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SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (“Agreement”) made this 8th day of October, 2020, by and between:

TOWNSHIP OF SOUTH BRUNSWICK, a municipal corporation of the State of New Jersey, County of Middlesex, having an address at 540 Ridge Road, Monmouth Junction, New Jersey 08852 (hereinafter the “**Township**”);

TOWNSHIP OF SOUTH BRUNSWICK PLANNING BOARD, a land use board constituted under the authority of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., having an address at 540 Ridge Road, Monmouth Junction, New Jersey 08852 (hereinafter the “**Planning Board**”);

And

PPF INDUSTRIAL- ROUTE 130/EXIT 8A LLC, a limited liability company organized under the laws of the State of Delaware, with its principal place of business located at Forsgate Drive, CN 4000, Cranbury, New Jersey, 08512 (hereinafter “**PPF**”);

Collectively, the Township, Planning Board and PPF shall be referred to as the “**Parties.**”

WHEREAS, PPF is the owner of the real property located adjacent to or near the intersection of NJ State Route 130 and Friendship Road, and designated as Block 6, Lot 15.021 (approximately 15.72 acres) and Lot 15.022 (approximately 54.6 acres), and Block 11, Lot 13.02 (approximately 63.4 acres) and Lot 15.03 (approximately 13.653 acres), on the tax map of the Township of South Brunswick (the “**PPF Property**”), consisting of a total of approximately 147.37 acres, with the parcels being currently wooded or vacant and located within three different zones: the C-5 Commercial zone, the C-6 Commercial zone, and the RR Rural Residential zone; and

WHEREAS, the Township is the owner of real property adjacent to the PPF Property, designated as Block 11, Lot 15.05 (approximately 6.142 acres), on the tax map of the Township of South Brunswick (the “**Township Property**”); and

WHEREAS, on July 1, 2015, the Township filed a declaratory judgment action seeking a Judgment of Compliance and Repose approving its Affordable Housing Plan (as defined herein), in addition to related relief, entitled In the Matter of the Application of the Township of South Brunswick, County of Middlesex, Docket No. MID-3878-15, transferred to Mercer County under Docket No. MER-L-0810-17 by Order dated April 20, 2017, and transferred back to Middlesex County by Order dated July 26, 2017, subsequently being assigned Docket No. MID-L-4433-17 (the “**DJ Action**”); and

WHEREAS, on July 7, 2015, the Court granted, among other things, temporary immunity to the Township from builder's remedy actions in the DJ Action; and

WHEREAS, subsequently the Court revoked the Township's immunity, permitting the filing of various builder's remedy actions under separate docket numbers, which were consolidated with the DJ Action, including a builder's remedy Complaint filed on July 7, 2017 by PPF entitled, PPF Industrial – Route 130/Exit 8A, L.L.C., a limited liability company organized under the laws of the State of Delaware v. Township of South Brunswick, et al., Docket No. MID-L-4094-17 (the "Builder's Remedy Action"); and

WHEREAS, the Court rendered Opinions and Orders dated July 21, 2016, October 6, 2016, and October 21, 2016, following multiple dates of trial and briefing concerning the Township's regional fair share obligations for the period from 1999 through 2025, with the Court thereafter entering additional Orders concerning fair share obligation issues and other issues, including Orders dated December 5, 2018 and March 8, 2019, and notwithstanding the Township's and Planning Board's potential appeal of the above referenced Opinions and Orders, the Township and Planning Board have agreed to proceed with this settlement; and

WHEREAS, the Parties have reached an agreement whereby PPF will (1) develop (A) the portion of the PPF Property excluding the Dedication Parcel, and (B) the Township Property (together referred to as the "**Development Property**") for an inclusionary project generally consistent with the Concept Plan attached hereto as **Exhibit A**, consisting of a maximum of 326 dwelling units, including a 30% affordable housing set aside, resulting in the creation of a maximum level of development on the Development Property consisting of 98 two-story townhomes on fee simple lots, 130 three-story townhomes on fee simple lots, 83 affordable family rental units and one (1) office unit in three-story apartment buildings, and 15 affordable family "for sale" units in three-story stacked townhomes (the "**Inclusionary Development**"), (2) develop for commercial use a portion of the PPF Property located at Block 11, Lot 15.03 (nearest to the northwest corner of the intersection of Friendship Road and Route 130) (the "**Commercial Lot**") with a use allowed in the Commercial Subzone of the PRD VII Zoning Ordinance defined below, and (3) dedicate an approximately 34-acre portion of the PPF Property located at Block 11, Lot 13.02, to the Township for general municipal purposes (the "**Dedication Parcel**"); and

WHEREAS, as part of the Inclusionary Development, 13% of the affordable units will be set-aside for very low income households (as per N.J.S.A. 52:27D-329.1), 37% of the affordable units will be set-aside for low income households, and 50% of the affordable units will be set-aside for moderate income households; and

WHEREAS, the units PPF will set aside for very low income households will be in the form of rental units (not for-sale units) in its Inclusionary Development, located where shown on **Exhibit A**; and

WHEREAS, PPF is amenable to fully and finally resolving the PPF Builder's Remedy Action premised upon PPF securing the right to construct the Inclusionary Development contemplated herein on the Development Property pursuant to the standards set forth in Sections 62-886 through 62-897 of Article IV of the Township Code (the "PRD VII Zoning Ordinance"), a copy of which is attached as **Exhibit B**; and

WHEREAS, the Planning Board is a party to this Settlement Agreement and will abide by the terms of this Agreement as set forth below for the purpose of facilitating a resolution of PPF’s objection to the Township’s Affordable Housing Plan and the ultimate production of the affordable housing that is part of the Inclusionary Development as set forth herein; and

WHEREAS, the Parties will seek the Court’s approval of this Settlement Agreement in connection with the DJ Action, and the Parties intend to be bound by this Agreement, provided this Agreement is approved by the Court; and

WHEREAS, to ensure that the Inclusionary Development contemplated by this Agreement generates affordable housing credits to be applied to the Township’s Gap (1999-2015) and Round 3 (2015-2025) affordable housing obligations, the affordable units within the Inclusionary Development shall be developed in accordance with the COAH Prior Round regulations, the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. (“UHAC”), with the one exception to UHAC regarding very-low income housing noted herein, and all other applicable law, and the affordable units within said Inclusionary Development shall be deed restricted for a period of at least 30 years from the initial occupancy of the affordable units; and

WHEREAS, the Parties wish to enter into this Agreement, setting forth the terms, conditions, responsibilities and obligations of the Parties, and seek the Court’s approval of this Agreement;

NOW, THEREFORE, in consideration of the promises, the mutual obligations contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the Parties, the Parties hereto, each binding itself, its successors and assigns, do hereby covenant and agree, each with the other, as follows:

**ARTICLE I – “PRD VII
ZONE”**

1.1 Purpose The purpose of this Agreement is to settle the PPF Builder’s Remedy Action and to create a realistic opportunity for the construction of the Inclusionary Development, and to generate affordable housing credits for the Township to apply to its Gap (1999-2015) and Prospective Need (2015-2025) affordable housing obligations. The Inclusionary Development shall be substantially consistent with the Concept Plan attached hereto and made a part hereof as **Exhibit A** and zoning standards included in PRD VII Zoning Ordinance, a copy of which is attached hereto and made a part hereof as **Exhibit B**, which have generally been reviewed and approved by the Township and the Township’s professionals. The Inclusionary Development and the Commercial Lot depicted on the Concept Plan shall be governed by “a PRD VII Mixed Development Zone” (the “PRD VII Zone”) established pursuant to the PRD VII Zoning Ordinance, adopted as part of Township Zoning Ordinances in accordance with the timeframes and standards set forth herein.

1.2 Standards The PRD VII Zone shall incorporate the following requirements:

1.2.1 Density. The Development Property shall be developed with a maximum residential unit yield of 326 total residential units, inclusive of the affordable housing component that is described in greater detail in Section 3.1 herein.

1.2.2 Setbacks. The development of the Development Property shall comply with the building setbacks set forth in the PRD VII Zoning Ordinance, a copy of which is attached as **Exhibit B**, which standards shall be adopted as part of the PRD VII Zone that are part of Township Zoning Ordinances.

1.2.3 Height Limitations. No structure in the area designated for 2-story townhomes in the Friendship Road North Inclusionary Housing Subzone (as defined in the PRD VII Zoning Ordinance), as shown on the attached **Exhibit A**, shall be greater than 41 feet in height. No other structures in any of the remaining areas of the Development Property shall be greater than 45 feet in height.

1.2.4 Commercial Lot. The Commercial Lot shall include an approximately three (3) contiguous acre parcel fronting on both Route 130 and Friendship Road, as shown on the attached **Exhibit A**. The Commercial Lot shall be zoned so as to permit the variety of uses allowed in the Commercial Subzone of the PRD VII Zoning Ordinance, including, without limitation, convenience retail with vehicle fuel sales. The commercial development of the Commercial Lot will pay any Non-Residential Development Fee that may be in force at the time of site plan approval pursuant to N.J.S.A. 40:55D-8.1 et seq.

1.2.5 Amenities. There shall be at least two active recreational areas in the Inclusionary Development, (i) one located within the Route 130 Affordable Housing Subzone (as defined in the PRD VII Zoning Ordinance), dedicated for use exclusively by the residents of the 83 rental affordable apartments therein (the “Apartments Recreation Area”) and (ii) a recreational area or areas within the Friendship Road North Inclusionary Housing Subzone (as defined in the PRD VII Zoning Ordinance) and/or the Friendship Road South Inclusionary Housing Subzone (as defined in the PRD VII Zoning Ordinance), or both (dedicated for use exclusively by the residents of the 98 2-story market rate townhomes, the 130 3-story market rate townhomes, and the 15 3-story stacked townhomes therein), an example of which is shown on the Concept Plan (the “Townhomes Recreation Area”).

1.2.5.1 Apartments Recreation Area and Townhomes Recreation Area. Supplementing the foregoing Section 1.2.5, the Apartments Recreation Area shall be substantially similar to, and shall be substantially of the same design and quality as, the Townhomes Recreation Area. By way of example, it is agreed that an Apartments Recreation Area consisting of 1 tennis court, 1 basketball court, and a play area is substantially similar to a Townhomes Recreation Area consisting of 2 tennis courts, a clubhouse, and a play area. The Parties further agree that the provision of the recreational areas, and the dedicated use thereof, satisfies the requirement set forth in Section 62-1997.3.b of the Affordable Housing Ordinance of the Township set forth in Sections 62-1990 through 62-2015 of Article IV of the Township Code (the “Township Affordable Housing Ordinance”), because (a) the residents of the 83 affordable rental apartments will have access to the recreational area to be provided for the rental apartment portion of the Inclusionary Development, and (b) the residents of the 15 3-story affordable “for sale” stacked townhomes will have access to

the recreational area to be provided for the “for sale” townhome portion of the Inclusionary Development. Notwithstanding anything to the contrary set forth herein, the Apartments Recreation Area and the Townhomes Recreation Area may vary from that depicted on the Concept Plan (provided that the Apartments Recreation Area shall, as set forth above, be substantially similar to, and shall be substantially of the same design and quality as, the Townhomes Recreation Area), and if the Townhomes Recreation Area includes a swimming pool, the tenants of the 83 affordable rental apartments in the Route 130 Affordable Housing Subzone will have use of such swimming pool equal to that of residents of the Friendship Road North Inclusionary Housing Subzone and the Friendship Road South Inclusionary Housing Subzone. PPF shall maintain the Apartment Recreation Area so that the amenities contained therein remain in a safe and suitable condition for play, which maintenance shall include, without limitation, replacing torn or dilapidated tennis nets and basketball nets and backboards, sealing and/or resurfacing the tennis and basketball courts, re-painting lines, and repairing or replacing any damaged or broken equipment.

1.2.5.2 Sidewalks To the extent that the following described sidewalk network may be located exclusively within the Development Property or within public right-of-ways, PPF shall also install a network of sidewalks for the use and benefit of all residents of the Inclusionary Development to create an interconnected, walkable community. Said sidewalk shall be internal to the affordable rental portion of the development, connecting it to the Commercial Lot which, in turn, will have sidewalk leading out to Friendship Road and along its Friendship Road frontage, connecting to the existing sidewalk in front of the Oaks at Cranbury development. PPF shall also install sidewalk internal to both townhouse developments, including sidewalk on the south side of Friendship Road (along the frontage of the 3-story townhouse development on Lot 15.021, Block 6) and along the north side of Friendship Road from the easterly terminus of the existing Oaks at Cranbury sidewalk, along the frontage of the two intervening residential out-parcels (Lots 16 and 18, Block 11) and along the frontage of the 2-story townhouse development (portion of Lot 13.02, Block 11).

1.2.6 RSIS. The Parties agree that the residential portion of the Inclusionary Development shall be governed by the Residential Site Improvement Standards (“RSIS”) as to all matters covered by the RSIS, subject to such relief therefrom as may be granted in accordance with law.

1.2.7 Buffer. Buffering shall be provided in accord with the standards of the PRD VII Zone on the PPF Property (a) along Friendship Road, (b) along Route 130 in front of the affordable rental apartments, (c) between the Commercial Lot and the affordable rental apartments, and (d) between the Commercial Lot and the existing residential development known as the Oaks at Cranbury.

1.2.8 Impervious Cover. All impervious coverage associated with any new development or improvements shall comply with current RSIS and NJDEP storm water regulations.

1.2.9 Cost Generation. The Parties agree that the standards and requirements set forth in Section 4.5 satisfy the requirement to limit cost generation.

ARTICLE II - BASIC TERMS AND CONDITIONS

2.1 Fairness Hearing. This Agreement shall be subject to Court approval at a Fairness Hearing to be scheduled at a date determined by the Court. The Parties will work together to ensure that the Court approves this Agreement.

2.2 Legal Challenges. In the event of any legal challenges to the Court's approval of this Agreement pursuant to the East West Venture v. Ft Lee fairness procedure, or any appeal of any Required Approvals (defined in Section 4.4 hereof), the Parties shall diligently defend any such challenge and shall cooperate with each other regarding said defense. In addition, if any such challenge results in a modification of this Agreement or the Inclusionary Development, the Parties shall negotiate in good faith with the intent to draft a mutually-acceptable amended Agreement, provided that no such modification requires an increase or decrease in density from that agreed upon and reflected in the within Agreement. Each Party shall be responsible for their own legal fees and costs associated with any legal challenge.

2.3 Continuation of DJ Action. This Agreement does not purport to resolve all of the issues before the Court raised in the DJ Action. The Township and Planning Board may continue to prosecute the DJ Action, however, such continued prosecution shall not affect this Agreement and the Inclusionary Development that is authorized herein. In no event shall any of the terms of, or rights of the parties under, this Agreement be affected by any trials, or other compliance or fairness hearings, involving claims of third parties and the Township with respect to the Township's affordable housing obligations.

ARTICLE III – PPF'S OBLIGATIONS

3.1 Affordable Housing Set-Aside. PPF shall have an obligation to deed-restrict Ninety-Eight (98) of the residential units in the Inclusionary Development as very low, low and moderate income affordable family units. The affordable units shall consist of 83 rental units within the apartment buildings depicted on the attached **Exhibit A**, and 15 "for sale" units provided within the townhouse area as depicted on the attached **Exhibit A**. The units PPF will set-aside for very low-income households will be in the form of rental units (not for-sale units) in its Inclusionary Development, located where shown on **Exhibit A**. One-half of the 15 "for sale" affordable units shall be for moderate income households, and one-half shall be for low income households. The Parties agree that the Inclusionary Development satisfies the requirement for integration of the Inclusionary Development's affordable units with its market units, as such requirement is set forth in Section 62-1997.3.a of the Township Affordable Housing Ordinance.

All of the affordable units shall comply with UHAC, applicable COAH affordable housing regulations (N.J.A.C. 5:93-1), any applicable order of the Court, and other applicable laws, including the 13% very low income requirement (a minimum of 13% very low income units, very low income being defined as 30% or less of the regional median income) embodied in the Fair Housing Act at N.J.S.A. 52:27D-329.1, et seq., in lieu of the UHAC requirement as to very low income of 10% at 35% or less of the regional median income.

3.1.1 The affordable units shall remain affordable units for a period of at least thirty (30) years from the date of their initial occupancy ("Deed-Restriction Period") consistent with UHAC regulations or the then applicable regulation, so that the Township may count the units against its obligations to provide family affordable housing. This obligation

includes, but is not limited to, PPF's obligation to comply with the following with respect to the affordable units:

- (1) bedroom distribution requirements,
- (2) income split requirements,
- (3) pricing requirements pursuant to the income limits in place at the time the affordable units are marketed,
- (4) affirmative marketing requirements,
- (5) candidate qualification and screening requirements, and
- (6) deed restriction and monitoring requirements.

3.1.2 PPF shall contract with either the Township's affordable housing administrative agent or such third party qualified affordable housing administrative agent as PPF may reasonably determine, subject to the approval of the Township which shall not be unreasonably withheld or delayed ("Administrative Agent") for the administration of the affordable units and shall have the obligation to pay all costs associated with properly deed restricting and the long-term administration of the affordable units pursuant to Section 3.1.1 above in accordance with UHAC and other applicable laws for the Deed-Restriction Period. PPF shall work with the Township and the Administrative Agent regarding any affordable housing monitoring requirements imposed by COAH or the Court.

3.1.3 The Parties agree that the affordable units are to be included in the Affordable Housing Plan to be approved and credited by the Court in the DJ Action, and that the credits will be applied against the Township's Gap (1999-2015) and Prospective Need (2015-2025) obligations.

3.1.4 Within thirty (30) days of receipt of written request from the Township or the Township's Administrative Agent, PPF shall provide detailed information requested by the Township, or the Township's Administrative Agent, concerning PPF's compliance with UHAC and other applicable laws.

3.1.5 The Township has reviewed the proposed floorplans for the one (1) bedroom affordable family units, two (2) bedroom affordable family units and three (3) bedroom affordable family units and agrees that the affordable unit bedroom allocations are reasonably dispersed within the buildings.

3.1.6 Each affordable unit shall contain at least one bedroom with an area of at least 140 square feet, and no bedroom shall have an area of less than 100 square feet. Square footages of each bedroom in an affordable unit shall not include closet space.

3.1.7 The minimum area of each affordable unit shall be as follows:

- a. One (1) bedroom – 650 square feet.
- b(1). Two (2) bedroom for sale – 800 square feet.
- b(2). Two (2) bedroom rental – 875 square feet
- c. Three (3) bedroom – 1,150 square feet.

The square footages of each affordable unit shall include conditioned space (i.e., heated and air conditioned space), but shall not include closets.

3.1.8 Residential Development Fee. The Parties agree that the Inclusionary Development qualifies as an “affordable housing development” pursuant to Section 62-1993 and Section 62-2013.3.B.1 of the Township Affordable Housing Ordinance, so that the entirety of the Inclusionary Development is exempt from imposition of the Residential Development Fee pursuant to Section 62-2013.3.A.1 Township Affordable Housing Ordinance.

3.2 Site Remediation. PPF shall perform a (i) Preliminary Assessment and (ii) Site Investigation if applicable pursuant to the Preliminary Assessment (collectively, “PA/SI”) in accordance with the Technical Requirements for Site Remediation set forth at N.J.A.C. 7:26E-1 et seq. (“Technical Regulations”) for the Development Property and the Dedication Property and provide copies of the resulting reports to the Township. In the event the PA/SIs identify the presence of any hazardous substances requiring remediation pursuant to the Technical Regulations for any Area of Concern, as such term is defined in the Technical Regulations, at the Development Property or the Dedication Property, PPF shall undertake remediation as required by environmental laws at PPF’s sole cost and provide the Township and the Planning Board with a Response Action Outcome letter (RAO) from a Licensed Site Remediation Professional (LSRP) demonstrating that any environmental remediation required for such Area(s) of Concern on the Development Property and/or the Dedication Property has been completed. The completion of such remediation as required by environmental laws may be a condition set forth in the Required Approvals.

3.3 On-Tract/Off-Tract/Off-Site Improvements. Subject to the limitations set forth in Section 4.5 hereof, as a condition of the Required Approvals, PPF shall be obligated to perform or contribute to any On-Tract, Off-Tract and Off-Site improvements as required by the MLUL (as defined in Section 5.1), including, but not limited to, the following, and provided that PPF’s obligation to improve Friendship Road is limited to the improvements specified below in this Section 3.3:

- 3.3.1 Half-width widening of Friendship Road along frontage adjoining Block 11, Lots 16 and 18, including full depth pavement pursuant to the RSIS for collector roads, curb, sidewalk, storm sewers and any necessary property acquisition associated therewith;
- 3.3.2 Half-width widening of Friendship Road, including full depth pavement pursuant to the RSIS for collector roads, curb, sidewalk, storm sewers and any necessary property acquisition associated therewith, along the road frontage of (i) the portion of Lot 13.02 in Block 11 located within the Development Property, (ii) Block 11, Lot 15.05, in each case immediately adjacent to the proposed 98 two-story townhouse development area, (iii) Block 6, Lot 15.021, and (iv) the NJ DOT property on Friendship Road, between Lot 15.021 and Route 130; and
- 3.3.3 If traffic warrants are met, traffic signalization of the proposed four-way intersection on Friendship Road at the entrance to the existing Oaks at

Cranbury community and the entrance to the 130 three-story townhome community along Friendship Road.

3.4 Dedication Parcel. Within forty-five (45) days after receipt of the Required Approvals (as defined in Section 4.4 hereof), PPF shall dedicate the Dedication Parcel to the Township by way of Bargain and Sale Deed with Covenant Against Grantor's Acts and appropriate metes and bounds description, for nominal consideration of One Dollar (\$1.00). The parties shall execute and deliver such documentation as is customary to perfect such conveyance of title such as Seller's Affidavit of Title, affidavits of consideration, a FIRPTA affidavit, a Statement of Closing Title (reflecting customary adjustments), Township resolution and ordinance authorizing acceptance of conveyance. Said dedication shall be for general municipal purposes, and be unencumbered by any mortgage or judgment liens. If any site remediation is required for any Area of Concern on the Dedication Parcel pursuant to the PA/SI referenced in Section 3.2 hereof, PPF shall complete all such remediation prior to dedication. The Township shall not be obligated to accept dedication of the Dedication Parcel until all site remediation for any such Area(s) of Concern is completed in compliance with environmental laws and a RAO is issued by PPF's LSRP for any such Area of Concern. Remediation pursuant to Section 3.2 and this Section 3.4 may include the use of institutional controls and engineering controls as those terms are defined under applicable environmental laws ("Controls"). Upon dedication of the Dedication Parcel, the Township shall accept the Dedication Parcel in its "as-is" condition and accept transfer of, and comply with, the Controls, if any, and shall release and waive any claims or causes of action against PPF and its members, directors, and affiliates, known or unknown, arising from or related to the condition of the Dedication Parcel, including, without limitation, any environmental conditions.

3.5 Obligation Not To Oppose Township's Application for Approval of its Affordable Housing Plan. As it pertains to the Township's application for approval of its Affordable Housing Plan, PPF shall not directly or indirectly oppose or undertake any further action to interfere with the Court's adjudication of the Township's affordable housing obligations and compliance standards. PPF shall also not directly or indirectly oppose or undertake any further action to interfere with the Court's approval and/or implementation of the Affordable Housing Plan, as it may be amended in any form, unless the Affordable Housing Plan deprives PPF of any rights created hereunder, or unless any other defendants or interested parties undertake any action to obstruct or impede PPF from securing such approvals as it needs to develop the Inclusionary Development on the Development Property.

3.6 Obligation Concerning The Township's Affordable Housing Plan and Obligation to Dismiss Complaint. Upon approval of this Settlement Agreement by the Court and the Parties to this Agreement and the period to appeal or challenge the adoption of the PRD VII Zoning Ordinance having passed without any appeal having been filed, PPF agrees that it (a) will not file an objection to the Township's Affordable Housing Plan, (b) will dismiss with prejudice its Builder's Remedy Action entitled PPF Industrial – Route 130/Exit 8A, L.L.C., a limited liability company organized under the laws of the State of Delaware v. Township of South Brunswick, et al., Docket No. MID-L-4094-17, by filing a Stipulation of Dismissal with Prejudice substantially similar to that shown in **Exhibit C**, and (c) will not object further to the Township's Affordable Housing Plan, as may be amended. However, nothing herein shall preclude either party from seeking enforcement of this Settlement Agreement by Motion to

Enforce Litigants Rights, and in the event such a Motion is filed, the prevailing party shall be entitled to legal fees.

ARTICLE IV - OBLIGATIONS OF THE TOWNSHIP

4.1 Obligation To Adopt Zoning Ordinance. The Township shall, by October 31, 2020, adopt the PRD VII Zoning Ordinance, a copy of which is attached hereto as “**Exhibit B**”. The PRD VII Zoning Ordinance shall be subject to Court approval at a Fairness Hearing. The Parties shall use reasonable good faith efforts to obtain Court approval of the PRD VII Zoning Ordinance prior to November 30, 2020. The Parties hereby agree that in the event the Court has not approved the adopted PRD VII Zoning Ordinance by November 30, 2020, PPF shall be entitled to the rights set forth in Section 6.4 hereof. In connection with the above actions, the Township shall comply with all applicable procedural requirements set forth in the Municipal Land Use Law and the case law interpreting same, including, but not limited to, legal notice requirements. Notwithstanding the foregoing, the time period set forth in this Section 4.1 may be extended by mutual consent of the Parties confirmed in writing; provided, however, that if the Parties cannot agree to such extension prior to the expiration of such time period, the provisions of Section 6.4 hereof shall apply.

4.2 Obligation To Preserve The Zoning Ordinance. The PRD VII Zoning Ordinance shall not be amended or rescinded for a period of ten (10) years, except upon the application of PPF and consented to by the Township, or by Order of the Court.

4.3 Representation regarding Sufficiency of Water and Sewer. The Township agrees that as of the Effective Date of this Agreement, it has sufficient potable water capacity to service the proposed Inclusionary Development and development of the Commercial Lot (collectively, the “Project”), pursuant to the requirements of Township Code Sections 62-153, et seq. The parties acknowledge that the Township has experienced problems with sanitary sewer capacity due to the presence of infiltration and inflow (“I&I”) in the portion of the existing sanitary sewer system into which the Project will discharge. Any on-site water, sewer, or any other utility infrastructure or improvements required for the development of the Project shall be at the sole cost and expense of PPF. Subject to any upgrades and enhancements that may be reasonably necessary and attributable only to the Inclusionary Development and the Commercial Lot (which, if necessary shall be made, at the expense of PPF), the Township agrees to allow the Project to interconnect with (through, without limitation, the granting of easements), and utilize the sanitary sewer pump station and all related infrastructure that was constructed in conjunction with, the Oaks at Cranbury residential community, which sanitary sewer pump station and related infrastructure is defined as the “Parcel E Sanitary Sewer Facilities” in that certain Declaration of Easements, Covenants and Restrictions made as of January 9, 2014 by PPF and recorded in the Middlesex County Clerk’s Office on January 14, 2014 in Deed Book 6536, Page 21, as amended by that certain Amendment to Declaration of Easements, Covenants and Restrictions made as of October 31, 2014 by PPF and recorded in the Middlesex County Clerk’s Office on November 12, 2014 in Deed Book 6633, Page 227 (as amended, the “Declaration”). Supplementing the foregoing, the Parcel E Sanitary Sewer Facilities are comprised of the Pump Station Facilities as defined in that certain Deed of Easement dated October 10, 2017 and recorded in the Middlesex County Clerk’s Office on November 2, 2017 in Deed Book 17002, Page 90, pursuant to which (i) PPF granted an easement to the Township for the right to access, operate and maintain such Pump Station Facilities on Block 6, Lot 15.021, (ii) the Township accepted ownership of the

Pump Station Facilities, and (iii) the Township is obligated to maintain the Pump Station Facilities. Notwithstanding the limitation set forth in Section 11 of the Declaration, or anything to the contrary set forth in this Agreement or in any other documentation, the Township acknowledges and agrees that PPF may exceed the limitation set forth in Section 11 of the Declaration and utilize such portion of the Parcel E Sanitary Sewer Facilities' sewer capacity as may be required to service the Project.

4.4 Obligation to Cooperate. The Township acknowledges that in order for PPF to construct the Project, PPF will be required to obtain any and all necessary and applicable agreements, approvals, and permits for development of the Project from all relevant public entities and utilities; such as, by way of example only, the Township, the Planning Board, the County of Middlesex, the Middlesex County Planning Board, the New Jersey Department of Environmental Protection ("NJDEP"), the New Jersey Department of Transportation, Freehold Soil Conservation District and the like, including the Township's ordinance requirements as to site plan and subdivision approval, which shall be deemed obtained only upon expiration of their respective appeal periods, without any appeal being pending therefrom (the "**Required Approvals**"). The Township agrees, upon execution of the Agreement, to use all reasonable efforts to assist PPF in its undertakings to obtain the Required Approvals, including providing (a) the Township's authorization to make applications, such as wetlands, LOI and flood hazard area applications, that may be required as to the Township Property (Lot 15.05, Block 11), (b) the Township's endorsement of all required Treatment Works Approval applications to the NJDEP for the installation of sewer improvements, and (c) the Township's signature on any such applications, with the costs of said applications to be borne by PPF. The parties agree that the residential portion of the Inclusionary Development shall be governed by the RSIS as to all matters covered by the RSIS, including the right to seek de minimis exceptions or other RSIS relief.

4.5 Obligation to Refrain From Imposing Cost-Generative Requirements. The Township and Planning Board recognize that the Required Approvals and this Agreement contemplate the development of an "Inclusionary Development" within the meaning of the Mount Laurel doctrine. Therefore, the Township and Planning Board will not impose development standards and/or requirements that have not been agreed to by the parties, and would otherwise be considered to be "cost generative." The Township and Planning Board, and their various departments and professional staff, shall consider an application to the Township Planning Board in a manner that eliminates unnecessary cost generating features, consistent with N.J.A.C. 5:93-10.1 and 10.2. Moreover, the Parties agree that, as the Project described herein is providing a 30% affordable housing set-aside, the following cost controls shall apply to it:

a. All Township professional review escrow fees for review of the Project application from the Effective Date of the within Agreement to the date of the Required Approvals shall be capped at an amount not to exceed \$350,000.

b. PPF's total cost (including all hard and soft costs) of performing all Township required off-tract and off-site improvements related to traffic impacts associated with the Inclusionary Development and development of the Commercial Lot, and any Township imposed monetary exactions for same, shall be capped at \$550,000 (which does not, however, apply to any off-tract or off-site improvements required by any outside agencies or any costs associated with any required traffic signalization as per Section 3.3.3 herein), it being agreed that (i) the improvements

described in Sections 3.3.1 and 3.3.2 (iv) are off-tract improvements, the cost of which is subject to said \$550,000 cost cap, and (ii) the improvements described in Section 3.3.2(i)-(iii) are on-tract improvements to be performed within the half of the Friendship Road right-of-way adjoining the Development Property, the cost of which is not subject to said \$550,000 cost cap.

c. The Planning Board will allow a comprehensive storm water management system for the entire Inclusionary Development and development of the Commercial Lot, regardless of internal lot configuration. Stormwater basin design standards shall adhere to RSIS and NJDEP requirements. The design standards in the ordinances shall not apply if said standards are in addition to or exceed NJDEP and RSIS design standards.

d. All monetary obligations associated with the Tree Replacement Ordinance, Section 62-121 to 133, for the Inclusionary Development and development of the Commercial Lot shall be capped at \$8,000.00 pursuant to the calculations shown in Exhibit D. During the course of design and/or construction, PPF may elect to reduce this contribution by planting additional trees within the proposed development. In such event, the replacement value of \$8,000.00 will be reduced based upon the number of additional trees planted in excess of sixty (60).

e. PPF agrees to perform mitigation of the I&I by installing, prior to occupancy of any portion of the Project, a Cured In Place Liner (“CIPL”), in accordance with the CIPL Specification annexed hereto as **Exhibit E** (which specification is subject to revision in connection with bidding for, and installation of, the CIPL, including bypass pumping and any other measures reasonably necessary to complete the CIPL work to the satisfaction of the Township Engineer), inside approximately eight hundred and twenty-five (825) linear feet of the existing sanitary sewer main, running from Manhole #8 to Manhole #9, and thence to Manhole #10, located between Revere Drive and Deans Rhode Hall Road in the Township (the “CIPL Installation”) which is intended to mitigate at least 93,525 gallons per day (“gpd”) of I&I, thereby freeing up sufficient capacity in the existing sanitary sewer system to accommodate the sanitary sewer flows originating from the Project (which are projected to be 93,525 gpd). Upon completion of the CIPL Installation:

(i) PPF shall conduct a post-completion analysis and investigation to verify the extent of I&I eliminated by the CIPL Installation (the “Total Mitigation” or “TM”);

(ii) PPF shall confirm to the Township the total cost of the CIPL Installation including, without limitation, costs of the I&I studies completed before and after undertaking the CIPL Installation, the CIPL Installation work, sewer line cleaning, video inspection, bypass pumping, permitting, inspection, and engineering fees, and other ancillary costs directly attributable to the CIPL Project (the “CIPL Cost”); and

(iii) The Township shall, to the extent that the Total Mitigation exceeds 93,525 gpd, reimburse PPF for the Township’s proportionate share of the CIPL Cost (the “Township Share”), said Township Share being a portion of the CIPL Cost equal to $((TM - 93,525 \text{ gpd})/TM) \times \text{CIPL Cost}$, so that, for example, if Total Mitigation is 116,906.25 gpd, then the Township shall reimburse PPF for twenty percent (20%) of the CIPL Cost ($= (116,906.25 \text{ gpd} - 93,525 \text{ gpd})/116,906.25 \text{ gpd} = .20$). Said reimbursement by the Township to PPF shall be paid within forty-five (45) days after PPF’s presentment to the Township of notice advising the Township of the amount of its reimbursement due hereunder, it being agreed that PPF shall, at its option, also have the right to obtain reimbursement by taking a credit, for all or part of the reimbursement owed

to it, against any future amounts owed by PPF to the Township such as for application fees, escrow deposits, and inspection fees.

Given PPFs agreement to complete the CIPL Installation prior to Project occupancy, and in accordance with the CIPL Specification annexed hereto as **Exhibit E**, and assuming that at least 93,525 gpd of I&I has been eliminated as a result of the CIPL, the Township agrees that:

(x) PPF shall, upon its completion of the CIPL Installation, have no further off-site or off-tract utility obligations, pursuant to N.J.S.A. 40:55D-42 and any applicable ordinances, either in-kind or for the contribution to the cost thereof, other than for any pump station upgrade required pursuant to Section 4.3 hereof, and PPF shall have no obligation to perform any other off-site or off-tract utility obligations, or to contribute to the cost of same, in connection with the Project;
and

(y) Timing of the CIPL Installation shall not affect the Township's obligations under Section 4.4 hereof, including, without limitation, the obligation to endorse any NJDEP application for a Treatment Works Approval.

4.6 Conveyance of Township Property. Within forty-five (45) days after PPF's receipt of all Required Approvals, the Township shall convey the Township Property to PPF by way of Bargain and Sale Deed with Covenant Against Grantor's Acts and appropriate metes and bounds description, for nominal consideration of One Dollar (\$1.00). The parties shall execute and deliver such documentation as is customary to perfect such conveyance of title such as Seller's Affidavit of Title, affidavits of consideration, a FIRPTA affidavit, a Statement of Closing Title (reflecting customary adjustments), Township resolution and ordinance authorizing such conveyance, and other documentation reasonably requested by grantee's title insurance company. The Township Property shall be conveyed in "as is" condition, free of all liens and encumbrances (other than any which encumbered the Township Property at the time of its conveyance by PPF to the Township pursuant to Deed recorded on March 7, 2014 in the Middlesex County Clerk's Office in Deed Book 6550, Page 246), and with no obligation on the part of the Township for any site remediation. PPF specifically agrees to accept said conveyance under these terms. PPF shall release and waive any claims or causes of action against the Township, known or unknown, arising from or related to the condition of the Township Property, including, without limitation, any environmental conditions. Notwithstanding the foregoing, the Township represents and warrants that it has not undertaken any actions affecting the Township Property that would in any manner render the Township Property unsuitable for the purposes set forth in this Agreement. The Township grants PPF access to the Township Property for purposes of environmental evaluation and preparation of application(s) for an LOI. Township agrees to cooperate with PPF, including by signing applications as owner of the Township Property.

4.7 Obligation Regarding Revocable Emergency Access Agreement.

(a) The Township and the New Jersey Turnpike Authority (the "**Turnpike Authority**") have entered, or will enter, into a certain Revocable Emergency Access Agreement (the "**Access Agreement**"), in form substantially similar to that annexed hereto as **Exhibit F**, pursuant to which the Turnpike Authority grants to the Township a revocable right of entry for emergency access across certain land of the Turnpike Authority located adjacent to a portion of the Inclusionary Development, as more particularly described in the Access Agreement. The Township hereby acknowledges that the Access Agreement shall be entered into for the benefit of, and for the

purpose of providing emergency access to, the portion of the Inclusionary Development situated on Block 6, Lots 15.021 and 15.022. The Township shall allow PPF to exercise the access rights granted to the Township pursuant to the Access Agreement, and shall not (i) agree to any amendments to the Access Agreement, or (ii) terminate the Access Agreement, without the prior written consent of PPF, which consent shall not be unreasonably withheld, conditioned or delayed, it being understood, however, that the Access Agreement is terminable by the Turnpike Authority, and in the event of such termination, the Access Agreement provides that the parties thereto shall work together to find a reasonable solution.

(b) In the event of the Township's receipt of notice from the Turnpike Authority of the Turnpike Authority's termination of the Access Agreement:

(i) The Township shall provide written notice to PPF of said termination;

(ii) The Township shall (x) exercise its rights under the Access Agreement to enter into a reasonable alternative to the Access Agreement, (y) keep PPF fully informed of the status of any and all alternatives to the Access Agreement and cooperate with PPF in determining and entering into a reasonable alternative to the Access Agreement, and (z) provide PPF with copies of all material documents, instruments, correspondence, plans, reports and any other information with respect thereto generated by or on behalf of the Township or received by the Township in connection with same.

(c) In no event shall any such termination or modification of the Access Agreement by the Turnpike Authority, or termination, or modification, of any subsequent reasonable alternative to the Access Agreement, impair any of PPF's Required Approvals for the Inclusionary Development.

(d) In the event the Access Agreement is executed by the Township and Turnpike Authority, PPF may utilize such rights conferred upon the Township pursuant to the Access Agreement. If the Township and Turnpike Authority do not enter into the Access Agreement within ninety (90) days of the date hereof, PPF agrees to reasonably cooperate with the Township and the Turnpike Authority to secure emergency access to the Project, provided, however, that PPF shall have the right, instead of, or in addition to, relying on the emergency access rights to be afforded to it pursuant to the Access Agreement and this Section 4.7, to include in its Concept Plan, and in its site plan application for the Project, a divided boulevard roadway to and from the development within Block 6, Lots 15.021 and 15.022 which, the parties agree, will satisfy any emergency access requirements for that portion of the Project.

ARTICLE V – OBLIGATIONS OF THE PLANNING BOARD

5.1 Obligation to Process PPF's Development Applications with Reasonable Diligence. The Planning Board shall expedite the processing of PPF's development applications following PPF's filing of a complete application(s) and within the time limits imposed by the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., ("MLUL"). In the event of any appeal of the Required Approvals or of the Court approval of this Agreement, the Planning Board shall nevertheless process and make a decision on any development application by PPF for the Development Property, which decision may, as appropriate, be conditioned upon the outcome of any pending appeal. Provided that PPF files a substantially complete preliminary site plan application with the Planning Board by September 30, 2020, and subject to approval of this Agreement by the court after the Fairness Hearing described in Section 2.1 hereof, if the Planning

Board does not schedule the initial hearing on such application by December 31, 2020, then PPF shall, notwithstanding any of the other terms hereof, have the right to terminate this Agreement on notice to the Township and Planning Board, in which event the Parties shall be restored to the status quo ante to the date hereof (including, without limitation, the Township's return of any unused portion of professional review escrow fees posted by PPF in accordance with Section 4.5.a), and all claims and defenses available now shall be available to the Parties. In the event that PPF decides that the Parties shall be restored to the status quo ante to the date hereof and all claims and defenses available now shall be available to the Parties, no Party shall be entitled to use this Agreement, or negotiations in conjunction therewith, as the basis for any claim against any other Party. The parties may extend the December 31, 2020, deadline upon mutual agreement, and the December 31, 2020, deadline shall be deemed extended in the event the scheduling of the initial hearing by the Planning Board is delayed for reasons beyond the control of the Township or Planning Board.

5.2 Obligation to Refrain From Imposing Cost-Generative Requirements. The Planning Board recognizes that the Required Approvals and this Agreement all contemplate the development of an "Inclusionary Development" within the meaning of the Mount Laurel doctrine. The Planning Board agrees to adhere to the specific requirements of Section 4.5 above related to specific cost generation requirements associated with the Inclusionary Development as this inclusionary development is significantly exceeding the typical affordable housing set-asides as generally approved in court and COAH matters by providing a 30% affordable family set-aside. Except as to the standards and requirements set forth in this Agreement, nothing shall prevent PPF from applying for a waiver or bulk variance from any standard imposed by the Township's Land Use and Development Ordinance, as applicable, and the standards set forth in the MLUL, as applicable. Notwithstanding the above, the Township Council and the Planning Board are under no obligation to grant or approve any request for a bulk variance, waiver or de minimus exception, but shall address any such request in accordance with law.

ARTICLE VI – MUTUAL OBLIGATIONS

6.1 Escrow Agreement. On the Effective Date (as this term is defined in Section 10.12 hereof), PPF shall deposit the amount of \$50,000.00 with the Township, said amount comprising a portion of the escrow monies to be utilized by the Township to tender payment of reasonable fees for professional services, including legal, engineering, and planning services being provided in conjunction with the Court's approval of this Agreement, Fairness Hearing specifically on this Agreement, and the Required Approvals. In addition, each time the amount of said escrow monies deposited with the Township falls below \$10,000.00, PPF shall replenish the amount of said escrow monies after reasonable request from the Township by depositing with the Township additional escrow monies in \$50,000.00 increments; provided, however, that PPF's obligation to deposit escrow monies with the Township pursuant to this Section 6.1 shall be subject to the \$350,000 cap set forth in Section 4.5.a hereof. Upon receipt of all Required Approvals in final and unappealable form, PPF shall deposit all necessary escrow monies with the Township to be utilized to tender payment of reasonable fees for professional services, including legal, engineering, building subcode and planning services for construction inspection of the Inclusionary Development and Commercial Lot.

6.2 Obligation To Comply with State Regulations. The Parties shall comply with any and all Federal, State, County and local laws, rules, regulations, statutes, ordinances, permits, resolutions, judgments, orders, decrees, directives, interpretations, standards, licenses, approvals, and similarly binding authority, applicable to the Inclusionary Development or the performance by the Parties of their respective obligations or the exercise by the Parties of their respective rights in connection with this Agreement.

6.3 Mutual Good Faith, Cooperation and Assistance. The Parties shall exercise good faith, cooperate, and assist each other in fulfilling the intent and purpose of this Agreement, including, but not limited to, the approval of this Agreement by the Court, the procurement of the Required Approvals, the development of the Development Property consistent with the terms hereof, and the defense of any challenge with regard to any of the foregoing.

6.4 Court's Failure to Approve PRD VII Ordinance. If the Court does not approve the adopted PRD VII Zoning Ordinance by the deadline set forth in Section 4.1, then, at the option of PPF, in its sole discretion and by prior written notice to the Township and Planning Board in accordance with Article IX of this Agreement, this Agreement shall terminate and the Parties shall be restored to the status quo ante to the date hereof (including, without limitation, the Township's return of any unused portion of professional review escrow fees posted by PPF in accordance with Section 4.5.a), and all claims and defenses available now shall be available to the Parties. In the event that PPF decides that the Parties shall be restored to the status quo ante to the date hereof and all claims and defenses available now shall be available to the Parties, no Party shall be entitled to use this Agreement, or negotiations in conjunction therewith, as the basis for any claim against any other Party.

6.5 Defense of Agreement. Except as otherwise provided in this Agreement, each party exclusively shall be responsible for all costs that it may incur in obtaining Court approval of this Agreement and in defending any appeal therefrom, or in obtaining the Required Approvals or the approval of the Affordable Housing Plan or any part thereof except as is otherwise provided in this Agreement. The Parties shall diligently defend any such challenge.

ARTICLE VII - AFFORDABLE HOUSING CREDITS

7.1 Demonstration of Creditworthiness of Units. Within thirty (30) days of receipt of request, PPF agrees to supply the Township and the Township's Administrative Agent with all documents within its possession that may be reasonably necessary to demonstrate to the Court or any other reviewing agency, entity or body, the creditworthiness of the affordable units.

ARTICLE VIII - COOPERATION AND COMPLIANCE

8.1 Implementation And Enforcement Of Agreement. The Parties agree to cooperate with each other, provide all reasonable and necessary documentation, and take all actions reasonably necessary to satisfy the terms and conditions hereof and assure compliance with the terms of this Agreement, subject to prior written agreement between the Parties on payment by the requesting party of the requested party's direct costs and expenses in connection with such assistance. The Township's obligation to cooperate shall be further conditioned upon PPF paying and maintaining current real estate taxes and all other municipal assessments.

ARTICLE IX - NOTICES

9.1 Notices. Any notice or transmittal of any document required, permitted or appropriate hereunder and/or any transmittal between the Parties relating to the Property (herein “Notice[s]”) shall be written and shall be served upon the respective Parties by facsimile or by certified mail, return receipt requested, or recognized overnight or personal carrier such as, for example, Federal Express, with proof of receipt; and for any transmittal by certified mail or recognized overnight or personal carrier of less than fifty (50) pages, a facsimile delivery shall also be provided. All Notices shall be deemed received upon the date of delivery set forth in such certified proof, and all times for performance based upon notice shall be from the date set forth therein. Delivery shall be effected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days’ written notice as provided herein:

TO PPF:

PPF Industrial – Route 130/Exit 8A, LLC
c/o Matrix Development Group
Attn: Joseph S. Taylor, President
Forsgate Drive, CN 4000
Cranbury, NJ 08512
Fax: (609) 395-8289

WITH COPIES TO:

Hill Wallack LLP
Attention: Thomas F. Carroll, III, Esq.
21 Roszel Road
P.O. Box 5226
Princeton, New Jersey 08543-5226
Fax: (609) 452-1888
Email: tcarrroll@hillwallack.com

And

Faegre Drinker Biddle & Reath LLP
Attention: Glenn S. Pantel, Esq.
600 Campus Drive
Florham Park
NJ 07932
Email: glenn.pantel@faegredrinker.com
Fax: (973) 360-9831

TO THE TOWNSHIP OF SOUTH BRUNSWICK:

Clerk of Township of South Brunswick
540 Ridge Road
P.O. Box 190
Monmouth Junction, New Jersey 08852
Fax: (732) 329-0926

WITH COPIES TO:

Law Department, Township of South Brunswick

540 Ridge Road
P.O. Box 190
Monmouth Junction, New Jersey 08852
Attn: Donald J. Sears, Director of Law
Phone:(732) 329-4000 ext. 7311
Email: dsears@sbtnj.net
Fax: (732) 329-0926

TO THE SOUTH BRUNSWICK PLANNING BOARD:

South Brunswick Planning Board
Township of South Brunswick
540 Ridge Road
Monmouth Junction, New Jersey 08852
Attn: Director of Planning
Phone: (732) 329-4000 ext. 7239
Fax: (732) 329-0926

WITH COPIES TO:

Thomas F. Collins, Jr., Esq.
Thomas J. Molica, Jr., Esq.
Vogel, Chait, Collins & Schneider, P.C.
25 Lindsley Drive, Suite 200
Morristown, New Jersey 07960-4454
Phone: (908) 538-3800
Email: tcollins@vccslaw.com
tmolica@vccslaw.com
Fax: (973)538-3002

In the event any of the individuals identified above has a successor, the individual identified shall, in writing, name the successor and notify all others identified of their successor. Counsel for a party may give notice to another party with the same effect as if given by a party.

ARTICLE X - MISCELLANEOUS

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

10.2 Successors Bound. The provisions of this Agreement shall run with the land, and the obligations and benefits hereunder shall be binding upon and inure to the benefit of the Parties, their successors and assigns, including any person, corporation, partnership or other legal entity which at any particular time may have a fee title interest in all or part of the Property which is

the subject of this Agreement. By way of example, PPF shall have no obligations hereunder with respect to any portion of the Property conveyed to a grantee, and any such grantee shall be deemed to have assumed the obligations of PPF with respect to the portion of the Property conveyed to it; and PPF may assign, in whole or in part, any of its rights hereunder to such grantee. This Agreement may be enforced by any of the Parties, and their successors and assigns, as herein set forth.

10.3 Recording of Agreement; Discharge. This Agreement shall be recorded in the office of the Middlesex County Clerk. Within forty-five (45) days after completion of the construction of the Inclusionary Development, the Parties shall execute a discharge of this Agreement and shall thereafter cause said discharge to be recorded in the office of the Middlesex County Clerk, provided that the appropriate documents have been properly executed and recorded with the Middlesex County Clerk to establish the Deed-Restriction Period (as defined in Section 62-896(2) of the PRD VII Zoning Ordinance) upon all affordable housing units within the Inclusionary Development.

10.4 No Modification. This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.

10.5 Effect of Counterparts. This Agreement may be executed simultaneously in one (1) or more facsimile or pdf counterparts, each of which shall be deemed an original and be fully enforceable as if bearing original signatures. Any facsimile or pdf counterpart forthwith shall be supplemented by the delivery of an original counterpart pursuant to the terms for notice set forth herein.

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

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

10.8 Necessity of Required Approvals and Eminent Domain. The Parties recognize that the site plans and subdivision required to implement the Inclusionary Development and the development of the Commercial Lot provided in this Agreement, and such other actions as may be required of the Planning Board or Township under this Agreement, cannot be approved except on the basis of the independent reasonable judgment by the Planning Board and the Township Council, as appropriate, and in accordance with the procedures established by law. Nothing in this Agreement is intended to constrain that judgment or to authorize any action not taken in accordance with procedures established by law. Similarly, nothing herein is intended to preclude PPF from appealing any denials of or conditions imposed by the Planning Board in accordance with the MLUL or taking any other action permitted by law,

subject to PPF's compliance with the terms of this Agreement. The Parties further recognize that (i) the acquisition of certain easements (temporary and permanent) within properties owned by third parties and (ii) permanent acquisitions in fee of properties owned by third parties, may be necessary for the development of the Commercial Lot and for the construction of the Inclusionary Development and all related improvements contemplated by this Agreement, including, without limitation, for the construction of road improvements, utilities, stormwater management, sidewalks, and bike paths. Given the public importance of the Inclusionary Development, to ensure the uninterrupted development of the Inclusionary Development, the Township shall, upon the request of and at the sole expense of PPF, and after PPF has attempted in good faith to acquire any easements, right-of-way agreements and/or permanent acquisitions in fee of third party property, undertake the expeditious acquisition of all such property interests held by third parties through negotiation with any such third parties. The Township may, but is not obligated to, acquire such third party properties through exercise of its powers of eminent domain. In the event the third party properties cannot be acquired through negotiation, and the Township does not acquire same through its powers of eminent domain, construction of the improvements intended for said third party properties shall be deferred until such time as the properties can be acquired.

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

10.10 Entire Agreement; Supersession/Modification of Prior Settlement Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes and/or modifies all prior oral and written agreements between the Parties with respect to the Property and the subject matter hereof, except as otherwise provided herein, including that certain Settlement Agreement between PPF and the Township approved as of August 24, 2010.

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

10.12 Effective Date. Anything herein contained to the contrary notwithstanding, the effective date ("Effective Date") of this Agreement shall be the date upon which the last of the Parties to execute this Agreement has executed and delivered this Agreement.

10.13 Waiver. The Parties agree that this Agreement is enforceable. Each of the Parties waives all rights to challenge the validity or the ability to enforce this Agreement. Failure to enforce any of the provisions of this Agreement by any of the Parties shall not be construed as a waiver of these or other provisions.

10.14 Captions. The captions and titles to this Agreement and the several sections and subsections are inserted for purposes of convenience of reference only and are in no way to be construed as limiting or modifying the scope and intent of the various provisions of this Agreement.

10.15 Default. In the event that any of the Parties shall fail to perform any material obligation on its part to be performed pursuant to the terms and conditions of this Agreement, unless such obligation is waived by all of the other Parties for whose benefit such obligation is intended, or by the Court, such failure to perform shall constitute a default of this Agreement. Upon the occurrence of any default, the non-defaulting Party shall provide notice of the default, and the defaulting Party shall have the opportunity to cure the default within forty-five (45) days therefrom, unless such default cannot with due diligence be wholly cured within such forty-five (45) day period, in which case the defaulting Party shall have such longer period as shall be necessary to cure such default, so long as said defaulting Party proceeds promptly to cure such default within such forty-five (45) day period, prosecutes such cure to completion within sixty (60) days and advises the non-defaulting party of the actions which the defaulting Party is taking and the progress being made. In the event the defaulting Party fails to cure the default within such forty-five (45) or sixty (60) day period, as the case may be, the Party(ies) for whose benefit such obligation is intended shall be entitled to exercise any and all rights and remedies that may be available in equity or under the laws of the State of New Jersey, including the right of specific performance to the extent available. Further, the Parties may apply to the Court for relief, by way of a motion for enforcement of litigant's rights.

10.16 Notice of Actions. The Parties and their respective counsel agree immediately to provide each other with notice of any lawsuits, actions or governmental declarations threatened or pending by third parties of which they are actually aware which may affect the provisions of this Agreement.

10.17 Governing Law, Construction, Resolution of Disputes. This Agreement has been entered into and shall be construed, governed and enforced in accordance with the laws of the State of New Jersey without giving effect to provisions relating to the conflicts of law. Jurisdiction of any litigation ensuing with regard to this Agreement exclusively shall be in the Superior Court of New Jersey, with venue in Middlesex County.

10.18 DJ Action. The Parties acknowledge that this Agreement cannot be modified by the DJ Action or any amendments to the Township's Affordable Housing Plan or Land Use and Development Ordinances, and this Agreement shall control with respect to those matters as applied to the Development Property. Upon the entry of a Judgment of Compliance and Repose in the Township's DJ Action, and after the DJ Action is concluded, the Court shall retain jurisdiction to ensure compliance with the terms and conditions of this Agreement. As to any inconsistencies between the Required Approvals and this Agreement, the Required Approvals shall control. In the event of an appeal of the DJ Action, the terms and conditions of this Agreement shall control and shall not be affected by the outcome of any such appeal.

10.19 Recitals. The recitals of this Agreement are incorporated herein and made a part hereof.

THE REMAINDER OF THIS PAGE IS PURPOSEFULLY BLANK

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be properly executed, their corporate seals affixed and attested and this Agreement to be effective as of the Effective Date.

Witness/Attest:

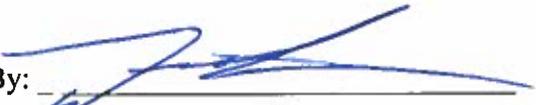
PPF INDUSTRIAL – ROUTE 130/
EXIT 8A, LLC

By: Matrix/PPF ROUTE 130/ EXIT
8A, Industrial Fund, LLC,

By: Matrix Industrial Partners, LLC
Its Administrative Member

By: Taylor/Epstein Investment Fund,
LLC,


Name: WILLIAM STAPLETON
Title:

By: 
Name: Donald M. Epstein
Title: Manager

Dated: 9-22-2020

Witness/Attest:

TOWNSHIP OF SOUTH BRUNSWICK
By: Charlie Carley,
as its MAYOR

Barbara Nyitrai, Township Clerk

By: _____
Charlie Carley, Mayor

Dated: _____

Witness/Attest:

TOWNSHIP OF SOUTH BRUNSWICK
PLANNING BOARD
By:

Tammy Scimone, Secretary

By: _____
Paul Prodromo, Chair

Dated: _____

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be properly executed, their corporate seals affixed and attested and this Agreement to be effective as of the Effective Date.

Witness/Attest:

PPF INDUSTRIAL – ROUTE 130/
EXIT 8A, LLC

By: Matrix/PPF ROUTE 130/ EXIT
8A, Industrial Fund, LLC

By: Matrix Industrial Partners, LLC
Its Administrative Member

By: Taylor/Epstein Investment Fund,
LLC

Name:

Title:

Dated: _____

By: _____

Name:

Title:

Witness/Attest:

TOWNSHIP OF SOUTH BRUNSWICK

By: Charlie Carley,
as its MAYOR

Barbara Nyitrai
Barbara Nyitrai, Township Clerk

By: Charlie Carley
Charlie Carley, Mayor

Dated: 9/28/2020

Witness/Attest:

TOWNSHIP OF SOUTH BRUNSWICK

PLANNING BOARD

By:

Tammy Scimone
Tammy Scimone, Secretary

By: Paul Prodomo
Paul Prodomo, Chair

Dated: 10/8/20

STATE OF NEW JERSEY :

SS

COUNTY OF Middlesex :

I CERTIFY that on September 22, 2020, Donald M. Epstein personally came before me and he acknowledged under oath, to my satisfaction, that:

- (a) he is the Manager of Taylor/Epstein Investment Fund, LLC, the Manager of Matrix Industrial Partners, LLC, the Administrative Member of Matrix/PPF Route 130/Exit 8A Industrial Fund LLC, the Sole Member of PPF Industrial-Route 130/Exit 8A LLC, the limited liability company named in this document;
- (b) he is authorized to execute the attached Agreement as the Manager of Taylor/Epstein Investment Fund, LLC, the Manager of Matrix Industrial Partners, LLC, the Administrative Member of Matrix/PPF Route 130/Exit 8A Industrial Fund LLC, the Sole Member of PPF Industrial-Route 130/Exit 8A LLC;
- (c) he executed the attached Agreement on behalf of and as the act of PPF Industrial-Route 130/Exit 8A LLC; and
- (d) the attached Agreement was signed and made by the PPF Industrial-Route 130/Exit 8A LLC as its duly authorized and voluntary act.

Signed and sworn to before me
On September 22, 2020

Donna M. Parkin

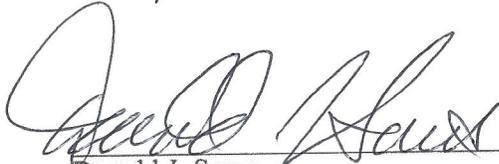


STATE OF NEW JERSEY:
SS
COUNTY OF MIDDLESEX:

I CERTIFY that on Sept. 28, 2020, BARBARA NYITRAI, personally came before me and she acknowledged under oath, to my satisfaction, that:

- (a) she is the Township Clerk of the Township of South Brunswick, the municipal corporation named in this document;
- (b) she is the attesting witness to the signing of this document by Charlie Carley, who is the Mayor of the Township of South Brunswick;
- (c) this document was signed and delivered by the Township of South Brunswick as its voluntary act duly authorized by a proper resolution of the Township Council;
- (d) she knows the proper seal of the Township of South Brunswick which was affixed to this document; and
- (e) she signed this proof to attest to the truth of these facts.

Signed and sworn to before me
On September 28, 2020


Donald J. Sears
An Attorney At Law
In the State of New Jersey


Barbara Nyitrai, Township Clerk

STATE OF NEW JERSEY:
SS
COUNTY OF MIDDLESEX:

I CERTIFY that on October 8, 2020, TAMMY SCIMONE, personally came before me and she acknowledged under oath, to my satisfaction, that:

- (a) she is the Secretary of the South Brunswick Planning Board, the municipal corporation named in this document;
- (b) she is the attesting witness to the signing of this document by Paul Prodromo, who is the Chairperson of the South Brunswick Planning Board;
- (c) this document was signed and delivered by the South Brunswick Planning Board as its voluntary act duly authorized by a proper resolution of the Board;
- (d) she knows the proper seal of the Board (if any) which was affixed to this document; and
- (e) she signed this proof to attest to the truth of these facts.

Signed and sworn to before me
On October 8, 2020


Donald J. Sears
An Attorney at Law
In the State of New Jersey

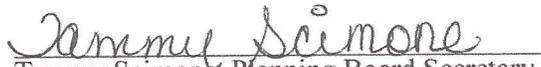
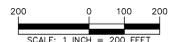

Tammy Scimone, Planning Board Secretary

EXHIBIT A

**CONCEPT PLAN FOR INCLUSIONARY DEVELOPMENT AND
COMMERCIAL LOT**



PROPOSED ZONE LEGEND	
FRIENDSHIP ROAD NORTH INCLUSIONARY HOUSING SUBZONE	
FRIENDSHIP ROAD SOUTH INCLUSIONARY HOUSING SUBZONE	
ROUTE 130 AFFORDABLE HOUSING SUBZONE	
COMMERCIAL SUBZONE	
RURAL RESIDENTIAL	



Date	Description	No.
REVISIONS		

9/14/2020 FOR DISCUSSION PURPOSES

KEVIN WEBB DATE SIGNED
PROFESSIONAL NEW JERSEY
STATE LIC. No. 24GE04075100

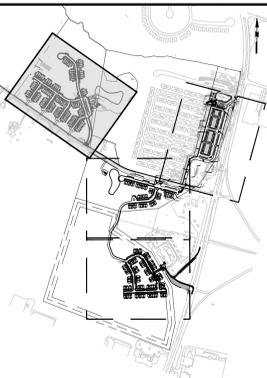
LANGAN
Langan Engineering and
Environmental Services, Inc.
989 Lenox Drive, Suite 124
Lawrenceville, NJ 08648

T: 609.282.8000 F: 609.282.8001 www.langan.com
NJ CERTIFICATE OF AUTHORIZATION No. 24GAZ795400

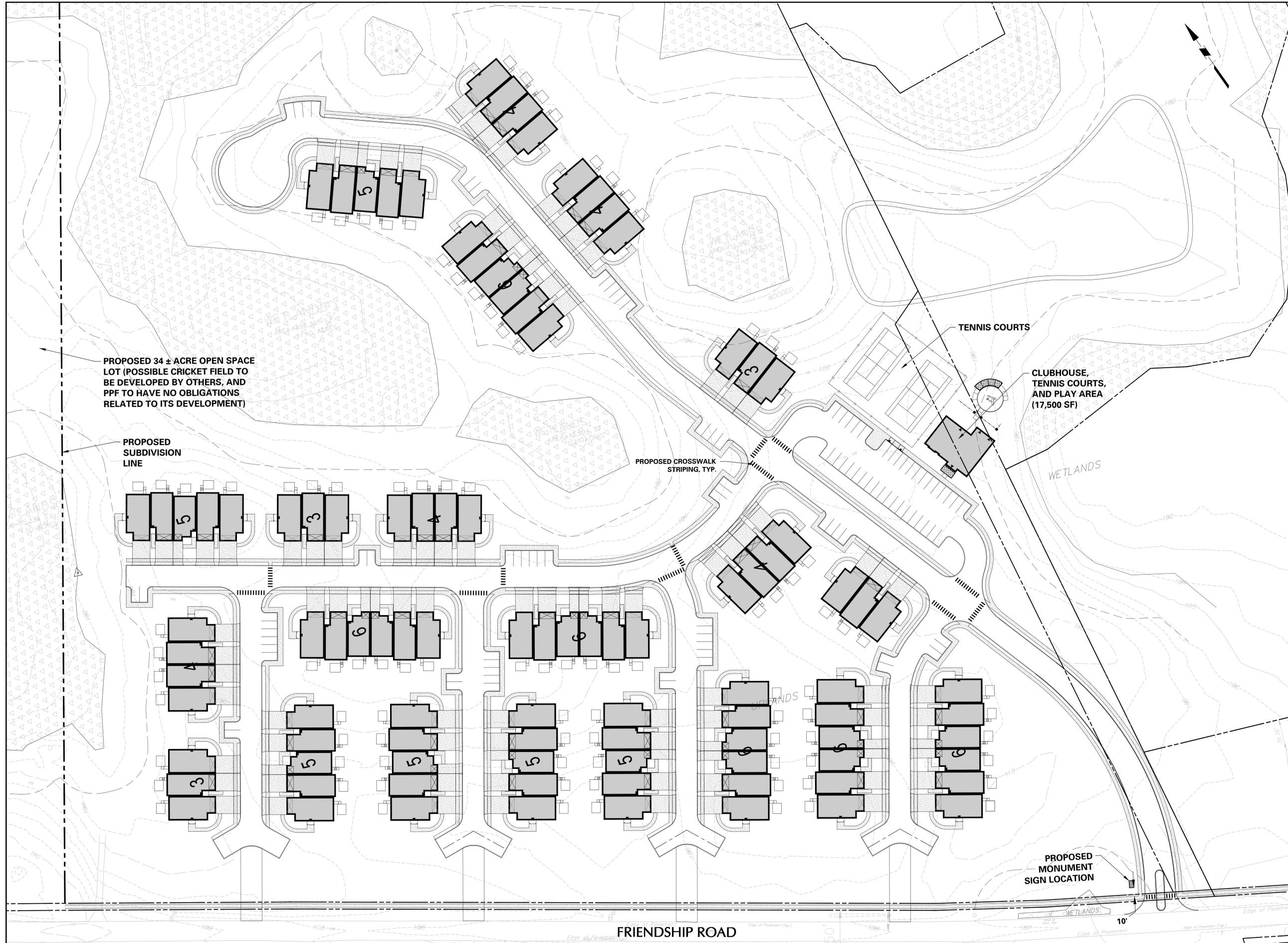
Project
MATRIX FRIENDSHIP ROAD SETTLEMENT PLAN
BLOCK 11, LOTS 13.02, 15.03, & 15.05
BLOCK 6, LOTS 15.021 & 15.022
SOUTH BRUNSWICK TOWNSHIP
MIDDLESEX COUNTY NEW JERSEY

PROPOSED ZONE PLAN

Project No. 130028907	Drawing No. CS-100B
Date 9/20/2019	
Drawn By WRB	
Checked By KJW	Sheet 1 of 1



KEY MAP
SCALE: 1" = 1000'



PROPOSED 34 ± ACRE OPEN SPACE LOT (POSSIBLE CRICKET FIELD TO BE DEVELOPED BY OTHERS, AND PPF TO HAVE NO OBLIGATIONS RELATED TO ITS DEVELOPMENT)

PROPOSED SUBDIVISION LINE

PROPOSED CROSSWALK STRIPING, TYP.

TENNIS COURTS

CLUBHOUSE, TENNIS COURTS, AND PLAY AREA (17,500 SF)

WETLANDS

FRIENDSHIP ROAD

PROPOSED MONUMENT SIGN LOCATION



Date	Description	No.
REVISIONS		
9/14/2020	FOR DISCUSSION PURPOSES	

9/14/2020 FOR DISCUSSION PURPOSES
 KEVIN WEBB DATE SIGNED
 PROFESSIONAL NEW JERSEY STATE LIC. No. 24GE04075100

LANGAN
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 Lawrenceville, NJ 08648
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 NJ CERTIFICATE OF AUTHORIZATION No. 24GAZ795640

Project
MATRIX FRIENDSHIP ROAD SETTLEMENT PLAN
 BLOCK 11, LOTS 13.02, 15.03, & 15.05
 BLOCK 6, LOTS 15.021 & 15.022
 SOUTH BRUNSWICK TOWNSHIP
 MIDDLESEX COUNTY NEW JERSEY

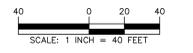
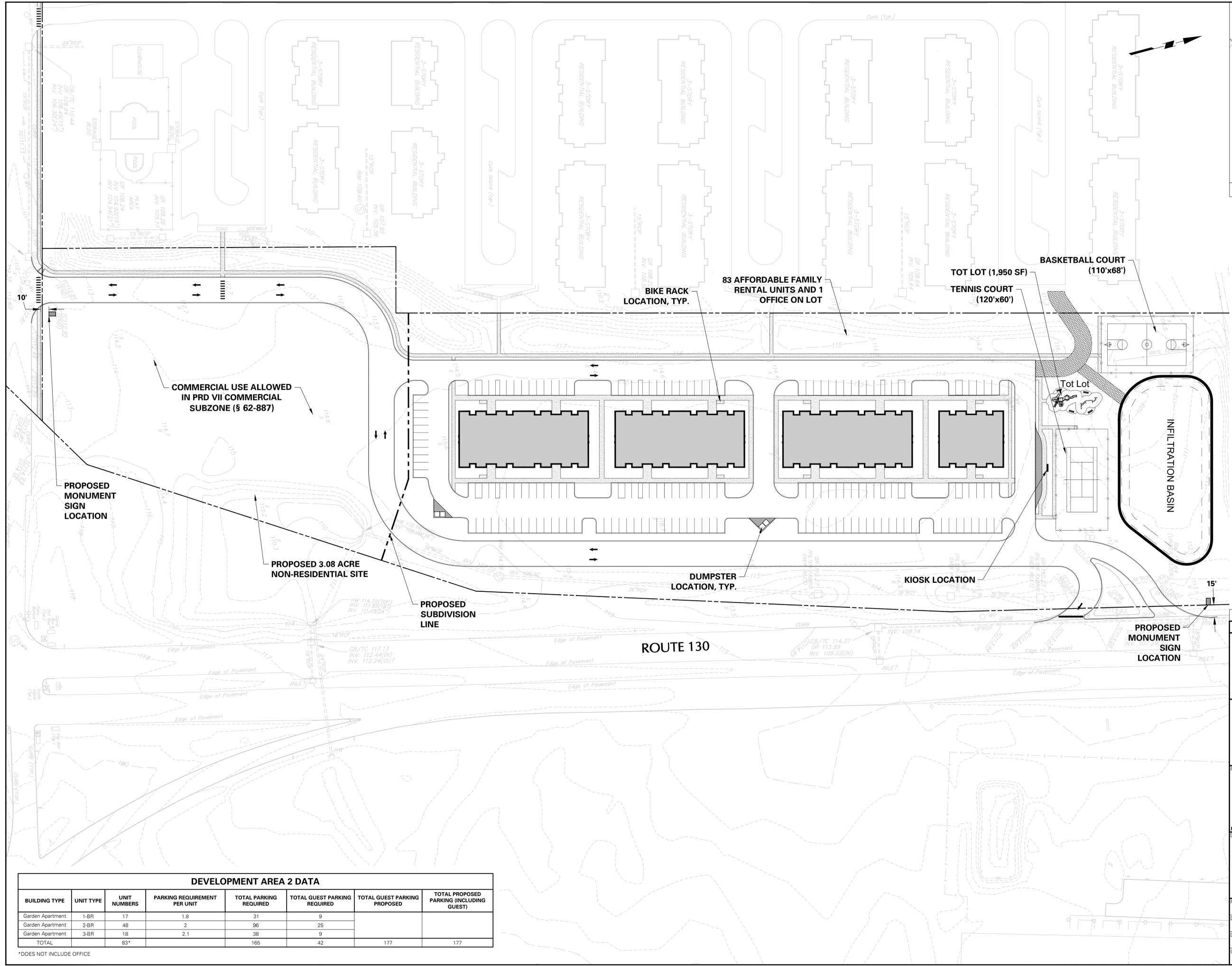
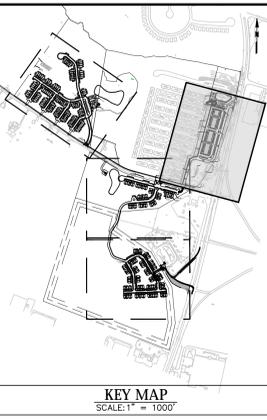
Drawing Title
PARTIAL SITE PLAN (DEVELOPMENT AREA 1)

Project No.	130028907	Drawing No.	CS-101
Date	9/20/2019	Drawn By	WRB
Checked By	KW	Sheet	2 of 5

DEVELOPMENT AREA 1 DATA

BUILDING TYPE	UNIT TYPE	UNIT NUMBERS	PARKING REQUIREMENT PER UNIT	TOTAL PARKING REQUIRED	TOTAL GUEST PARKING REQUIRED	TOTAL GUEST PARKING PROPOSED	TOTAL PROPOSED PARKING (INCLUDING GUEST)
Townhouse	3-BR	98	2.4	236	49	62*	307

*DOES NOT INCLUDE CLUBHOUSE PARKING SPACES



Date	Description	No.
REVISIONS		
9/14/2020	FOR DISCUSSION PURPOSES	

9/14/2020 FOR DISCUSSION PURPOSES
 KEVIN WEBB PROFESSIONAL NEW JERSEY STATE LIC. No. 24GE04075100 DATE SIGNED

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Project
MATRIX FRIENDSHIP ROAD SETTLEMENT PLAN
 BLOCK 6, LOTS 15.021 & 15.022
 SOUTH BRUNSWICK TOWNSHIP
 MIDDLESEX COUNTY NEW JERSEY

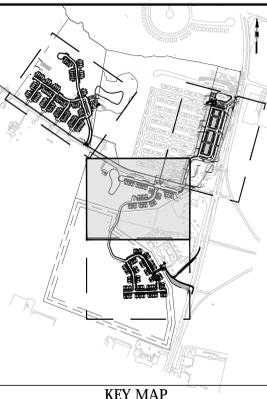
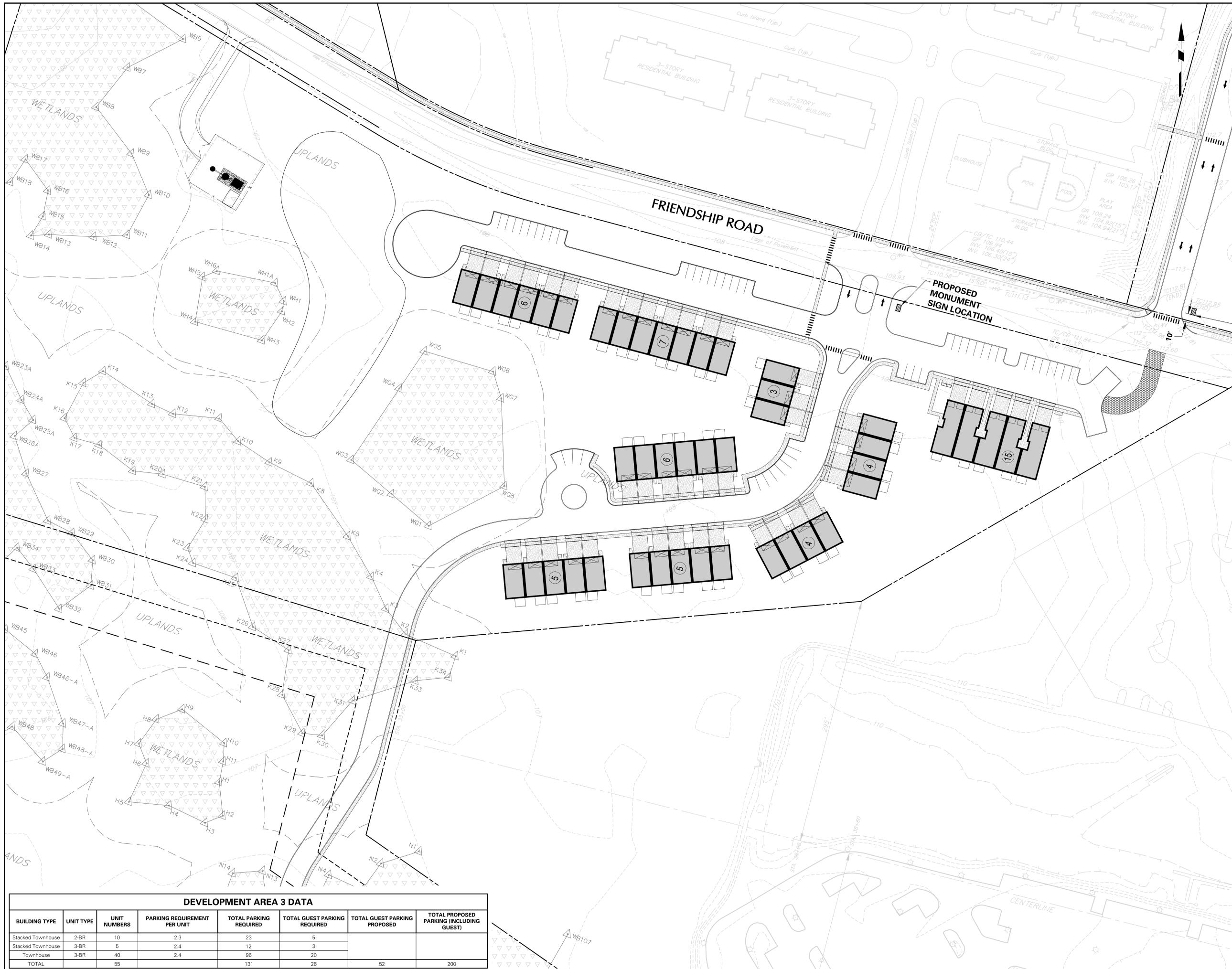
Drawing Title
PARTIAL SITE PLAN (DEVELOPMENT AREA 2)

Project No. 130028907
 Date 7/30/2020
 Drawn By WRB
 Checked By KRW
 Drawing No. CS-102
 Sheet 3 of 5

DEVELOPMENT AREA 2 DATA

BUILDING TYPE	UNIT TYPE	UNIT NUMBERS	PARKING REQUIREMENT PER UNIT	TOTAL PARKING REQUIRED	TOTAL GUEST PARKING REQUIRED	TOTAL GUEST PARKING PROPOSED	TOTAL PROPOSED PARKING (INCLUDING GUEST)
Garden Apartment	1-BR	17	1.8	31	9		
Garden Apartment	2-BR	48	2	96	25		
Garden Apartment	3-BR	18	2.1	38	9		
TOTAL		83*		165	42	177	177

*DOES NOT INCLUDE OFFICE



Date	Description	No.
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REVISIONS

10/08/2020 FOR DISCUSSION PURPOSES
 KEVIN WEBB PROFESSIONAL NEW JERSEY DATE SIGNED
 STATE LIC. No. 24GE04075100

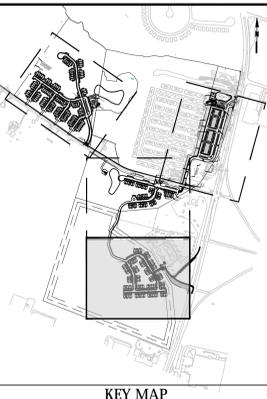
LANGAN
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 T: 609.282.8000 F: 609.282.8001 www.langan.com
 NJ CERTIFICATE OF AUTHORIZATION No. 24GA2796400

Project
MATRIX FRIENDSHIP ROAD SETTLEMENT PLAN
 BLOCK 6, LOTS 15.021, 15.03, & 15.022
 SOUTH BRUNSWICK TOWNSHIP
 MIDDLESEX COUNTY NEW JERSEY

Drawing Title
PARTIAL SITE PLAN (DEVELOPMENT AREA 3)

Project No.	130028907	Drawing No.	CS-103	
Date	9/20/2019	Drawn By		WRB
Checked By	KW	Sheet		4 of 5

BUILDING TYPE	UNIT TYPE	UNIT NUMBERS	PARKING REQUIREMENT PER UNIT	TOTAL PARKING REQUIRED	TOTAL GUEST PARKING REQUIRED	TOTAL GUEST PARKING PROPOSED	TOTAL PROPOSED PARKING (INCLUDING GUEST)
Stacked Townhouse	2-BR	10	2.3	23	5		
Stacked Townhouse	3-BR	5	2.4	12	3		
Townhouse	3-BR	40	2.4	96	20		
TOTAL		55		131	28	52	200



KEY MAP
SCALE: 1" = 1000'



Date	Description	No.
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REVISIONS

9/14/2020 FOR DISCUSSION PURPOSES
 KEVIN WEBB PROFESSIONAL NEW JERSEY DATE SIGNED
 STATE LIC. No. 24GE04075100

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Project
MATRIX FRIENDSHIP ROAD SETTLEMENT PLAN
 BLOCK 6, LOTS 15.021 & 15.022
 SOUTH BRUNSWICK TOWNSHIP
 MIDDLESEX COUNTY NEW JERSEY

Drawing Title
PARTIAL SITE PLAN (DEVELOPMENT AREA 4)

Project No. 130028907	Drawing No. CS-104
Date 9/20/2019	
Drawn By WRB	
Checked By KJW	Sheet 5 of 5

DEVELOPMENT AREA 4 DATA							
BUILDING TYPE	UNIT TYPE	UNIT NUMBERS	PARKING REQUIREMENT PER UNIT	TOTAL PARKING REQUIRED	TOTAL GUEST PARKING REQUIRED	TOTAL GUEST PARKING PROPOSED	TOTAL PROPOSED PARKING
Townhouse	3-BR	90	2.4	216	45	51	276

EXHIBIT B
PRD VII ZONING ORDINANCE



South Brunswick Township
540 Ridge Road
Monmouth Junction, NJ 08852

ORDINANCE 2020-31

Amending the Zoning Map to Reflect the Rezoning of Certain Property Located in the Area of Route 130 and Friendship Road

WHEREAS, the Township contains several areas located adjacent to or near the intersection of N.J. State Route 130 and Friendship Road that have been zoned as C-5 and C-6 (Commercial) and RR (Rural Residential) for many years, but have remained undeveloped; and

WHEREAS, the Township Council believes that it is in the best interests of the residents of the Township of South Brunswick to create and establish zoning to rezone these areas for a mixed use development, including a commercial development and a residential inclusionary project with affordable housing, in satisfaction of a portion of the Township's Third Round Affordable Housing Fair Share Obligation; and

WHEREAS, concurrently with the adoption of this ordinance, the Township Council is adopting Township Ordinance No. 2020-32 amending the PRD VII Mixed Development Zone containing commercial and residential subzones as set forth therein, so as to produce the opportunity for certain commercial development and residential development with affordable housing; and

WHEREAS, the Planning Board has considered this proposal and has recommended that the Township Council rezone the property at this time; and

WHEREAS, it is appropriate to amend the Township Zoning Map to reflect said rezoning;

NOW THEREFORE BE IT ORDAINED, by the Township Council of the Township of South Brunswick, County of Middlesex, State of New Jersey, that:

1. The zoning map of the Township of South Brunswick shall be and is hereby amended to reflect the rezoning of the following properties located adjacent to or near the intersection of Route 130 and Friendship Road, and to the north and south of Friendship Road, into the PRD VII Mixed Development Zone and the following subzones contained therein:

- (a) Block 11, a portion of Lot 15.03 from C-5 (Commercial District) to the PRD VII Route 130 Affordable Housing Subzone;
- (b) Block 11, a portion of Lot 15.03 from C-5 (Commercial District) to the PRD VII Commercial Subzone;
- (c) Block 11, Lot 15.05 from MF (Multiple Dwelling/Garden Apartments District) to the PRD VII Friendship Road North Inclusionary Housing Subzone;

- (d) Block 11, Lot 13.02 from RR (Rural Residential) to the PRD VII Friendship Road North Inclusionary Housing Subzone;
 - (e) Block 6, Lot 15.021 from C-5 (Commercial District) to the PRD VII Friendship Road South Inclusionary Housing Subzone; and
 - (f) Block 6, Lot 15.022 from C-6 (Commercial District) to the PRD VII Friendship Road South Inclusionary Housing Subzone,
- all as shown on the zone plan attached hereto as Exhibit A.

2. A copy of the zoning map is available for public inspection in the office of the Township Clerk during normal business hours.

3. The Township Clerk is hereby directed to give notice at least ten (10) days prior to the hearing on the adoption of this ordinance to the Middlesex County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15 and N.J.S.A. 40:55D-63 (if required). Upon the adoption of this ordinance after public hearing thereon, the Township Clerk is further directed to publish notice of the passage thereof and to file a copy of the ordinance as finally adopted with the Middlesex County Planning Board as required by N.J.S.A. 40:55D-16 and with the Township Tax Assessor as required by N.J.S.A. 40:49-2.1.

4. If any clause, sentence, paragraph, section or part of this ordinance or any other codes or ordinances incorporated herein shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

5. This ordinance shall become effective twenty (20) days after its final passage, subject to approval by the New Jersey Superior Court, and upon filing with the Middlesex County Planning Board.

The above ordinance was introduced and passed on first reading at a meeting of the Township Council of the Township of South Brunswick held on September 22, 2020. It will be considered on second reading and final passage at a meeting of the Township Council of the Township of South Brunswick to be held either: (1) at the Municipal Building, 540 Ridge Road, Monmouth Junction, New Jersey; or, if that is not possible, (2) via video conference, at 6:00 p.m. on October 27, 2020. If the meeting is held via video conference, an electronic link to the meeting will be made available to the public at www.sbtnj.net no later than noon on the day of the meeting. In either case, at the time of second reading and final passage any person having an interest therein will be given an opportunity to be heard.

This is to certify that the foregoing is a true copy of an ordinance at the South Brunswick Township Council meeting held on September 22, 2020.

Barbara Nyitrai, Township Clerk



South Brunswick Township

540 Ridge Road
Monmouth Junction, NJ 08852

ORDINANCE 2020-32

**Amending and Supplementing Chapter 62, Land Use, by
Amending the PRD VII Mixed Development Zone Standards**

WHEREAS, on July 1, 2015, the Township filed a declaratory judgment action seeking a Judgment of Compliance and Repose approving its Affordable Housing Plan and seeking related relief in a matter entitled In the Matter of the Application of the Township of South Brunswick, County of Middlesex, Docket No. MID-3878-15, transferred to Mercer County under Docket No. MER-L-0810-17 by order of April 20, 2017, and transferred back to Middlesex County by order of July 26, 2017, subsequently given Docket No. MID-L-4433-17 (DJ Action); and

WHEREAS, on February 19, 2016, the Superior Court revoked the Township's immunity and permitted the filing of various builder's remedy lawsuits, which were consolidated with the DJ Action, including a builder's remedy complaint filed on July 7, 2017, by PPF Industrial - Route 130/Exit 8A, LLC (PPF) entitled, PPF Industrial - Route 130/Exit 8A, L.L.C., a limited liability company organized under the laws of the State of Delaware v. Township of South Brunswick, et al., Docket No. MID-L-4094-17 (Builder's Remedy Action); and

WHEREAS, PPF is the owner of the real property located adjacent to or near the intersection of N.J. State Route 130 and Friendship Road, and designated as Block 6, Lots 15.021 and 15.022 and Block 11, Lot 13.02 and Lot 15.03 on the tax map of the Township of South Brunswick (PPF Property), consisting of approximately 147.37 acres; and

WHEREAS, the Township had previously acquired title to certain property adjoining the existing PPF Property for affordable housing designated as Block 11, Lot 15.05, being approximately 6.15 acres in area (Township Property); and

WHEREAS, the Township and PPF have reached an agreement to settle the Builder's Remedy Action that will involve conveyance of the Township Property to PPF as an adjoining property owner in consideration of PPF's agreement to modify its proposed development to redistribute a portion of the proposed inclusionary housing development onto the Township Property and dedicate a portion of the PPF Property to the Township for general municipal purposes; and

WHEREAS, the settlement of the Builder's Remedy Action further requires the Township to rezone the PPF Property and the Township Property for a mixed use development, and PPF to develop the PPF Property and the Township Property for a subdivided commercial lot consisting of approximately three contiguous acres on the northwest corner of the intersection of Route 130 and Friendship Road, and a residential inclusionary project consisting of a total of 326 housing units, with a 30% affordable housing set aside, consisting of 98 two-story townhomes on fee simple lots, 130 three-story townhomes on fee simple lots, 83 affordable family rental apartments, and 15 affordable family "for sale" units in stacked townhomes, resulting in the creation of a total of 98 affordable family units; and

WHEREAS, at least 13% of the affordable units will be set-aside for very-low income households, at least 37% for low income households and up to 50% for moderate income households, in satisfaction of a portion of the Township's Third Round Affordable Housing Fair Share Obligation; and

WHEREAS, the Township previously adopted Ordinance 2020-14 on June 23, 2020, creating the PRD VII Mixed Development Zone (the "PRD VII Zone") standards and applying same to the PPF Property and Township Property so as to consummate the terms of the settlement and produce the affordable housing units contemplated by the settlement; and

WHEREAS, the Township and PPF have agreed upon certain revisions to the terms of the

settlement necessitating revisions to the standards established in the PRD VII Zone; and

WHEREAS, the settlement and this ordinance are both subject to approval of the settlement at a duly noticed Fairness Hearing to be held by the N.J. Superior Court, at which time the court must find that the proposed settlement and rezoning of the PPF Property and Township Property is fair to low and moderate income persons for whom the affordable housing units were intended, thereafter remanding the matter to the Township and the Township Planning Board to take such actions as are required to process PPF's application for subdivision and site plan approval; and

WHEREAS, it is appropriate to amend the PRD VII Zone standards, to be applied to the PPF Property and Township Property, so as to reflect the revised terms of the settlement and produce the affordable housing units contemplated by the settlement;

NOW THEREFORE BE IT ORDAINED, by the Township Council of the Township of South Brunswick, County of Middlesex, State of New Jersey, that:

I. Chapter 62, Article IV, Division 3, Subdivision XV(C), PRD VII Mixed Development Zone, of the South Brunswick Township Code, shall be and is hereby amended and supplemented by the deletion of the existing Subdivision XV(C) in its entirety and addition of the following:

Article IV. Zoning.

Subdivision XV(C) PRD VII Mixed Development Zone

Section 62-886 - Purpose

The PRD VII Zone includes Block 6, Lots 15.021 and 15.022 and Block 11, Lots 13.02 (portion), 15.03 and 15.05 (hereafter, "the Tract") containing approximately 120 acres. The purposes of the PRD VII Zone are to create an integrated mixed use zone for a combination of commercial and residential development; to permit approximately three (3) acres of commercial development at the northwest corner of the intersection of Route 130 and Friendship Road (excluding any future right-of-way dedications or vacations)(the "Commercial Subzone"); and permit the construction of housing units on the remaining undeveloped acres (the "Residential Subzones"). The Residential Subzones and the Commercial Subzone are depicted on a revised zoning map which shall be adopted by Township. The PRD VII Zone shall permit within the Residential Subzones up to 326 total units, of which 30% shall be set-aside for, and shall be affordable to, very-low, low and moderate income households, consisting of 98 two-story townhomes on fee simple lots, 130 three-story townhomes on fee simple lots, 83 affordable family rental apartments, and 15 affordable family "for sale" units in stacked townhomes. The Residential Subzones are as follows:

- (1) Friendship Road North Inclusionary Housing Subzone
- (2) Friendship Road South Inclusionary Housing Subzone
- (3) Route 130 Affordable Housing Subzone

Section 62-887 - Uses Permitted

The following uses are permitted in the PRD VII Zone:

- (1) Multifamily residential units and townhouse attached dwellings, but, in each case, only within the Residential Subzones.
- (2) Within the Commercial Subzone:
 - a. Communitywide and area-wide retail establishments, including department and variety stores, supermarkets, clothing stores, furniture and appliance stores, drugstores and liquor stores, but excluding warehouse/discount clubs.

- b. Communitywide and area-wide service activities, excluding movie theaters, but including banks, restaurants, fast food restaurants, exercise and dance schools, taverns, travel agencies, indoor recreation facilities and fitness centers and other such ancillary supermarket services.
- c. Convenience retail store with vehicle fuel sales. The regulations in Section 62-1921 shall not be applicable to this use.
- d. Offices for physicians, dentists, engineers, lawyers, architects, public accountants, real estate and insurance brokers, city planners and similar professions.
- e. Medical HMO facilities and medical laboratories.
- f. Educational facilities for learning and training.
- g. Health Clubs.
- h. Dance studios.
- i. Medical service and retail medical supply.
- j. Duplicating or office supply service.
- k. Product demonstration, display or showroom facilities.
- l. Conference or training centers.
- m. Family recreation facilities.
- n. Nursing homes.
- o. Child care centers.
- p. Assisted living facilities, with an affordable housing component.
- q. Laboratory or research facilities.

Section 62-888 - Uses permitted as conditional uses.

Uses permitted as conditional uses in the PRD VII Zone shall be subject to planning board approval under N.J.S.A. 40:55D-67. Provisions and performance standards for conditional uses shall apply, as specified in this chapter. The following uses shall be permitted as conditional uses:

- (1) Community buildings or activities of a quasi-public, social or fraternal character.

Section 62-889 - Accessory uses permitted.

Accessory uses permitted in the PRD VII Zone:

- (1) Parking lots and private garages.
- (2) Community swimming pools, tennis courts, basketball courts, tot lots, volleyball courts and other recreational facilities.
- (3) Gazebos, trellises, arbors, pergolas, decks, patios, gardens and landscaped areas including fountains, ponds and other water features.
- (4) A clubhouse, which may include facilities such as the following: a fitness center; multi-purpose rooms, wellness center; leasing office; entertainment center; meeting rooms; resident food and beverage area; and business center.
- (5) Maintenance and storage buildings.
- (6) Signs, as regulated in this chapter. The installation of signs shall comply with regulations contained in Article IV, Division 7, §62-1816 thru 1823 in existence as of October 27, 2020, which is the date of the adoption of Ordinance 2020-32 amending the PRD VII Zone, with the signage for the Commercial Subzone being regulated in the same manner as signage for the C-2 and C-3 zones in said §62-1816 thru 1823. Signage for the Commercial Subzone development may be located in the Route 130 Affordable Housing Subzone; and signage for the Route 130 Affordable Housing Subzone may be located in the Commercial Subzone development, and the actual location of such signage is, subject to revision as may be required by PPF, set forth on the Concept Plan annexed as Exhibit A to the settlement agreement entered into between the Township and PPF to settle the Builder's Remedy Action (the "Settlement Agreement").
- (7) Fences and walls, as regulated in this chapter.
- (8) Electric vehicle charging stations.

- (9) Home occupations and home professional offices, as defined and regulated by the provisions in this chapter.

Section 62-890 - Tract and open space requirements.

- (1) It is recognized that the Tract may be subdivided. The Tract bulk standards associated within the PRD VII Zone shall apply to the overall Tract. In the event there are subdivided lots within the Tract, there may be easements for vehicular and pedestrian circulation, shared parking and storm water management facilities for use on a Tract wide basis, so as to permit the development of the PRD VII Zone as a comprehensive mixed use project.
- (2) The maximum building coverage shall be 25 percent of the total land area of the Tract.
- (3) The minimum open space standard shall be 30 percent of the Tract.
- (4) **Residential Subzones buffers.** Buffer areas shall be provided in the Residential Subzones with a landscaped berm along that portion of the property that abuts a roadway or existing land use. Below are the minimum buffer widths for the various subzones:
- a. Friendship Road North Inclusionary Housing Subzone: 50 feet wide, except for emergency access roadways and cul-de-sacs.
 - b. Friendship Road South Inclusionary Housing Subzone: 40 feet wide, except for areas where (a) head-in parking (including driveways and parking spaces) is provided, and (b) a basin is provided, in which cases the buffer shall be no less than 15 feet in width.
 - c. Route 130 Affordable Housing Subzone: 50 feet wide along Route 130 frontage as measured from the existing right-of-way line of Route 130, except for areas where a driveway or an internal roadway is provided, in which case the buffer shall be no less than 15 feet in width.
- (5) **Commercial Subzone buffers.** Commercial Subzone buffers shall be as follows:
- a. 50 feet wide along the southern and eastern property lines, adjacent to Friendship Road and Route 130 frontages (as measured from the existing right-of-way line of Route 130 prior to any dedication of the right-of-way along Route 130), except for areas where parking is provided, in which case the buffer shall be no less than 10 feet in width.
- (6) The following encroachments into the Tract buffers are permitted:
- a. Pedestrian trails, sidewalks, signs, retaining walls, and landscaped areas are permitted in all buffer areas.
 - b. New stormwater basins shall not be located within 20 feet of the Tract boundary line, but this limitation shall not be applicable to other stormwater facilities, including, but not limited to, pipes, headwalls, swales, and riprap.
 - c. Driveways and access roadways are permitted within the Tract buffer adjacent to Route 130 and Friendship Road.
 - d. Emergency access if required by Township
- (7) Existing roads, existing stormwater facilities, existing parking areas and related improvements are exempt from all Tract buffer requirements.
- (8) All residential development must be served by public water and sanitary sewer service.

Section 62- 891 - Area, Yard, and Density Tract Requirements

- (1) Overall Tract
- a. The maximum residential yield shall be 326 units.
 - b. The maximum impervious coverage shall be 70%.
 - c. Multiple principal buildings and multiple principal uses shall be allowed on a single lot.
 - d. Residential buildings shall be set back at least:
 - (i) 15 feet from any street or driveway.
 - (ii) 10 feet from any parking area.

- e. The following minimum distance between buildings is required: 50 feet between residential and nonresidential buildings within the Tract, irrespective of a subdivision of the Tract.
 - f. In measuring building separation distances set forth herein, covered and uncovered stairs and stoops, stairways, balconies, decks, cornices, eaves, gutters, bay windows, chimneys and other projections from buildings shall be excluded from the measurements.
 - g. Additional requirements for residential use:
 - (i) Maximum number of attached units per townhouse dwelling: 7
 - (ii) No building intended for residential occupancy shall be located within 20 feet of the Tract boundary line.
 - (iii) Common area property may contain certain improvements, such as underground utility lines, stormwater management features, decks/patios, landscaping, signage, walking paths and sidewalks.
 - (iv) All provisions of the Residential Site Improvement Standards (RSIS) shall be applicable within the PRD VII Zone.
- (2) Friendship Road North Inclusionary Housing Subzone
- a. The maximum residential yield shall be 98 market-rate units.
 - b. For townhouse dwellings constructed on fee-simple lots, the following area and dimensional requirements shall apply:
 - (i) Minimum Lot Area: 2,100 square feet
 - (ii) Minimum Lot Width: 24 feet
 - (iii) Minimum Lot Depth: 90 feet
 - (iv) Building separation, front to front: 60 feet
 - (v) Building separation, side to side: 25 feet
 - (vi) Building separation, all other: 30 feet
 - (vii) No residential building or structure shall exceed 41 feet or 2.5 stories in height, except as regulated by the height exception provisions of this chapter
- (3) Friendship Road South Inclusionary Housing Subzone
- a. The maximum residential yield shall be 145 units, including 130 townhomes (market rate) and 15 stacked townhomes (affordable).
 - b. For townhouse dwellings constructed on fee-simple lots, the following area and dimensional requirements shall apply:
 - (i) Minimum Lot Area: 1,920 square feet
 - (ii) Minimum Lot Width (130 townhomes (market rate)): 24 feet
 - (iii) Minimum Unit Width (15 stacked townhomes (affordable)): 24 feet (except that 50%, i.e., up to five (5), of the 2-bedroom stacked townhome affordable units shall have a minimum width of 18 feet)
 - (iv) Minimum Lot Depth: 80 feet
 - (v) Building Separation, front to front: 60 feet
 - (vi) Building Separation, side to side: 25 feet
 - (vii) Building Separation, all other: 30 feet
 - (viii) No residential building or structure shall exceed 45 feet or 3 stories in height, except as regulated by the height exception provisions of this chapter
 - c. For the stacked townhomes to be offered for sale as low or moderate-income condominium units, the following area and dimensional requirements shall apply:
 - (i) Building setback from Friendship Road frontage: 60 feet
 - (ii) Building setback from other property boundaries: 20 feet
 - (iii) Building setback from roadway: 20 feet
 - (iv) Building setback from parking: 10 feet
 - (v) Minimum distance between buildings: 35 feet
 - (vi) No residential building or structure shall exceed 45 feet or 3 stories in height, except as regulated by the height exception provisions of this chapter
- (4) Route 130 Affordable Housing Subzone
- a. The maximum residential yield shall be 83 rental units.

- b. The following area and dimensional requirements shall apply:
 - (i) Building setback from Route 130 frontage: 125 feet
 - (ii) Building setback from other property boundaries: 50 feet
 - (iii) Building setback from internal roadways and driveways: 10 feet
 - (iv) Building setback from parking: 10 feet
 - (v) Minimum distance between buildings: 30 feet
 - (vi) No residential building or structure shall exceed 45 feet or 3 stories in height, except as regulated by the height exception provisions of this chapter
 - (vii) Minimum lot area: 10 acres
- (5) Commercial Subzone
- a. Minimum lot area: 40,000 square feet.
 - b. Minimum lot frontage: 200 feet.
 - c. Minimum commercial building setbacks shall be as follows:
 - (i) 100 feet from Friendship Road and Route 130.
 - (ii) 40 feet from all other property lines.
 - (iii) 10 feet from any street or driveway (other than Friendship Road and Route 130).
 - (iv) 5 feet from any parking area.
 - d. Maximum building coverage: 25%
 - e. Maximum lot coverage: 70%
 - f. The maximum building height shall be 35 feet.

Section 62-892 - Off-street parking requirements and loading requirements.

- (1) Off-street parking for residential uses shall be provided as follows: All off-street parking shall be designed to comply with the standards set forth in the New Jersey Residential Site Improvements Standard (RSIS). The parking requirement for a clubhouse shall be 2.5 spaces per 1,000 square feet of gross floor area.
- (2) The parking requirement for non-residential development shall be four (4) parking spaces per 1,000 square feet. Shared parking arrangements are encouraged.
- (3) Parking and parking setbacks are as follows:
 - a. Parking and drive aisles shall be permitted in all building setback areas.
 - b. All nonresidential parking shall be set back a minimum of 40 feet from Route 130 cartway and Friendship Road right-of-way, and 10 feet from all other Tract boundaries.
- (4) All nonresidential buildings shall face the public roadways or entrance boulevard. Any service or loading areas facing public roadways shall be sufficiently screened from view from the public road.
- (5) Parking Stall and Aisle dimensions:
 - a. Parking stall dimensions shall be nine (9') feet wide and eighteen (18') feet deep.
 - b. Parking aisle width shall be twenty four (24') feet.

Section 62-893 - Lighting.

Lighting shall be provided in accordance with Section 62-208, with the exception that Section 62-208(g)(4) regarding lighting of sidewalks and pedestrian walkways may be accomplished by ambient lighting from buildings and parking areas and such lighting as may be required to ensure pedestrian safety. No lighting is required for pedestrian trails located within buffer areas, except for such lighting as may be required to ensure pedestrian safety.

Section 62-894 - Trash and Recycling Enclosures.

- (1) There shall be one enclosure (18' X 24') for every three (3) residential buildings for trash and recycling.
- (2) Trash and recycling enclosures shall be completely surrounded by a six-foot-high solid architectural fence and solid gate. All outside trash shall be stored in this area and shall not be

in public view over the fence height. All similar accessory appurtenances, such as propane tanks, must be similarly enclosed.

Section 62-895 - Design Standards. These design standards are intended to be applied with flexibility to accommodate the construction of inclusionary and affordable development consistent with the bulk standards of the PRD VII Zone. Section 62-206 shall not apply to the PRD VII Zone.

- (1) Recreation areas shall be provided for the development in the Friendship Road South Inclusionary Housing Subzone, the Friendship Road North Inclusionary Housing Subzone, and the Route 130 Affordable Housing Subzone which (i) may be located in the Friendship Road South Inclusionary Housing Subzone, the Friendship Road North Inclusionary Housing Subzone, and/or the Route 130 Affordable Housing Subzone, and (ii) may contain facilities such as a clubhouse, tennis court, basketball court, tot lot, and/or swimming pool area, and (iii) shall contain a minimum of eighty (80) square feet per unit, provided, however, that (x) not all of the residents of all of the units shall be required to have access to all of the recreation areas (except that if the recreation area in the Friendship Road South Inclusionary Housing Subzone or the Friendship Road North Inclusionary Housing Subzone includes a swimming pool, the tenants of the affordable rental apartments in the Route 130 Affordable Housing Subzone will have use of such swimming pool equal to that of residents of the Friendship Road North Inclusionary Housing Subzone and the Friendship Road South Inclusionary Housing Subzone), and (y) the recreation area within the Route 130 Affordable Housing Subzone shall include a tennis court and a basketball court.
- (2) The second floor and third floor affordable, stacked townhomes, which shall be located in the Friendship Road South Inclusionary Housing Subzone, shall each have a 1-car garage. The multi-story, market-rate townhomes, located in the Friendship Road South Inclusionary Housing Subzone and the Friendship Road North Inclusionary Housing Subzone, shall each have a 1-car or 2-car garage.
- (3) Bicycle racks shall be provided in reasonable proximity to the stacked townhome units in the Friendship Road South Inclusionary Housing Subzone and to the apartment buildings in the Route 130 Affordable Housing Subzone.
- (4) In the Route 130 Affordable Housing Subzone, each apartment unit shall have the use of a storage locker containing a minimum of 50 cubic feet, located on the ground floor of the same building in which such apartment unit is located.
- (5) The individual apartment units in the apartment buildings in the Route 130 Affordable Housing Subzone shall each be equipped with a clothes washer and dryer. The affordable stacked townhome units, in the Friendship Road South Inclusionary Housing Subzone, shall each be equipped with clothes washer and dryer hook-ups.
- (6) Development of the apartment buildings in the Route 130 Affordable Housing Subzone shall include a package delivery area which may be provided in an exterior facility or by other reasonable measures.
- (7) The apartment buildings in the Route 130 Affordable Housing Subzone shall be surrounded by an open area extending a minimum distance of 10 feet from its perimeter, except that sidewalks, directional and building identification signage, package delivery facilities, bicycle racks, lighting improvements, landscaping features, and the like shall be allowed within that perimeter area.
- (8) Architectural design standards for the Friendship Road North Inclusionary Housing Subzone and the Friendship Road South Inclusionary Housing Subzone.
 - a. Architectural Variety.
 - (i) The architectural style of the townhomes should emphasize colonial and traditional architectural themes, incorporating a mix of features, some of which may be included in the different buildings such as gable roof-lines, front entries with porches, door and window trim, 1-car and 2-car garages, and a variety of siding, stone veneer, or brick veneer materials.
 - (ii) A given building may employ a single color application, provided, however, that all of the buildings should not employ the exact same color application.
 - (iii) Each building should employ more than a single material application.
 - (iv) No more than two different building types shall be required, with building types being differentiated through variations in building materials, color, rooflines, and/or the use

of architectural features such as porch overhangs, pent roofs, dormers, window variations, and other features.

b. Pedestrian-friendly Façades

- (i) Stoops or front porches should be provided at the ground floor unit entrances that face a street or other public space, except for the stacked townhome units that do not have a ground floor entrance or direct access to the street.
- (ii) Ground floor residential entrances should be sheltered from the rain and snow. Sheltering may be accomplished by recessing the entry a minimum of three feet, or with the construction of a roof or overhead architectural element.

c. Massing, Articulation and Proportion

- (i) Upper stories should not project beyond the ground floor footprint, except for bays no wider than 50% of the primary façade of the building.
- (ii) Horizontal eaves, along the front of a building face, longer than 40 feet should be broken up by features such as gables, building projections, or other roof-line articulation.

d. Architectural Detailing and Character

All sides of a building should include architectural detailing, although generally the front and, in some cases, the sides will reflect more detailing than the rear of the building. Architectural detailing may include a range of features, such as trim, cornices, box bays, pent roof, dormers, vertical breaks, horizontal band boards, and material changes.

e. Exterior Materials

- (i) Acceptable exterior cladding materials should, for each building, include at least two of the following: standard sized brick or brick veneer; natural stone veneers; vinyl siding; synthetic trim elements; or other similar materials. Trim materials may include architecturally-appropriate synthetic options to enhance durability or reduce maintenance.
- (ii) Acceptable roofing materials include asphalt composition shingles and, for accent roof elements, asphalt composition shingles or standing-seam metal material.
- (iii) Exterior classic or traditional details and elements, such as brackets, cornices, window trim and wall corner boards, may also be utilized.

(9) Architectural design standards for the Route 130 Affordable Housing Subzone.

a. Architectural Variety.

- (i) The apartment buildings may incorporate a mix of compatible architectural features and design elements such as gable and hip roofs, covered entries, cornices, friezes, door and window accent trim, and a blend of exterior finish material options.
- (ii) A given apartment building may employ a single-color application, provided, however, that adjacent buildings should not employ the exact same color application. Generally, a common accent trim color may serve as a unifying design element among the apartment buildings.
- (iii) Each apartment building should employ more than a single material application. Use of more than three exterior finish materials (excluding architectural trim) is discouraged to avoid visual clutter.
- (iv) No more than two different building massing types shall be required.

b. Pedestrian-friendly Façades

- (i) Accessible building entrances should be provided on each side of a building facing a street.

- (ii) Entrances should be sheltered from the rain and snow. Sheltering may be accomplished by recessing the entry a minimum of three feet, or with the construction of a roof or overhead architectural element.

c. Massing, Articulation and Proportion

- (i) Upper stories should not project more than one foot beyond the ground floor footprint, except for roof projections and accommodation of covered entrances.
- (ii) Horizontal eaves along the building face longer than 50 feet should be broken up by features such as gables, roof/soffit projections, or other roof-line articulation.

d. Architectural Detailing and Character

All sides of a building should include architectural detailing. Architectural detailing may include a range of features, such as door/window casings, corner boards, horizontal accent banding, frieze and cornices, dormers, vertical breaks, façade offsets for volumetric effect, and material changes.

e. Exterior Materials

- (i) Acceptable exterior cladding materials for each building shall include at least two of the following: standard sized brick or brick veneer; natural stone veneers; vinyl siding or other similar materials. Trim materials may include architecturally-appropriate synthetic options to enhance durability or reduce maintenance.
- (ii) Acceptable roofing materials includes asphalt composition shingles.
- (iii) Exterior classic or traditional details and elements, such as brackets, cornices, window trim and wall corner boards, may also be utilized.

Section 62-896 - Affordable Housing

- (1) Ninety-eight (98) affordable housing units shall be provided which equates to 30% of the 326 residential units.
- (2) Pursuant to the Uniform Housing Affordability Controls ("UHAC"), the affordable units shall be restricted for at least thirty (30) years from the date of their initial occupancy ("Deed-Restriction Period") to eligible very-low, low and moderate income households (with one exception that very-low income units shall be provided (as noted in 62-896(3) below) for households at 30% or less of median income and pursuant to N.J.S.A. 52:27D-329.1). Thereafter the municipality's decision as to when and whether to extinguish affordability controls shall be governed by the applicable UHAC provisions.
- (3) At least 13 units, or 13% of the affordable units, shall be affordable to very-low income households, defined as those households earning 30 percent or less of the regional median income, all of which shall be located in the rental portion of the Inclusionary Development; at least 36 units, or 37% of the affordable units, shall be affordable to low-income households, defined as those households earning between 30 percent and 50 percent of the regional median income; and up to 49 units, or 50% of the affordable units, shall be affordable to moderate-income households, defined as those households earning between 50 percent and 80 percent of the regional median income.
- (4) The affordable units shall comply with the UHAC bedroom distribution requirements set forth in N.J.A.C. 5:80-26.3(b), as follows. For each bedroom type, the units shall be proportionally distributed between very-low-income households, low-income households, and moderate-income households in accordance with the percentages of such units in the overall number of affordable units referenced above, and as follows:
 - a. The combined number of efficiency and one-bedroom units shall be 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 shall be two bedroom units;
 - c. At least 20 percent of all low- and moderate-income units shall be three bedroom units; and

- d. The remainder, if any, may be allocated at the discretion of the developer as two or three bedroom units.

Therefore, the bedroom mixes for the very-low, low and moderate income units shall be in accordance with the following table:

Unit Type	Total	Maximum One bedroom	Minimum Two bedroom	Minimum Three bedroom	Remainder
Very low income	13	2	4	3	4
Low income	36	7	11	8	10
Moderate income	49	9	15	10	15
Total	98	18	30	21	29

The number of units in the Remainder column set forth in the above chart will be allocated at the discretion of the developer as two or three bedroom units, in accordance with this Section 62-896(4)d..

- (5) The affordable units shall comply with the UHAC regulations with regards to the pricing of rents or sale prices associated with very-low, low and moderate income units pursuant to N.J.A.C. 5:80-26.3(d) (with one exception that very-low income units shall be provided (as noted in 62-896(3) above) for households at 30% or less of median income and pursuant to N.J.S.A. 52:27D-329.1).
- (6) The affordable units shall comply with the phasing of market housing and affordable housing pursuant to N.J.A.C. 5:93-5.6(d), and in accordance with the following schedule:

<u>Minimum Percentage of Low and Moderate Income Units Completed</u>	<u>Percentage of Market Rate Housing Units Completed</u>
0	25
10	25 + 1 unit
50	50
75	75
100	<u>90</u> 100

- (7) The Settlement Agreement shall address minimum area of units, minimum bedroom size, and floor area inclusions and exclusions.
- (8) The affordable units shall utilize the same heating sources as the market units within the inclusionary development.
- (9) With regard to ADA compliance, all low and moderate-income housing provided as townhouses or multistory dwelling units shall comply with N.J.A.C. 5:97-3.14.
- (10) The developer shall contract with either the Township’s administrative agent or such third party experienced administrative agent as PPF may reasonably determine, subject to the Township’s approval which shall not be unreasonably withheld or delayed, in accordance with the UHAC regulations (N.J.A.C. 5:80-26.14).
- (11) The affordable units shall comply with the UHAC regulations with regard to affirmative marketing per N.J.A.C. 5:80-26.15 and the Township’s Housing Element and Fair Share Plan.

Section 62-897 - Conflicts in Standards

RSIS standards and the PRD VII Zone standards shall supersede any conflicting standards within this

chapter.

Section 62-898 - 62-900. Reserved.

II. If any clause, sentence, paragraph, section or part of this ordinance or any other codes or ordinances incorporated herein shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

III. This ordinance shall become effective twenty (20) days after its final passage and approval after a duly noticed Fairness Hearing to be held by the N.J. Superior Court.

The above ordinance was introduced and passed on first reading at a meeting of the Township Council of the Township of South Brunswick held on September 22, 2020. It will be considered on second and final reading and final passage at a meeting of the Township Council of the Township of South Brunswick to be held either: (1) at the Municipal Building, 540 Ridge Road, Monmouth Junction, New Jersey; or, if that is not possible, (2) via video conference, at 6:00 p.m. on October 27, 2020. If the meeting is held via video conference, an electronic link to the meeting will be made available to the public at www.sbtnj.net no later than noon on the day of the meeting. In either case, at the time of second reading and final passage any person having an interest therein will be given an opportunity to be heard.

This is to certify that the foregoing is a true copy of an ordinance at the South Brunswick Township Council meeting held on September 22, 2020.

Barbara Nyitrai, Township Clerk

EXHIBIT C

FORM OF STIPULATION OF DISMISSAL

Hill Wallack LLP
Thomas F. Carroll, III, Esq.
(Attorney ID #-022051983)
21 Roszel Road
P.O. Box 5226
Princeton, New Jersey 08543-5226
(609) 924-0808
Attorneys for Plaintiff,
PPF Industrial – Route 130/Exhibit 8A, LLC

IN THE MATTER OF THE APPLICATION
OF THE TOWNSHIP OF SOUTH
BRUNSWICK, COUNTY OF MIDDLESEX

SOUTH BRUNSWICK CENTER, LLC,
Plaintiff,

v.
TOWNSHIP OF SOUTH BRUNSWICK, and
the PLANNING BOARD OF THE
TOWNSHIP OF SOUTH BRUNSWICK,
Defendants.

AVALON BAY COMMUNITIES, INC.,
Plaintiff,

SUPERIOR COURT OF NEW JERSEY
MIDDLESEX COUNTY – LAW DIVISION
DOCKET NO. MID-L-004433-17

v.
TOWNSHIP OF SOUTH BRUNSWICK,
and the PLANNING BOARD OF THE
TOWNSHIP OF SOUTH BRUNSWICK,
Defendants.
RICHARDSON FRESH PONDS, LLC &
PRINCETON ORCHARDS
ASSOCIATES, LLC
Plaintiff,

SUPERIOR COURT OF NEW JERSEY
MIDDLESEX COUNTY – LAW DIVISION
DOCKET NO. MID-L-004432-17

SUPERIOR COURT OF NEW JERSEY
MIDDLESEX COUNTY – LAW DIVISION
DOCKET NO. MID-L-004436-17

SUPERIOR COURT OF NEW JERSEY
MIDDLESEX COUNTY – LAW DIVISION
DOCKET NO. MID-L-004435-17

v.

TOWNSHIP OF SOUTH BRUNSWICK,
Defendant.

WINDSOR ASSOCIATES,
Plaintiff,

v.

TOWNSHIP OF SOUTH BRUNSWICK, and
the PLANNING BOARD OF THE
TOWNSHIP OF SOUTH BRUNSWICK,
Defendants.

SUPERIOR COURT OF NEW JERSEY
MIDDLESEX COUNTY – LAW DIVISION
DOCKET NO. MID-L-004434-17

<p>STANTON GIRARD, LLC, Plaintiff,</p> <p>v.</p> <p>TOWNSHIP OF SOUTH BRUNSWICK, and the PLANNING BOARD OF THE TOWNSHIP OF SOUTH BRUNSWICK, Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY MIDDLESEX COUNTY – LAW DIVISION DOCKET NO. MID-L-004433-17</p>
<p>AMERICAN PROPERTIES AT SOUTH BRUNSWICK, LLC, Plaintiff,</p> <p>v.</p> <p>TOWNSHIP OF SOUTH BRUNSWICK, TOWNSHIP COUNCIL OF THE TOWNSHIP OF SOUTH BRUNSWICK, and the PLANNING BOARD OF THE TOWNSHIP OF SOUTH BRUNSWICK, Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY MIDDLESEX COUNTY – LAW DIVISION DOCKET NO. MID-L-004437-17</p>
<p>PPF INDUSTRIAL – ROUTE 130/EXIT 8A, L.L.C., a limited liability company organized under the laws of the State of Delaware, Plaintiff,</p> <p>v.</p> <p>TOWNSHIP OF SOUTH BRUNSWICK, TOWNSHIP COUNCIL OF THE TOWNSHIP OF SOUTH BRUNSWICK, and the PLANNING BOARD OF THE TOWNSHIP OF SOUTH BRUNSWICK,</p>	<p>SUPERIOR COURT OF NEW JERSEY MIDDLESEX COUNTY – LAW DIVISION DOCKET NO. MID-L-004094-17</p> <p>Defendants.</p> <p>K HOVNANIAN SHORE ACQUISITIONS, LLC,</p> <p>Plaintiff,</p>

SUPERIOR COURT OF NEW JERSEY
MIDDLESEX COUNTY – LAW DIVISION
DOCKET NO. MID-L-001194-17

v.
TOWNSHIP OF SOUTH BRUNSWICK
AND PLANNING BOARD OF THE
TOWNSHIP OF SOUTH BRUNSWICK,
Defendants.

STIPULATION AND
ORDER OF DISMISSAL

Pursuant to applicable Rules Governing the Courts of the State of New Jersey, Plaintiff PPF Industrial – Route 130/Exhibit 8A, LLC (hereinafter "PPF") and Defendants Township of South Brunswick, Township Council of the Township of South Brunswick, and Planning Board of the Township of South Brunswick ("Defendants"), by and through their respective undersigned counsel, do hereby **STIPULATE** and **AGREE** the action docketed in the Superior Court of New Jersey, Law Division, Middlesex County as MID-L-004094-17 and part of the above-captioned consolidated actions be and is hereby dismissed with prejudice, with each party to bear its own costs.

VOGEL, CHAIT, COLLINS AND SCHNEIDER
Attorneys for South Brunswick Township
Planning Board

By: _____
THOMAS F. COLLINS, JR.

Dated: _____

TOWNSHIP OF SOUTH BRUNSWICK
Attorney for the Township of South Brunswick and
the Township Council of the Township of South
Brunswick

By: _____
DONALD J. SEARS

Dated: _____

HILL WALLACK, LLP
Attorneys for PPF Industrial – Route 130/Exhibit 8A,
LLC

By: _____
THOMAS F. CARROLL, III

Dated: _____

EXHIBIT D

TREE REPLACEMENT CALCULATION

- a. Percentage of Trees to be Removed (*see* Ordinance Section 118-126(b)(1)a) = **100%**
- b. Total Number of Trees to be Removed = **371** (70 trees (per acre) x 5.3 acres)
- c. Percentage of Removed Trees to be Replaced (*see* Ordinance Section 118-126(b)(1)a) = **80%**
- d. Total Number of Removed Trees to be Replaced = **300** (= (.80)(371) (*see* item c. and item b.))
- e. Total Number of New Street Trees to be Planted = **200**
- f. Total Number of Removed Trees to be Replaced less Credit for Total Number of New Street Trees to be Planted (*see* Ordinance Section 118-126(b)(1)b) = **100** (= 300 (item d.) minus 200 (item e.))
- g. Percentage of Trees to be Replaced for Which Developer will Pay Contribution in Lieu of Planting (*see* Ordinance Section 118-126(b)(3)) = **40%**
- h. Total Number of Trees to be Replaced for Which Developer will Pay in Lieu of Planting = **40** (= (.4)(100) (*see* item g. and item f.))
- i. Amount of Cap of Payment in Lieu of Planting (*see* Ordinance Section 118-126(b)(3)) = **\$8000** (= 40 trees (item h.) x \$200 per tree)
- j. Total Number of Removed Trees to be Replaced less Amount of Trees for Which Developer will Pay Contribution in Lieu of Planting = **60** (= 100 (item f.) minus 40 (item h.))
- k. Net Result:
 - (1) 300 trees to be removed

- (2) 200 street trees to be planted
- (3) 60 additional replacement trees to be planted
- (4) \$8,000 payment in lieu of replacing 40 trees

EXHIBIT E
CURED IN PLACE LINER (“CIPL”) SPECIFICATION



July 10, 2020

Raymond J. Wheaton, Jr., PE
Project Manager
Taylor Wiseman & Taylor
124 Gaither Drive, Suite 150
Mt. Laurel, NJ 08054
P: 856.235.7200 ext. 1116
F: 856.722.9250
Email: Wheaton@taylorwiseman.com

PROPOSAL NUMBER: USP008807102020-Budget Estimate

RE: MATRIX DEVELOPMENT SOUTH BRUNSWICK SANITARY MAIN RESTORATION PROJECT

US Pipelining, LLC., (Contractor), (USP), proposes to furnish all necessary materials, labor, tools, equipment, supplies and the supervision necessary to perform the work outlined in the DESCRIPTION and the SCOPE OF WORK with the exception of those items that have been specifically addressed in the TERMS AND CONDITIONS of this proposal.

PROJECT LOCATION: SOUTH BRUNSWICK NEW JERSEY

Scope of Work:

- **Project Overview:** Mobilize all necessary equipment, tools, materials, labor etc., for the purpose of "Cured-In-Place-Pipe" (CIPP) lining installation using ASTM Standards municipal qualified felt and Polyester resin materials. The Project includes pre & post CCTV, pre-cleaning & debris removal, and the structural CIPP restoration of 36-inch RCP sanitary sewer mainline segments per Pricing/Unit Schedule below. Lining material and resin for the above referenced project will be of the highest municipal quality, manufactured under ISO 9001 requirements in accordance with specifications of USP and will comply with the guidelines of ASTM F-1216, ASTM D-5813, ASTM F-1743, ASTM D-5199, ASTM D-5035, and ASTM D-790. The CIPP system shall be continuous and joint-less from access to access, designed for a life of 50 years or greater, and shall have a long term (50 year) corrosion resistance to the typical chemicals found in domestic sewage as tested to ASTM F1216/D5813 Chemical Resistance Standard. All active branch lines shall be reinstated by mechanical means per ASTM F1216.
- **Methods & Materials:** All methods and materials shall conform to the applicable ASTM F-1216 *Standard Practice for Rehabilitation of Existing Pipelines and Conduits by the Inversion and Curing of a Resin-Impregnated Tube*. All materials shall be manufactured in the USA under ISO 9001 requirements in accordance with these specifications.



PRICING SCHEDULE – BUDGET ESTIMATE

	Unit Price	Estimated Total
<u>CIPP Lining (420’/LF):</u>		
Furnish & Install 36-Inch		
CIPP Including CCTV,		
Cleaning and related items.....	\$270.00/LF.....	\$113,400.00
 <u>CIPP Lining (825’/LF):</u>		
Furnish & Install 36-Inch		
CIPP Including CCTV,		
Cleaning and related items.....	\$235.00/LF.....	\$193,875.00

Contractor Notes:

1. This proposal is for budgetary purposes only.
2. The Owner shall procure all necessary road opening permits, municipal permits, licenses, inspection fees, bonds or similar items which may be required by any governmental or township agency for the construction outlined herein.
3. This budget proposal is provided under project site "unseen". Variations in actual site conditions and/or unforeseen conditions may result in additional cost to Owner.
4. Price excludes traffic control other than cones and/or signage.
5. Excludes any and all excavation. Excavation is an extra pay item as is to be performed by others.
6. Excludes Site Work, Matting, Grubbing, Clearing/Restoration.
7. Excludes bypass pumping, dewatering of lines, flow control, and system dewatering.
8. Proposal assumes the Owner or Prime Contractor will provide vehicular access to the mouth of all pipes being lined (including but not limited to a tractor trailer and refrigerator truck).
9. Proposal assumes the work will be completed during dry weather conditions.
10. Proposal assumes water will be provided at no charge with access to and use of fire hydrants and/or sufficient water supply (within 500 ft. of the installation site). No provision is made for the trucking of water.

EXHIBIT F
REVOCABLE EMERGENCY ACCESS AGREEMENT

NEW JERSEY TURNPIKE AUTHORITY

Record and Return to:

Prepared by: Joseph Michael. DeCotiis, Esq.

Donald J. Sears, Esq.
Director of Law
Township of South Brunswick
540 Ridge Road
P.O. Box 190
Monmouth Junction, NJ 08852

NEW JERSEY TURNPIKE AUTHORITY

Agreement No.: _____

REVOCABLE EMERGENCY ACCESS AGREEMENT

THIS AGREEMENT made this ____ day of _____, 2020 (the “Effective Date”), by and between NEW JERSEY TURNPIKE AUTHORITY, located at 1 Turnpike Plaza. Woodbridge, New Jersey 07095, PO BOX 5042, Woodbridge, NJ 07095-5042 (hereinafter called “Grantor”), and the TOWNSHIP OF SOUTH BRUNSWICK, located at 540 Ridge Rd, Monmouth Junction, NJ 08852 (hereinafter called “Grantee”).

WHEREAS, Grantor owns certain real property situated in the Township of South Brunswick, in the County of Middlesex and State of New Jersey, as described in **Exhibit A**, known and designated on the Tax Map of the Township of South Brunswick as Block 6, Lot 130.32 (Qual X) (hereinafter “Grantor’s Property”); and

WHEREAS, Grantor agrees to convey a revocable access area on and across Grantor’s Property containing approximately 1.15 acres for the limited use of Grantee, its licensees, successors in interest and assigns, in connection with emergency access for emergency response vehicles only as shown on the plans attached hereto and made a part hereof as **Exhibit A** (the “Temporary Access Area”);

NOW THEREFORE, WITNESSETH: In consideration of these premises and the sum of One DOLLAR paid to Grantor by Grantee, the receipt of which is hereby acknowledged, and in further consideration of the mutual conditions, covenants, promises and terms hereinafter contained, it is agreed that:

1. Grantor does hereby grant and convey unto Grantee a revocable right of entry on and across Grantor’s Property for emergency access as depicted on **Exhibit A** for a period of ninety-nine (99) years, beginning on the Effective Date and terminating on the day immediately preceding the ninety-ninth (99th) anniversary of the Effective Date. Grantee will have access to, egress and ingress in, from the driveway entrance of the Temporary Access Area, as depicted on sheet “SK-2” of the plans attached hereto as **Exhibit A**.
2. Grantor does further grant and convey unto Grantee, its agents, servants, contractors and/or employees, the right, privilege and authority to trim, cut and remove such tree branches, roots, shrubs, plants, trees and vegetation which might, within the exclusive discretion and sole judgment of Grantee, be necessary for the use of the Temporary Access Area. Grantee, its agents, servants, contractors and/or employees, shall also have the right to make any improvements to said Temporary Access Area as Grantee deems necessary, in its sole discretion, for installation and maintenance of an emergency access road to the development located on certain adjacent property

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designated on the Township of South Brunswick tax map as Block 6, Lot 15.022 (“Adjacent Property”).

3. Grantor reserves the right, privilege and authority to sign any permit or approval applications as may be needed for approval of the emergency access road in the Temporary Access Area by governmental authorities and/or state agencies. Grantee shall provide Grantor with copies of any applications filed, and it shall provide Grantor with any other information related to those applications, permits or approvals that Grantor reasonably requests.

4. Grantee, its agents, servants, contractors and/or employees, shall perform all work in connection with the rights, privileges and authority herein granted and conveyed in a workmanlike manner and with minimum inconvenience to the Grantor, and any damage done to the Temporary Access Area shall be promptly removed, repaired and restored to as near its condition immediately prior to being damaged as is reasonably possible, at the sole cost and expense of Grantee. For the avoidance of all doubt, Grantee, its agents, servants, contractors and/or employees, shall be solely responsible for plowing and maintaining the Temporary Access Area as well as any gates and access points leading thereto. Grantee shall have the right to contract with third parties to perform such plowing and maintenance responsibilities.

5. Grantee and/or its third party contractor shall construct and install an access gate to the Temporary Access Area as depicted on sheets “SK-1”, “SK-2” and “SK-3” of the plans attached hereto as **Exhibit A**. Grantee shall cause to be provided to Grantor keys necessary to access the gates securing the Temporary Access Area. Prior to executing this Agreement, Grantee shall provide Grantor with a drawing demonstrating that Grantee’s emergency vehicles can properly and safely access the Temporary Access Area, which drawing is shown on sheet “SK-4” of the plans attached hereto as **Exhibit A**.

6. Grantee shall defend and indemnify Grantor against, and shall save Grantor harmless from, and shall reimburse Grantor with respect to any and all claims, demands, actions, causes of action, injuries, orders, losses, liabilities (statutory or otherwise), obligations, damages, fines, penalties, costs and expenses (including without limitation reasonable attorneys’ fees and expenses) incurred by, imposed upon or asserted against Grantor by reason of any accident, injury (including death at any time resulting therefrom) or damage to any person or property arising out of or resulting from its use and enjoyment of the Temporary Access Area, including without limitation, Grantee’s construction, installation and maintenance of the Temporary Access Area. Grantee also agrees to reimburse the Grantor for any damages to the Grantor’s facilities that were caused by Grantee or any contractor/agent of the Grantee.

7. **Insurance**

- 1) Prior to the commencement of any activity pursuant to this Agreement, the Grantee shall procure and maintain at its own expense, the following insurance coverages:
 - a. Commercial general liability insurance (CGL) with a primary coverage limit of not less than \$2,000,000 each occurrence. CGL insurance shall be written on the latest ISO occurrence form without any added restrictions or diminution in coverage (or a substitute form providing at least equivalent coverage) and shall cover liability for bodily injury and property damage arising from premises, operations, independent contractors, products-completed operations and for liability arising from personal injury and advertising injury, and liability assumed under contract. “The New Jersey Turnpike Authority and its members, commissioners, officers, agents, employees, guests, consultants and volunteers”

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shall be included as additional insureds. This insurance shall be endorsed to apply as primary insurance and not contribute with any other insurance or self-insurance programs afforded to the Grantor. This insurance shall be endorsed to waive the insurance carrier's right of subrogation against The New Jersey Turnpike Authority and its members, commissioners, officers, agents, employees, guests, consultants and volunteers. This insurance shall not contain any provision under which claims made by the Grantor against the Grantee would not be covered due to the operation of an insured versus insured exclusion.

- b. Grantee shall maintain commercial automobile liability insurance covering all vehicles owned or used by Grantee with a primary coverage limit of not less than \$2,000,000 each occurrence. Auto insurance shall be written on the latest ISO form without any added restrictions or diminution in coverage (or a substitute form providing at least equivalent coverage) and shall cover liability for bodily injury and property damage. "The New Jersey Turnpike Authority and its members, commissioners, officers, agents, employees, guests, consultants and volunteers" shall be included as additional insureds. This insurance shall apply as primary insurance and not contribute with any other insurance or self-insurance programs afforded to the Grantor. Such insurance shall be endorsed to waive the insurance carrier's right of subrogation against Grantor and its members, commissioners, officers, agents, employees, guests, consultants and volunteers.
 - c. Grantee shall maintain workers' compensation and employers' liability insurance. Employers' liability coverage shall be in a limit not less than \$1,000,000 Bodily Injury by Disease Each Employee, \$1,000,000 Bodily Injury by Accident- Each Accident, \$1,000,000 Bodily Injury by Disease – Policy Limit. Workers' Compensation Insurance shall be provided in accordance with the requirements of the laws of the State of New Jersey and shall include all-states insurance to extend coverage to any state which may be interpreted to have legal jurisdiction.
- 2) All insurance policies shall specify that the territorial limits shall be on a worldwide basis or as otherwise agreed with the Grantor. All insurance policies shall provide that not less than 30 days advance written notice of cancellation or material change of any insurance referred to therein shall be given by registered mail to the Law Department, New Jersey Turnpike Authority at P.O. Box 5042, One Turnpike Plaza, Woodbridge, New Jersey 07095. All insurance companies providing coverage shall be authorized to do business in the State of New Jersey and maintain an A.M. Best rating of A-VII or better. Simultaneous with executing this agreement, thereafter upon the Grantor's request, Grantee shall furnish the Grantor with a certificate(s) of insurance satisfactory to the Grantor.
- a. "The New Jersey Turnpike Authority and its members, commissioners, officers, agents, employees, guests, consultants and volunteers" shall be included as additional insureds." This statement is not required for the workers' compensation and employers' liability insurance carried by any contractor or subcontractor of Grantee.
 - b. Thirty (30) days' notice of cancellation or material change in coverage shall be given by registered mail to the Grantor as specified above.
 - c. All policies shall contain a waiver of subrogation clause in favor of the Grantor and its members, commissioners, officers, agents, employees, guests, consultants and volunteers.

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- d. With respect to all policies, the other insurance clause under each policy shall be amended to read as follows: "This policy will act as primary insurance and not contribute with policies issued to or self-insurance programs afforded to the New Jersey Turnpike Authority and its members, commissioners, officers, agents, employees, guests, consultants and volunteers."
 - e. All certificate(s) shall be mailed to: Director of Law, Law Department, New Jersey Turnpike Authority, P.O. Box 5042, Woodbridge, New Jersey 07095.
- 3) In the event that Grantee utilizes any contractors or subcontractors with respect to any of its obligations pursuant to this Agreement, Grantee shall, except as noted above in Section 7(2)(a) above, require such contractor or subcontractor to comply with all of the above insurance requirements as if the contractor's or subcontractor's name were substituted for any reference to Grantee. If any contractor or subcontractor cannot comply with this requirement, then such contractor or subcontractor shall be added under the Grantee's policies as an additional insured.
- 4) Due to future changes in economic, financial, risk and/or insurance market conditions the Grantor at its discretion may modify the above stated insurance requirements

NOTWITHSTANDING THAT MINIMUM AMOUNTS OF INSURANCE COVERAGE CARRIED OR REQUIRED TO BE CARRIED BY THE GRANTEE ARE SPECIFIED HEREIN, THE LIABILITY OF THE GRANTEE SHALL NOT BE LIMITED TO THE AMOUNTS SO SPECIFIED AND SHALL EXTEND TO ANY AND ALL LIABILITY IN EXCESS OF THE INSURANCE COVERAGES SO PROVIDED NOR SHALL THESE MINIMUM LIMITS PRECLUDE THE GRANTOR FROM TAKING ANY ACTION AVAILABLE TO IT UNDER THE PROVISIONS OF THE CONTRACT OR OTHERWISE IN LAW.

Terms and Deductibles. The Grantee shall be responsible for any deductible or self-insured retention, exclusions or lack of coverage in the insurance policies described above. Any deductible or self-insured retention greater than \$5,000 per occurrence must be disclosed to the Grantor.

8. Grantor covenants and binds itself, its successors and assigns to warrant and forever defend the title to this Agreement to Grantee, its successors and assigns, against the lawful claims of all persons for the term of this Agreement.
9. This Temporary Access Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey. The provisions of this Temporary Access Agreement shall inure to the benefit of and be obligatory upon the respective parties hereto and their successors and assigns.
10. Grantor holds the authority to revoke access to this Temporary Access Agreement at any time if revocation is reasonably necessary for Grantor's use of Grantor's Property. In the event that the Grantor determines to revoke access, it shall provide Grantor with at least thirty (30) days advance written notice of the proposed revocation, and shall thereafter work with the Grantee to find a reasonable solution.
11. This Agreement may be renewed for additional terms upon mutual consent of the parties.

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12. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

13. The section headings in this Agreement are for reference purposes only and shall not define, limit or affect the meaning or interpretation of this Agreement.

14. This Agreement contains the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior negotiations and understandings with respect to such subject matter, and there are no other agreements between the parties hereto with respect to the subject matter hereof.

[signature page follows]

NEW JERSEY TURNPIKE AUTHORITY

IN WITNESS WHEREOF, Grantor has duly signed these presents the day and year first above written.

GRANTOR:

NEW JERSEY TURNPIKE AUTHORITY

WITNESS:

By:

Name:

Title:

GRANTEE:

THE TOWNSHIP OF SOUTH BRUNSWICK

WITNESS:

Barbara Nyitrai, Township Clerk

By:

Name: Charles Carley

Title: Mayor

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STATE OF NEW JERSEY:

SS

COUNTY OF MIDDLESEX:

I CERTIFY that on _____, 2020, _____ personally came before me and he/she acknowledged under oath, to my satisfaction, that:

(a) he/she is the _____ of the New Jersey Turnpike Authority, the corporation named in this document;

(b) he/she is the attesting witness to the signing of this document by _____, who is the _____;

(c) this document was signed and delivered by the Corporation as its voluntary act duly authorized by a proper resolution;

(d) he/she knows the proper seal of the Corporation, which was affixed to this document; and

(e) he/she signed this proof to attest to the truth of these facts.

Signed and sworn to before me

On _____, 2020

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STATE OF NEW JERSEY:

SS

COUNTY OF MIDDLESEX:

I CERTIFY that on _____, 2020, BARBARA NYITRAI personally came before me and she acknowledged under oath, to my satisfaction, that:

- (a) she is the Township Clerk of the Township of South Brunswick, the municipal corporation named in this document;
- (b) she is the attesting witness to the signing of this document by Charles Carley, who is the Mayor of the Township of South Brunswick;
- (c) this document was signed and delivered by the Township of South Brunswick as its voluntary act duly authorized by a proper resolution of the Township Council;
- (d) she knows the proper seal of the Township of South Brunswick which was affixed to this document; and
- (e) she signed this proof to attest to the truth of these facts.

Signed and sworn to before me

On _____, 2020

Donald J. Sears
An Attorney at Law
In the State of New Jersey

Barbara Nyitrai, Township Clerk

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EXHIBIT A

(Temporary Access Area, Access Gate and Drawings regarding Safe Access to Temporary Access Area)

[see attached]

