employ appropriate measures to minimize noise where necessary during construction, as specified in N.J.S.A. 13:1G-1 et seq. and N.J.A.C. 7:29.
9. The issuance of a permit does not relinquish the State's tidelands ownership or claim to any portion of the subject property or adjacent properties.
10. The issuance of a permit does not relinquish public rights to access and use tidal waterways and their shores.
11. The permittee shall allow an authorized representative of the Department, upon the presentation of credentials, to:
 - a. Enter upon the permittee's premises where a regulated activity is located or conducted, or where records must be kept under the conditions of the permit;
 - b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit; and
 - c. Inspect at reasonable times any facilities, equipment, practices, or operations regulated or required under the permit. Failure to allow reasonable access under this paragraph shall be considered a violation of this chapter and subject the permittee to enforcement action under.
12. The permittee and its contractors and subcontractors shall comply with all conditions, site plans, and supporting documents approved by the permit. Any noncompliance with a permit constitutes a violation of this chapter and is grounds for enforcement action under, as well as, in the appropriate case, suspension and/or termination of the permit.

13. All conditions, site plans, and supporting documents approved by a permit shall remain in full force and effect so long as the regulated activity or project, or any portion thereof, is in existence, unless the permit is modified.
14. For Coastal Permits, Flood Hazard Permits and Flood Hazard Verifications, the permittee shall record the permit, including all conditions listed therein, with the Office of the County Clerk (the Registrar of Deeds and Mortgages, if applicable) of each county in which the site is located. The permit shall be recorded within 30 calendar days of receipt by the permittee, unless the permit authorizes activities within two or more counties, in which case the permit shall be recorded within 90 calendar days of receipt. Upon completion of all recording, a copy of the recorded permit shall be forwarded to the Division of Land Use Regulation at the address set forth in the rules.
15. If any condition or permit is determined to be legally unenforceable, modifications and additional conditions may be imposed by the Department as necessary to protect public health, safety, and welfare, or the environment.
16. A copy of the permit and all approved site plans and supporting documents shall be maintained at the site at all times and made available to Department representatives or their designated agents immediately upon request.
17. A permit shall be transferred to another person only in accordance with the regulations.
18. A permit can be suspended or terminated by the Department for cause.
19. The submittal of a request to modify a permit by the permittee, or a notification of planned changes or anticipated noncompliance, does not stay any condition of a permit.
20. Where the permittee becomes aware that it failed to submit any relevant facts in an application, or submitted incorrect information in an application or in any report to the Department, it shall promptly submit such facts or information.
21. The permittee shall submit written notification to the Bureau of Coastal and Land Use Compliance and Enforcement, 401 East State Street, 4th Floor, P.O. Box 420, Mail Code 401-04C, Trenton, NJ 08625, at least three working days prior to the commencement of regulated activities.
22. The permittee shall not cause or allow any unreasonable interference with the free flow of a regulated water by placing or dumping any materials, equipment, debris, or structures within or adjacent to the channel while the regulated activity(ies) is being undertaken. Upon completion of the regulated activity(ies), the permittee shall remove and dispose of in a lawful manner, all excess materials, debris, equipment, and silt fences and other temporary soil erosion and sediment control devices from all regulated areas.
23. The regulated activity shall not destroy, jeopardize, or adversely modify a present or documented habitat for threatened or endangered species, and shall not jeopardize the continued existence of any local population of a threatened or endangered species.

APPROVED PLANS:

The drawing hereby approved is one (1) sheet prepared by Harbor Consultants, Inc., dated March 9, 2017, unrevised, entitled: "NJDEP Wetlands Permit Plan, Lot 19, Block 1301, Township of Berkeley Heights, Union County, New Jersey".

In accordance with the applicable regulations, any person who is aggrieved by this decision or any of the conditions of this permit may request an adjudicatory hearing within 30 calendar days after public notice of the decision is published in the DEP Bulletin. This request must include a completed copy of the Adjudicatory Hearing Request form. The DEP Bulletin is available through the Department's website at <http://www.nj.gov/dep/bulletin> and the form is available through the Division's website at http://www.nj.gov/dep/landuse/download/lur_024.pdf. In addition to requesting a hearing, a request may be filed with the Department's Office of Dispute Resolution to determine whether the matter is suitable for mediation. Information concerning the dispute resolution process is available at www.nj.gov/dep/odr.

If you need clarification on any section of this permit or conditions, please contact the Division of Land Use Regulation's Technical Support Call Center at (609) 777-0454.

Approved By:

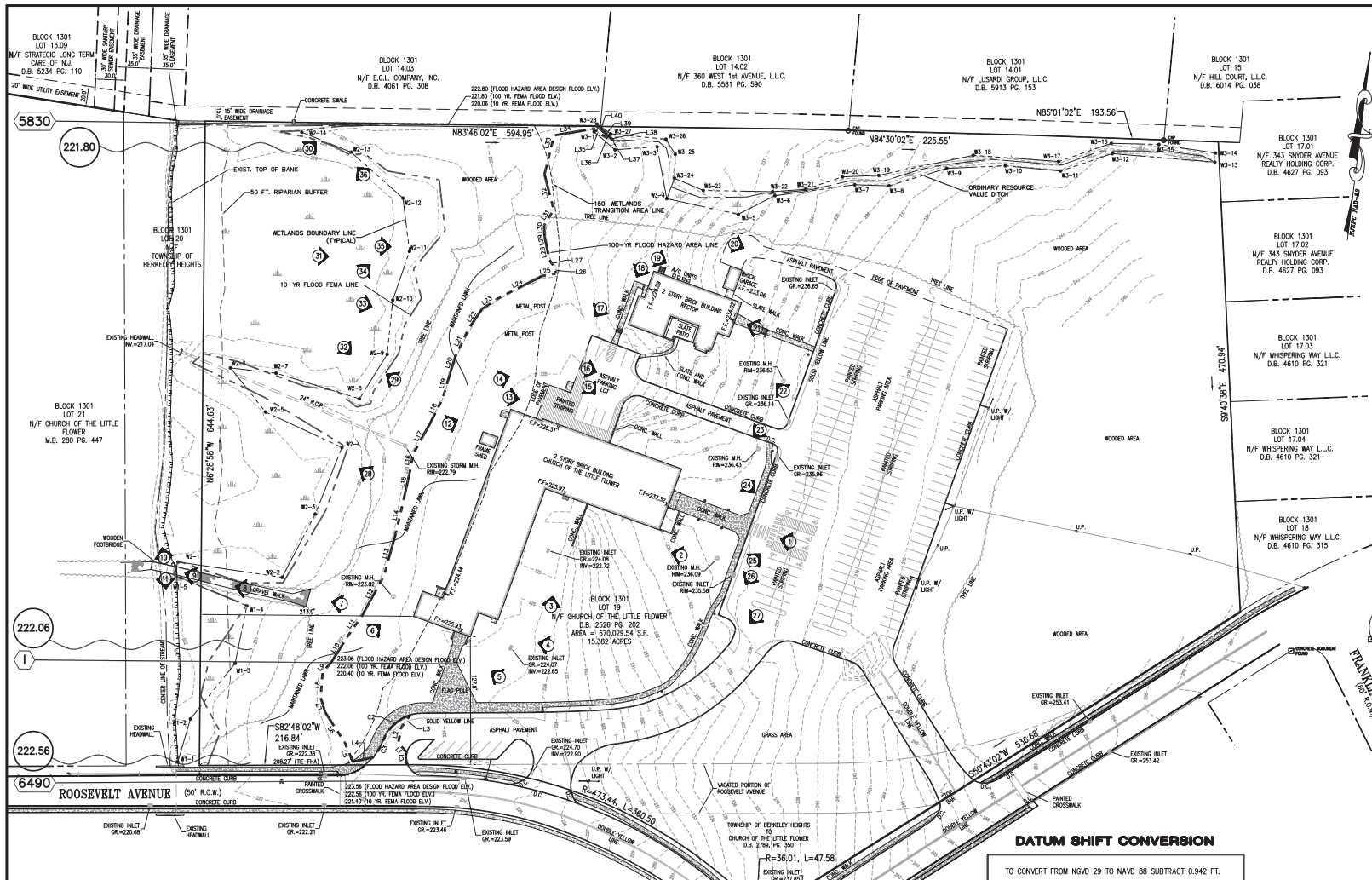

Richard Langbein, Section Chief
Bureau of Inland Regulation
Division of Land Use Regulation

08.22.2017

Date

Original sent to Agent to record
c: Permittee
Construction Official

Appendix 13



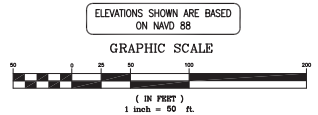
FLOOD HAZARD AREA LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	12.31'	N49°27'30\"W
L2	15.65'	N33°17'2\"E
L3	15.27'	N28°39'27\"E
L4	21.36'	S78°52'25\"W
L5	20.76'	N28°44'40\"W
L6	35.83'	N40°02'13\"W
L7	15.99'	N24°25'58\"W
L8	25.55'	N2°31'36\"W
L9	12.87'	N34°30'40\"E
L10	28.58'	N24°58'39\"E
L11	28.20'	N27°49'44\"E
L12	45.35'	N21°42'02\"E
L13	43.17'	N8°31'45\"E
L14	36.65'	N6°10'38\"E
L15	31.94'	N5°29'05\"E
L16	12.71'	N1°55'30\"E
L17	37.47'	N21°55'41\"E
L18	25.78'	N18°49'51\"E
L19	29.34'	N8°20'12\"E
L20	13.80'	N10°50'42\"E
L21	31.14'	N18°21'22\"E
L22	24.30'	N28°46'31\"E
L23	17.93'	N48°29'33\"E
L24	50.87'	N50°49'38\"E
L25	13.85'	N73°18'48\"E
L26	6.86'	N19°02'13\"W
L27	8.55'	N41°56'17\"W
L28	18.53'	N18°34'11\"W
L29	5.29'	N18°32'08\"W
L30	11.23'	N8°12'36\"W
L31	18.30'	N24°34'16\"E
L32	36.60'	N21°34'14\"W
L33	40.07'	N6°50'01\"E
L34	40.43'	N73°16'24\"E
L35	10.55'	S89°25'50\"E
L36	11.07'	S64°44'58\"E
L37	2.33'	N74°55'42\"E
L38	5.57'	N54°28'28\"W
L39	9.28'	N54°24'56\"W
L40	5.64'	N50°02'45\"W

FLOOD HAZARD AREA CURVE TABLE		
CURVE #	LENGTH	RADIUS
C1	12.93'	17.73'
C2	33.71'	43.46'
C3	23.62'	82.52'

DATUM SHIFT CONVERSION
TO CONVERT FROM NAVD 29 TO NAVD 88 SUBTRACT 0.942 FT.

- GENERAL NOTES:**
1. PLANIMETRIC FEATURES SHOWN HEREON HAVE BEEN DRAWN IN ACCORDANCE WITH FIELD SURVEY PERFORMED BY HARBOR CONSULTANTS, INC. ON AUGUST 7, 2015.
 2. TOPOGRAPHIC INFORMATION SHOWN HEREON HAVE BEEN DRAWN IN ACCORDANCE WITH FIELD SURVEY PERFORMED BY HARBOR CONSULTANTS, INC. ON OCTOBER 15, 2015.
 3. HORIZONTAL DATUM BASED ON NAD 1983, VERTICAL DATUM IS BASED ON NAVD 1988.
 4. FLOOD HAZARD AREA DESIGN FLOOD ELEVATION AND FLOODWAY LIMIT WERE DETERMINED IN ACCORDANCE WITH METHOD 3 (FEMA FLUMINAL METHOD) AS OUTLINED UNDER N.J.A.C. 7:13-3.4(a).
 5. THE LOCATION IN THE PLAN VIEW OF FEMA CROSS SECTION "T" IS DEPICTED FROM THE FLOOD INSURANCE RATE MAP (FIRM) FOR UNION COUNTY, N.J., BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), PANEL 17 OF 49, MAP NO. 34039C00177, EFFECTIVE DATE SEPTEMBER 20, 2006.
 6. THE 100 YEAR & 10 YEAR FEMA FLOOD ELEVATIONS FOR CROSS SECTION 1, CROSS SECTION AT STATION 1400 AND WITHIN THE PROJECT SITE HAVE BEEN TAKEN FROM THE FLOOD PROFILES FOR SHIVER AVENUE BROOK PAGE 146P AND 146P OF THE FLOOD INSURANCE STUDY VOLUME 2 OF 2, BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE STUDY NO. 34039C002A. THE ELEVATIONS FROM THE FLOOD PROFILES WERE CONVERTED FROM NAVD 29 TO NAVD 88 BY SUBTRACTING 0.942 FEET. CROSS SECTION 1 IS LOCATED ON PAGE 146P AT STREAM DISTANCE 6370 FEET ABOVE CONFLUENCE WITH PASSAIC RIVER.
 7. IN ACCORDANCE WITH N.J.A.C. 7:13-3.4 (a) 1, THE FLOOD HAZARD AREA DESIGN FLOOD ELEVATION IS 1 (ONE) FT. ABOVE THE FEMA 100 YEAR FLOOD ELEVATION.
 8. FRESHWATER WETLANDS/WATERS BOUNDARY LINE LIMITS HAVE BEEN VERIFIED BY NJDEP PURSUANT TO WETLANDS/LS.
 9. NOTE: ALL OR A PORTION OF THIS SITE LIES IN A FLOOD HAZARD AREA. CERTAIN ACTIVITIES IN FLOOD HAZARD AREAS ARE REGULATED BY THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND SOME ACTIVITIES MAY BE PROHIBITED ON THIS SITE OR MAY FIRST REQUIRE A PERMIT. CONTACT THE DIVISION OF LAND USE REGULATION AT (609) 777-0644 FOR MORE INFORMATION PRIOR TO ANY CONSTRUCTION ON SITE.

LEGEND	
STREET SIGN	IRON BAR FOUND
CLEANOUT	MALBOX
SANITARY MANHOLE	STREET TREE
DRAINAGE MANHOLE	EXIST. SPOT ELEVATION
CATCH BASIN	EXISTING CONTOUR LINE
CATCH BASIN	GAS LINE
SOL. BORING	WATER LINE
GUY WIRE	GAS VALVE
UTILITY POLE	WATER VALVE
PAC. NAL. FOUND	FIRE HYDRANT
CONC. MONUMENT FOUND	LIGHT POST
PHOTO LOCATION	



LINE LEGEND	
FEMA 100YR FLOOD ELEV. CONVERTED TO NAVD 88	
50 FT. RIPARIAN BUFFER LINE	
TOP OF BANK	
100 YEAR FLOOD HAZARD AREA LINE	
FEMA 10 YEAR FLOOD LINE CONVERTED TO NAVD 88	
FEMA CROSS SECTIONS LOCATION CONVERTED TO NAVD 88	
FEMA CROSS SECTIONS AT STATION CONVERTED TO NAVD 88	
150' WETLANDS TRANSITION AREA LINE	
FRESHWATER WETLANDS/WATERS BOUNDARY LINE	

Harbor Consultants Inc.
Engineers & Surveyors
300 NORTH AVENUE EAST
CLARKSON, N.J. 07016
Phone (908) 276-2715 Fax (908) 709-1738
Email: info@harborconsultantsinc.com

NJDEP WETLANDS DELINEATION PLAN
LOT 19, BLOCK 1301
TOWNSHIP OF BERKELEY HEIGHTS UNION COUNTY NEW JERSEY

VICTOR E. VINEGRA
PROFESSIONAL ENGINEER & LAND SURVEYOR
NEW JERSEY LICENSE NO. 34460
CERTIFICATE OF REGISTRATION NO. 246247962100 2015008.05C

REVISIONS

REV.	DATE	DESCRIPTION	BY	CHKD.
1	3/21/17	REVISION TO WETLANDS TRANSITION AREA PER NJDEP	J.M.B.	J.M.B.
2	3/21/18	REVISION PER NJDEP COMMENTS	J.M.B.	J.M.B.
REV.	DATE	DESCRIPTION	BY	CHKD.

Appendix 14

Appendix 15

Appendix 16



- MAP NOTES:
1. THE PROPOSED DEVELOPMENT LAYOUT SHOWN HEREON IS BASED UPON A SCANNED IMAGE OF THE PLAN TITLED, "CONCEPT 'F' REVISION 3 - 67 UNITS, 20 AFFORDABLE UNITS, 47 MARKET RATE UNITS, HAMILTON AVENUE CAMPUS, BERKELEY HEIGHTS, UNION COUNTY, NEW JERSEY," DATED NOVEMBER 27, 2018 AND PREPARED BY ESE PLANNING.
 2. EXISTING CONDITIONS SHOWN HEREON ARE BASED UPON A COMBINATION OF:
 - 2.1. A SCANNED IMAGE OF THE SURVEY TITLED, "SURVEY OF PROPERTY, LOT 19, BLOCK 1301, TOWNSHIP OF BERKELEY HEIGHTS, UNION COUNTY, NEW JERSEY," DATED SEPTEMBER 14, 2015 AND PREPARED BY HARBOR CONSULTANTS.
 - 2.2. "NUDEP WETLANDS PERMIT PLAN, LOT 19, BLOCK 1301, TOWNSHIP OF BERKELEY HEIGHTS, UNION COUNTY, NEW JERSEY," DATED NOVEMBER 9, 2015, LAST REVISED MARCH 16, 2016 AND PREPARED BY HARBOR CONSULTANTS.
 - 2.3. "NUDEP FLOOD HAZARD AREA VERIFICATION PLAN, LOT 19, BLOCK 1301, TOWNSHIP OF BERKELEY HEIGHTS, UNION COUNTY, NEW JERSEY," DATED NOVEMBER 9, 2015, LAST REVISED MARCH 16, 2016 AND PREPARED BY HARBOR CONSULTANTS.
 - 2.4. SUPPLEMENTAL FIELD SURVEY (TOPOGRAPHIC) COMPLETED BY ESE CONSULTANTS IN MARCH 2019.
 3. THE PROPOSED DEVELOPMENT LAYOUT IS SHOWN IN ACCORDANCE WITH PREVIOUSLY OBTAINED NUDEP PERMITS AND APPROVED PLANS. THE NUDEP DIVISION OF LAND USE REGULATION ISSUED A PERMIT DATED AUGUST 22, 2017 (PERMIT NO. 2001-16-0001; FW 170001, 170002 AND 170003) THAT AUTHORIZES THE FOLLOWING:
 - FRESHWATER WETLANDS GENERAL PERMIT NO. 7 - AUTHORIZING THE DISTURBANCE OF 7,330 SF OF ORDINARY RESOURCE VALUE WETLANDS FOR THE CONSTRUCTION OF A STORMWATER BASIN.
 - SPECIAL ACTIVITY TRANSITION AREA WAIVER - AUTHORIZING THE PERMANENT DISTURBANCE OF 60,175 SF OF EXCEPTION RESOURCE VALUE TRANSITION AREA FOR THE CONSTRUCTION OF RESIDENTIAL DWELLING UNITS.
 4. THE ABOVE REFERENCED FLOOD HAZARD AREA VERIFICATION PLAN WAS REVIEWED BY THE NUDEP - A FLOOD HAZARD AREA VERIFICATION LETTER (FILE NO. 2001-16-0001.1, ACTIVITY NO. FHA160001) DATED MARCH 24, 2016 WAS ISSUED BY THE NUDEP.

BULK REQUIREMENTS FOR THE HAMILTON AVENUE REDEVELOPMENT AREA			
PARAMETER	REQUIRED PER REDEVELOPMENT PLAN DATED SEPTEMBER 2017	REDEVELOPMENT PLAN AMENDMENT REQUEST	PROPOSED
DENSITY OF DEVELOPMENT	MAX. 100 RESIDENTIAL UNITS (COMPRISING OF 80 MARKET RATE TOWNHOMES AND 20 AFFORDABLE FAMILY APARTMENT UNITS)	MAX. 100 RESIDENTIAL UNITS (COMPRISING OF 80 MARKET RATE TOWNHOMES AND 20 FOR-SALE AFFORDABLE UNITS)	67 RESIDENTIAL UNITS (47 MARKET RATE TOWNHOMES, 20 FOR-SALE AFFORDABLE UNITS)
MIN. LOT AREA	14 ACRES	---	15.38 ACRES
MIN. LOT WIDTH	400 FEET	---	650 FEET (ROOSEVELT AVENUE) 600 FEET (HAMILTON AVENUE)
MIN. LOT DEPTH	850 FEET	600 FEET	830 FEET
MIN. FRONT YARD SETBACK - HAMILTON AVENUE	50 FEET	50 FEET ¹	51 FEET
MIN. FRONT YARD SETBACK - ROOSEVELT AVENUE	50 FEET	50 FEET ¹	53 FEET
MIN. REAR YARD SETBACK (NORTH PROPERTY LINE - LIGHT INDUSTRIAL)	50 FEET	50 FEET ¹	52 FEET
MIN. SIDE YARD SETBACK (EAST PROPERTY LINE - WHISPERING WAY)	50 FEET	50 FEET ¹	79 FEET
MIN. SIDE YARD SETBACK (WEST PROPERTY LINE)	NUDEP LAND USE REGULATIONS & REQUIREMENTS	---	VARIES (143 FEET MIN.)
MAX. BUILDING COVERAGE ⁽¹⁾	35% (4)	---	23% (3.51 ACRES) ⁽²⁾
MAX. IMPERVIOUS LOT COVERAGE ⁽³⁾	60% (4)	---	38% (5.79 ACRES) ⁽³⁾
MAX. BUILDING HEIGHT (APARTMENT)	38 FEET	---	<38 FEET
MAX. BUILDING HEIGHT (TOWNHOUSE)	38 FEET	---	<38 FEET
MAX. HEIGHT (ACCESSORY BUILDING OR STRUCTURE)	ONE STORY & 18 FEET	---	N/A
MIN. DISTANCE BETWEEN 2 BUILDINGS (SIDE ELEVATION TO SIDE ELEVATION)	1.5 TIMES THE PRINCIPAL BUILDING	30 FEET ⁴	30 FEET
MIN. DISTANCE BETWEEN 2 BUILDINGS (SIDE ELEVATION TO REAR ELEVATION)	1.5 TIMES THE PRINCIPAL BUILDING	40 FEET ⁴	43 FEET
MIN. DISTANCE BETWEEN 2 BUILDINGS (REAR ELEVATION TO REAR ELEVATION)	2.0 TIMES THE BUILDING HEIGHT	40 FEET ⁴	52 FEET
MAX. NUMBER OF BUILDING STORIES - TOWNHOMES	3 STORIES PROVIDED THAT THE THIRD (3RD) STORY IS BUILT INTO THE ROOF OF THE BUILDING OR STRUCTURE TO GIVE THE APPEARANCE OF TWO AND ONE-HALF (2-1/2) STORIES AT THE STREET LEVEL.	---	3 STORIES
MAX. NUMBER OF BUILDING STORIES - APARTMENTS	3 STORIES PROVIDED THAT THE THIRD (3RD) STORY IS BUILT INTO THE ROOF OF THE BUILDING OR STRUCTURE TO GIVE THE APPEARANCE OF TWO AND ONE-HALF (2-1/2) STORIES AT THE STREET LEVEL.	CHANGE STANDARD TO BE FOR AFFORDABLE-FOR-SALE UNITS	2 STORIES
AFFORDABLE RENTAL UNIT BEDROOM DISTRIBUTION	THE 20 FAMILY RENTAL APARTMENT UNITS IN THE REDEVELOPMENT SHALL CONSIST OF 3 VERY LOW, 7 LOW, AND 10 MODERATE INCOME AFFORDABLE UNITS. THE AFFORDABLE UNITS SHALL COMPLY WITH USHC, APPLICABLE COMM AFFORDABLE HOUSING REGULATIONS, AND OTHER APPLICABLE LAWS, AS MODIFIED BY THE SETTLEMENT AGREEMENT ENTERED INTO BETWEEN THE TOWNSHIP AND FAIR SHARE HOUSING CENTER ON SEPTEMBER 20, 2015, AND ANY APPLICABLE ORDERS OF THE COURT, INCLUDING ANY JUDGMENT OF COMPLIANCE AND REPURPOSE ORDERS.	20 FOR SALE UNITS, CONSISTING OF 3 VERY LOW, 7 LOW, AND 10 MODERATE INCOME AFFORDABLE UNITS	20 FOR SALE UNITS, CONSISTING OF 3 VERY LOW, 7 LOW, AND 10 MODERATE INCOME AFFORDABLE UNITS
OFF-STREET PARKING FOR RESIDENTS	RESIDENTIAL SITE IMPROVEMENT STANDARDS (RSIS)	---	SEE PARKING CALCULATIONS
OFF-STREET PARKING FOR VISITORS	RESIDENTIAL SITE IMPROVEMENT STANDARDS (RSIS)	---	SEE PARKING CALCULATIONS
MIN. DISTANCE BETWEEN GARAGE DOOR AND SIDEWALK	RESIDENTIAL SITE IMPROVEMENT STANDARDS (RSIS)	---	20 FEET
MIN. DISTANCE BETWEEN ANY BUILDING OR STRUCTURE AND ANY PARKING SPACE/DRIVE AISLES/STREET	20 FEET	10 FEET	10 FEET
MIN. DISTANCE BETWEEN ANY PROPERTY LINE AND ANY PARKING SPACE/DRIVE AISLES/STREET	50 FEET	40 FEET	43 FEET

ADDITIONAL REQUIREMENTS FOR THE HAMILTON AVENUE REDEVELOPMENT AREA			
PARAMETER	REQUIRED PER REDEVELOPMENT PLAN DATED SEPTEMBER 2017	REDEVELOPMENT PLAN AMENDMENT REQUEST	PROPOSED
WOODLAND PERIMETER BUFFER (ALONG NORTH AND EAST PROPERTY LINES)	50 FEET	30 FEET	30 FEET
PEDESTRIAN TRAIL	INTERIOR/EXTERIOR LOOP	INTERIOR SIDEWALKS FOR PEDESTRIAN CIRCULATION	INTERIOR SIDEWALKS FOR PEDESTRIAN CIRCULATION
MAX. GROUPING OF PARKING SPACES	4 SPACES	10 SPACES	8 SPACES
MAX. HOMES IN A SERIES	6 HOMES	---	6 HOMES
MAX. CONTIGUOUS HOMES ON THE SAME SETBACK LINE	2 HOMES	---	2 HOMES
MIN. FRONT SETBACK VARIATION BETWEEN TOWNHOMES	5 FT	2 FT	2 FT

ESE CONSULTANTS
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ESE Consultants, Inc.
100 Willow Brook Road • Suite 200 • Freehold, NJ 07728
T: 732-446-9446
New Jersey Certificate of Authorization No. 24C6A7999900

DATE: APRIL 5, 2019
DESIGN: DMG
JOB NO.: 4543
REF. NO.: --
SHEET NO.: 1 OF 1

SCALE: 1"=40'
DRAWING: DMG
FILE NAME: Rendering Site Plan (Table)

RENDERED SITE PLAN
HAMILTON AVENUE CAMPUS
BLOCK 1301, LOT 19
TOWNSHIP OF BERKELEY HEIGHTS, UNION COUNTY, NEW JERSEY