



E. AMERICAN PROPERTIES ORDER AND SHO RECOMMENDATION

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FILED

July 21, 2022

Hon. Michael V. Cresitello, Jr., P.J.Cv.

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

CONSOLIDATED ACTIONS
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MIDDLESEX COUNTY

Docket No.: MID-L-4433-17 (formerly
MID-L-3878-15)

CIVIL ACTION

Mount Laurel

Petitioner,

AMERICAN PROPERTIES AT SOUTH
BRUNSWICK, LLC.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MIDDLESEX COUNTY

Plaintiff,

Docket No.: MID-L-4437-17 (Builder's
Remedy)

v.

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

**ORDER GRANTING AMERICAN
PROPERTIES AT SOUTH
BRUNSWICK, LLC, PRELIMINARY
AND FINAL MAJOR SUBDIVISION
AND PRELIMINARY AND FINAL
MAJOR SITE PLAN APPROVAL WITH
CONDITIONS**

Defendants.

THIS MATTER having been opened to the Court by John A. Sarto, Esq. of Giordano, Halleran & Ciesla, P.C., counsel for American Properties at South Brunswick, LLC (“American Properties”) on notice to all parties of record; and

The Township of South Brunswick (“Township”) having instituted a Declaratory Judgment Action, entitled IMO the Application of the Township of South Brunswick, Docket No. MID-L-

4433-17 (previously docketed as MID-L-3878-15) (“DJ Action”), in response to the Supreme Court’s decision In re Adoption of N.J.A.C. 5:96 and N.J.A.C. 5:97, 221 N.J. 1 (2015) (“Mount Laurel IV”) and requesting a judicial determination with regard to the Township’s Housing Element and Fair Share Plan (“HEFSP”); and the Court having appointed Christine A. Nazzaro-Cofone, P.P., A.I.C.P., as the special Master in this matter (“Special Master”); and

The Court having entered Orders dated October 21, 2016, permitting the filing of builder’s remedy lawsuits against the Township and processing development application(s) in accordance with the Special Hearing Officer (“SHO”) process provided for in the Order dated October 21, 2016, pursuant to Cranford Development Associates, LLC, et als. v. Township of Cranford, et als., 445 N.J. Super. 220 (App. Div.) cert. den. 227 N.J. 237 and 227 N.J. 266 (2016) to prevent delay and interference with a builder processing its development application before municipal bodies who protest the entry of a builder’s remedy; and

The Court having endorsed the continuation of the SHO process by Case Management Order dated May 10, 2019, and Conditional Order of Compliance dated November 27, 2019. Paragraph 7 of the Conditional Order addresses the continued enforcement of the Court’s rulings, including those under the SHO process, to ensure the effective, timely implementation of the Mount Laurel doctrine, or in the alternative, forms of relief requested by the parties . . .” Paragraph 8 of the Condition Order further provides that the “[Conditional] Order does not affect in any way the rights and remedies that any builder’s remedy plaintiff has under the prior Orders of this Court including, but not limited to, the right to proceed under the SHO process for site plan approval . . .”; and

The Court having entered a Final Judgment of Compliance and Repose (“JOR”) on July 6, 2021, which in paragraph 12 provides that “[e]ntry of this [JOR] does not affect in any way the

rights and remedies that any Builder's Remedy Plaintiff has under the prior Orders of this Court, including, but not limited to, the right to proceed under the [SHO] process..." and that "entry of this [JOR] does not preclude the entry of an Order granting preliminary and/or final site plan approval in the Builder's Remedy applications and does not stay those proceedings or the [SHO] process..."; and

American Properties having filed a builder's remedy action on August 5, 2016 captioned American Properties at South Brunswick, LLC v. Township of South Brunswick, et al., Docket No. MID-L-4580-16 ("Builder's Remedy Litigation"), which was reassigned Docket No. MID-L-4437-17, and consolidated with the DJ Action in 2017. The Special Master, having concluded on March 18, 2019 that American Properties' site meets the site suitability criteria found at N.J.A.C. 5:93-1.3 and is "available, approvable, developable, and suitable for the proposed inclusionary development"; and

The Court, by Order dated July 23, 2019, having appointed Steven P. Goodell, Esq. as SHO to hear American Properties' development application for a preliminary and final major subdivision and preliminary and final site plan approval pursuant to the SHO process, and advise the Court, the Township, and the builder with his recommendation as to whether the application should be approved, denied or approved with conditions; and

American Properties having submitted its development application for property known and designated as Block 79, Lots 1.06, 11 and 12 and with a street address of 893 Ridge Road and 2-11 Perrine Road in the Township (the "Property") in accordance with the SHO process to Steven P. Goodell, Esq. as SHO, for preliminary and final major subdivision and preliminary and final site plan approval. The SHO having conducted the hearings virtually by remote public meetings

via Microsoft Teams on August 10, 2021, September 8, 2021, and September 9, 2021, and considered all evidence, stipulations, arguments, briefs, and proposed Resolutions; and

The Special Hearing Officer memorialized his determinations in a proposed Resolution entitled “Special Hearing Officer’s Proposed Resolution Granting Preliminary and Final Major Site Plan and Preliminary and Final Major Subdivision Approval, with Conditions” dated March 7, 2022, together with appendices (hereinafter, “SHO Resolution,” which is attached hereto as **Exhibit A**) in accordance with N.J.S.A. 40:55D-10(g), which “set[s] forth such findings of fact and conclusions necessary to appropriately summarize the evidence presented, so as to enable the Court to enter judgment” as provided by Section 2(L) of the October 21, 2016 Case management Order; and

The Township, the Township Planning Board, and American Properties having submitted comments and objections to the SHO Resolution to the Court on or about March 17, 2022; and

The Special Master having responded to the parties’ comments and objections by letter dated May 19, 2022, which letter modified certain provisions of the SHO Resolution (the “SHO Resolution Modification” a copy of which is attached hereto as **Exhibit B**); and

Based on the foregoing, on this 21st day of July, 2022,

IT IS HEREBY ORDERED AND ADJUDGED:

1. The Court adopts and approves the findings and conclusions set forth in the SHO Resolution at Exhibit A, as modified by the SHO Resolution Modification at Exhibit B, which shall constitute Preliminary and Final Major Subdivision & Preliminary and Final Major Site Plan Approval for the Property.

2. Consistent with Section 2.H of the October 21, 2016 CMO “all other federal, state, and ancillary governmental permits and approvals that are required for the builder’s project and the satisfaction of these ancillary permit requirements shall be a condition of any order approving a builder’s application” and, as such, are hereby made conditions of the within order and aforementioned Approval.

3. The terms of the October 21, 2016 CMO remain in full force and effect, except as expressly modified by the Court’s November 27, 2019 Order of Conditional Judgment of Compliance and Repose, and the Court’s July 6, 2021 Final Judgment of Compliance and Repose, and any dispute between the Township and American Properties regarding, satisfaction of conditions of Approval hereunder; conformance of construction plans with the Approval; or conformance of construction plans to State UCC and sub-codes and regulations, shall be referred to the Special Master in the first instance, in the manner provided within Section 2.F. of the October 21, 2016 CMO with respect to site plans: “The Special Master shall serve as nonbinding arbiter of any disputes relating to submissions and reports on the Builder’s Site plans.”

4. American Properties shall comply with all requirements of the New Jersey Municipal Land Use Law N.J.S.A. 40:55D-1 et seq. (“MLUL”) regarding post approval procedures and requirements, including but not limited to the submission of all reasonable and regular performance and maintenance bonds, or equivalent surety, authorized by the MLUL, and subject to provisions of the MLUL regarding the calculation and furnishing of guarantees pursuant to N.J.S.A. 40:55D-53 to -53.6, and American Properties shall be responsible for payment of reasonable and regular permitting, inspection and escrow fees as may be assessed consistent with regulations of the UCC of the New Jersey Department of Community Affairs (“DCA”) regarding

construction permitting. N.J.A.C. 5:23-1 to -12A.6, and DCA guidelines and practices regarding permitting and inspections.

5. American Properties shall pay any and all outstanding escrow fees (if any) no later than thirty (30) days of the date of this Order.

6. Subject to the terms hereof, and pursuant to Section 2.L. of the October 21, 2016 CMO, the instant order shall be considered a conditional final subdivision and site plan approval for purposes of the issuance of construction code and subcode permitting.

7. The posting of this Order on eCourts shall constitute service upon all counsel of record.

8. This Order is final upon entry and notice thereof shall be published pursuant to R. 4:69-6(b)(3) in the official newspaper of the municipality or a newspaper of general circulation in the municipality and shall be filed in the office of the municipal clerk and be available for inspection by the public.

9. American Properties shall provide copies hereof to the Special Master and SHO within three (3) days of the entry of this Order.

/s/ Michael V. Cresitello, Jr.
HON. MICHAEL V. CRESITELLO, JR., ~~J.S.C.~~
^P.J.Cv.

_____ UNOPPOSED

X _____ OPPOSED

Docs #5586733-v1

Granted based upon the totality of the record developed during the underlying hearings conducted in this matter as memorialized by the Special Hearing Officer in a Resolution entitled "Special Hearing Officer's Proposed Resolution Granting Preliminary and Final Major Site Plan and Preliminary and Final Major Subdivision Approval, with Conditions" dated March 7, 2022, as modified by the Report of the Special Master dated May 19, 2022. Same are relied upon by the Court and incorporated herein by reference in further support of the entry of this Order.

EXHIBIT A

IMO Application of the Township of South Brunswick, County of Middlesex

Superior Court of New Jersey
Law Division—Middlesex County
Docket No. **MID-L-4433-17 (formerly MID-L-3878-15)**

American Properties at South Brunswick, LLC v. Township of South Brunswick, et al.

Superior Court of New Jersey
Law Division—Middlesex County
Docket No. **MID-L-4437-17**

**Special Hearing Officer’s Proposed Resolution
Granting Preliminary and Final Major Site Plan and Preliminary
and Final Major Subdivision Approval, with Conditions,
to American Properties at South Brunswick, LLC**

March 7, 2022

WHEREAS, American Properties at South Brunswick, LLC (“the Applicant”) filed an application with the Township of South Brunswick (“the Township”) to build an inclusionary residential development on property designated as Block 79, Lots 1.06, 11 and 12 on the Tax Map of the Township of South Brunswick; and

WHEREAS, the Hon. Michael V. Cresitello, Jr., J.S.C. appointed Steven P. Goodell, Esq. as Special Hearing Officer to hear the application and provide the Court, the Township and the builder with his recommendation as to whether the application should be approved, denied, or approved with conditions; and

WHEREAS, public hearings on the application were held on August 10, 2021; September 8, 2021; and September 9, 2021; and

WHEREAS, the Special Hearing Officer has considered the evidence, including the application, the documents and reports submitted by the parties, the testimony of witnesses at the

hearings, the comments and concerns of members of the public, the stipulations of the parties, the arguments of counsel, and the briefs and proposed resolutions submitted by the parties; and

WHEREAS, the Special Hearing Officer has determined that American Properties' application for development should be granted, with conditions; and

WHEREAS, this Proposed Resolution memorializes the Special Hearing Officer's determination in accordance with N.J.S.A. 40:55D-10(g), and "set[s] forth such findings of fact and conclusions necessary to appropriately summarize the evidence presented, so as to enable the Court to enter judgment," which "shall be considered a preliminary and final site plan approval for purposes of filing an application for a building permit," in accordance with the Court's October 21, 2016 Case Management Order, ¶ L.

NOW, THEREFORE, BE IT RESOLVED that the application of American Properties at South Brunswick, LLC for Preliminary and Final Major Site Plan and Preliminary and Final Major Subdivision Approval, be and hereby is **RECOMMENDED TO THE COURT FOR APPROVAL, WITH CONDITIONS**, as set forth herein.

BACKGROUND

1. On July 1, 2015, the Township of South Brunswick filed a declaratory judgment action entitled In the Matter of the Application of the Township of South Brunswick, County of Middlesex, Docket No. MID-3878-15, seeking, among other things, a Judgment of Compliance and Repeal approving its affordable housing plan (the "DJ Action"). The DJ Action is now assigned Docket No. MID-L-4433-17.

2. On May 2, 2016, the Hon. Douglas K. Wolfson, J.S.C., revoked the Township's immunity against exclusionary zoning challenges and permitted the filing of builder's remedy lawsuits.

3. On August 5, 2016, American Properties filed the exclusionary zoning litigation captioned American Properties at South Brunswick, LLC v. Township of South Brunswick, et al., Docket No. MID-L-4580-16 ("Builder's Remedy Litigation"). That Builder's Remedy Litigation is now assigned Docket No. MID-L-4437-17.

4. On October 21, 2016 Judge Wolfson entered an Order establishing a process for the review of each builder's application for development, including the American Properties' application (the "October 21, 2016 Court Order").

5. As part of that process, Judge Wolfson appointed Special Hearing Officers "for purposes of reviewing and making recommendations to this court as to each of the site plan proposals of the Builders, in accord with the procedures set forth in Cranford Development Associates, LLC, et al. v. the Township of Cranford et al., 445 N.J. Super. 220 (App. Div. 2016). cert. denied 2016 WL 5335282 (September 12, 2016)." (October 21, 2016 Court Order, ¶ 1).

6. On June 12, 2019, Christine Nazzaro-Cofone, P.P., ACIP, the court-appointed Special Master, found that the American Properties' site was "available, approvable, developable, and suitable for the proposed inclusionary development." The Special Master's Report is attached as **Appendix E**.

7. On July 23, 2019, the Hon. Michael V. Cresitello Jr., J.S.C. appointed Steven P. Goodell, Esq. as Special Hearing Officer to review the American Properties application.

8. On November 27, 2019, Judge Cresitello entered an Order of Conditional Judgment of Compliance and Repose. Pursuant to that Order, American Properties submitted a form of Ordinance for the zoning standards that would apply to its application for development. The Ordinance created a new zoning district called "Court's Third Round Affordable Housing

District -1” (“CTRAH-1 Zone”) [Appendix F]. On June 23, 2020, the Township adopted the Ordinance, which was assigned number 2020-08, under protest.

THE APPLICATION

9. American Properties submitted its application for development on or about January 7, 2021 (“Application”). The Application was submitted pursuant to the requirements of the October 21, 2016 Court Order, ¶ 2.D. American Properties posted a professional review escrow fee pursuant to ¶ 2.E of the Court Order.

10. American Properties’ application sought Preliminary and Final Major Site Plan and Preliminary and Final Major Subdivision Approval, to permit construction of an inclusionary residential development located on the 63.94 acre tract at the southeast corner of the intersection of Schalks Crossing Road and Ridge Road in South Brunswick Township. The property is designated as Block 79, Lots 1.06, 11 and 12 on the Township Tax Map.

11. The proposed development would consist of 349 residential units, with 72 set-aside for occupancy by very-low, low, and moderate income individuals and families.

12. The proposed development was designed to comply with the standards set forth in the CTRAH-1 Zone.

STANDARD OF REVIEW

13. The Special Hearing Officer reviewed the American Properties application pursuant to the standards set forth in Judge Wolfson’s October 21, 2016 Court Order.

14. According to that Court Order, the “site plan application shall be deemed a fully conforming ‘as of right’ application in accordance with proposed zoning regulations the Builder

shall submit with its site plan submission, which shall be deemed to be the standards applicable to the Builder's proposed site plan." (October 21, 2016 Court Order, ¶ 2B).

15. The Court Order requires that "the Special Hearing Officers shall review each site plan application and shall grant preliminary and final site plan approval, with or without conditions, unless the Special Hearing Officer concludes that the site plan application is clearly contrary to sound land use planning principles or environmental concerns. Compliance with Residential Site Improvement Standards ('RSIS') shall be dispositive as to all residential design elements governed by the RSIS." (October 21, 2016 Court Order, ¶ 2B).

16. Finally, the Court Order requires that "each Builder shall present such expert testimony as it deems necessary to demonstrate that the Builder's proposal meets sound land use planning principles and satisfies applicable environmental regulations." (October 21, 2016 Court Order, ¶ 2H).

HEARING

17. The public hearing was conducted over three separate days: August 10, 2021; September 8, 2021; and September 9, 2021.

18. The public hearing was conducted virtually, utilizing the Microsoft Teams application, due to the statewide public health emergency and closure of the Middlesex County Courthouse as a result of the Covid-19 pandemic.

19. The Special Master, Ms. Nazzaro-Cofone, attended and participated in the hearing. (October 21, 2016 Court Order, ¶ 2H).

20. The hearing was properly noticed as required by Municipal Land Use Law (N.J.S.A. 40:55D-12) and the October 21, 2016 Court Order. (¶ 2G).

21. The hearing was conducted as required by the Municipal Land Use Law (N.J.S.A. 40:55D-10) and the October 21, 2016 Court Order (§ 2H):

- a. Testimony was taken under oath and was subject to cross-examination.
- b. A certified shorthand reporter recorded the proceedings.
- c. The Applicant presented fact and expert testimony in support of its plan, and as it deemed necessary to demonstrate that its proposal met sound land use planning principles and satisfied applicable environmental regulations.
- d. The Township presented expert testimony in response.
- e. The public and all interested parties were allowed to comment and present evidence and testimony in favor of or opposed to the application.
- f. The parties submitted their summations by way of brief and proposed resolutions to the Special Hearing Officer.

22. The Township, the Planning Board, and their professionals participated in the special hearing process under protest. They nevertheless participated fully and cooperated with the Special Hearing Officer.

APPEARANCES OF COUNSEL

23. The Applicant was represented by Marc D. Policastro, Esq., of Giordano, Halleran & Ciesla, P.C., 125 Half Mile Road, Suite 300, Red Bank, New Jersey.

24. The Township was represented by Donald J. Sears, Esq., Director of Law, Township of South Brunswick, 540 Ridge Road, Monmouth Junction, New Jersey, and George J. Shamy, Jr., Esq., of Shamy & Shamy, LLC, 178 Livingston Ave., New Brunswick, New Jersey.

25. The Planning Board was represented by Thomas J. Molica, Jr., Esq., of Vogel, Chait, Collins and Schneider, P.C., 25 Lindsley Drive, Suite 200, Morristown, New Jersey.

MEMBERS OF THE PUBLIC

26. Members of the public were present at all three hearing dates. Members of the public questioned the witnesses and offered their own sworn testimony and comments.

27. The following members of the public questioned witnesses: Betsy Sherer, Nancy Bailler, Jerome Lutin, Maria Certo, Sachin Vaidya, Cheng-Yu Lee, and Kevin Moran.

28. The following members of the public offered sworn testimony and comments: Jerome Lutin, Kevin Moran, Sachin Vaidya, Betsy Sherer, Siva Kolli, Himanshu Cabra, Aarti Gupta, James Pedley, and Praneet Kothavadi.

29. The members of the public addressed issues related to the proposed development, including but not limited to: the sufficiency and functionality of proposed on-site recreation and open space areas, including the clubhouse; emergency services; whether on-site landscape buffering will act as an off-site sound buffer; off-site lighting impacts; whether the zoning for the property is consistent with sound planning principles; sufficiency of the stormwater management system; climate change; environmental impact of the proposed development; potential impacts from other inclusionary developments; on-site pedestrian circulation; trash enclosure design and functionality for affordable units; whether the plan is suitable for the location at the proposed density; sufficiency of the number of parking spaces; internal roadway and parking design; conclusions reached in Applicant's traffic study; the proposed site driveways; whether a homeowners association was contemplated; the impact of the inclusionary development on the

school system; whether on-site school bus stops are necessary; and, the impact of the proposed development on existing Township infrastructure.

30. The Special Hearing Officer carefully considered each of the comments and concerns raised by members of the public.

EXHIBITS

31. At the hearing, American Properties moved Exhibits AP-1 through AP-26 into evidence. A list of those exhibits is attached as **Appendix A** to this Resolution.

32. In addition to the Exhibits entered into evidence at the hearing, American Properties also relied on the application documents referenced as AP-1 through AP-67, as set forth in **Appendix B**.

33. At the hearing, the South Brunswick parties moved Exhibits SB-1 through SB-28 into evidence. A list of those exhibits is attached as **Appendix C** to this Resolution.

WITNESSES

34. American Properties presented the following witnesses in support of the application:

- a. Greg Kanter, Senior Vice President of Acquisitions & Development at American Properties.
- b. William J. Parkhill, P.E. Mr. Parkhill was qualified as an expert in civil engineering.
- c. Nathan B. Mosley, P.E., C.M.E. Mr. Mosley was qualified as an expert in traffic engineering.
- d. Robert S. Larsen, R.A., P.P. Mr. Larsen was qualified as an expert in architecture.

e. Paul Phillips, P.P., AICP. Mr. Phillips was qualified as an expert planner.

35. The South Brunswick parties presented the following witnesses in response:

- a. Henry A. Bignell, P.P., Bignell Planning Consultants, Inc. Mr. Bignell is the consulting planner for South Brunswick. Mr. Bignell was qualified as an expert planner.
- b. Kenneth Zielinski, P.E., P.P., C.M.E., CME Associates. Mr. Zielinski is the South Brunswick Planning Board Engineer. Mr. Zielinski was qualified as an expert in civil engineering.
- c. Bryan Bidlack, P.P., AICP. Mr. Bidlack is the South Brunswick Township Manager and Director of Planning. Mr. Bidlack was qualified as an expert in land use planning.
- d. Mary Beth Lonergan, P.P., AICP, Clarke Caton Hintz. Ms. Lonergan was qualified as an expert in land use planning, with a special expertise in affordable housing planning.
- e. Joseph A. Charmello. Mr. Charmello is the South Brunswick Township Traffic Safety Coordinator. He is retired from the South Brunswick Police Department, where he served as captain and spent ten years in the Traffic Safety Bureau. Mr. Charmello was qualified as an expert witness “in the field of traffic consultancy, as opposed to traffic engineering,” over American Properties’ objections (3T132-12 to 133-24).
- f. Wayne D. Simpson, P.E., B.C.E.E., Alaimo Associates. Mr. Simpson was qualified as an expert in civil engineering, with specific expertise in water, sewer, and utility engineering.

STIPULATIONS

36. Each South Brunswick professional evaluated the American Properties application and issued one or more reports. Those reports commented on the application and made recommendations about issues of concern to the professional. In response, American Properties determined whether they could or would comply with those recommendations.

37. Most of the testimony at the hearing focused on the issues that the parties could not resolve between themselves.

38. On or about October 7, 2021, after the hearing had concluded, the parties agreed to a comprehensive Joint Exhibit (**Appendix D**), which listed “Open Issues to be Resolved by the Hearing Officer” (Part I) and “Stipulations of American Properties at South Brunswick LLC, Township of South Brunswick and Planning Board” (Part II).

39. The Special Hearing Officer commends the parties for their diligence in negotiating and settling so many open issues. In total, the parties stipulated to approximately 225 issues, and left 38 issues to be resolved by the Special Hearing Officer.

40. The Special Hearing Officer’s findings related to those open issues are set forth below and are more fully discussed in the document entitled “Special Hearing Officer’s Report Resolving Disputed Issues,” attached as **Appendix H**.

41. The “Special Hearing Officer’s Report Resolving Disputed Issues” is incorporated and made part of this Proposed Resolution as if it were fully set forth herein.

ADDITIONAL FINDINGS

Property Description

42. The Property is 63.94 acres in size. It is primarily used as a farm field. There is a small wetland on the northwest section of the site. The wetland has been the subject of a Department of Environmental Protection Letter of Interpretation.

43. The Property is designated as Block 79, Lots 1.06, 11 and 12 on the Township Tax Map. The street addresses are 893 Ridge Road and 2-11 Perrine Road.

44. The Property is located at the southeast corner of the intersection of Ridge Road and Schalks Crossing Road, and is bounded to the south by Perrine Road, which is the boundary between South Brunswick and Plainsboro.

45. A variety of uses surround the Property. To the west, across Schalks Crossin Road, is a residential development known as The Point at Turnbury. To the north, across Ridge Road, is the Dow Jones corporate center. To the east, is an office-research complex and farm field. To the south, are woodlands and a Hindu temple.

Development Proposal

46. American Properties proposes to develop 349 residential units at the site. Of those 349 units, 90 are single-family detached dwellings (on fee simple lots) and 259 are multi-family condominium units.

47. Of the 259 multi-family condominium units, 187 are market-rate townhouses and 72 are garden-apartment affordable units.

48. The 187 market-rate townhouses are in 41 buildings, and the 72 affordable units are in quads attached to 18 of the buildings.

Subdivision

49. The subdivision creates 90 single-family lots. It creates three open space or stormwater management basin lots. It creates a public right-of-way through the single-family portion of the site. It creates a lot for the condominium units.

Affordable Housing

50. The 72 affordable units consist of 15 one-bedroom, 42 two-bedroom, and 15 three-bedroom units. The affordable units are interspersed throughout the development.

51. The 72 affordable units being built are two units more than the 20% set-aside requirement.

52. The affordable units will comply with the Uniform Housing Affordability Controls ("UHAC") set forth at N.J.A.C. 5:80-26.1, et seq.

Phasing

53. Construction will proceed in accordance with a phasing plan. In general, the single-family units will be built in three phases, and the multi-family units will be built three phases. At times, single-family and multi-family construction phases will be concurrent.

54. Phase 1 of the multi-family construction will include the clubhouse.

Recreation and Amenities

55. The recreation and amenities include a clubhouse, pool, tennis courts, bocce ball court, multi-purpose field, community garden, individual grilling and dining spaces, patio, open play lawn, and two tot lots

56. The clubhouse is approximately 3,600 square feet. It is located opposite the main entrance and is central to the entire development. It is provided for the benefit of both the

market-rate and affordable housing residents of the community. It includes a great room, multi-purpose room, game room, and fitness room.

57. The multi-purpose field is 17,450 square feet. A second tot lot that was added to the Plan is about 4,000 square feet.

58. The total area of the recreation and amenities is approximately 75,000 square feet (not counting parking), which exceeds the 27,920 square feet of recreation space required for affordable housing developments under the COAH Third Round regulations.

Traffic and Site Access

59. Access to the development is from Schalks Crossing Road (County Route 683). There are two access drives. The major access drive is directly opposite Turnbury Street. The secondary access drive is about 1000 feet south of that. Each access drive provides access to the entire development.

60. The Applicant is required to obtain County approval for any and all improvements to Schalks Crossing Road.

61. Further traffic considerations are discussed at length in the “Special Hearing Officer’s Report Resolving Disputed Issues.”

Sewer and Water

62. The development will rely on public water service, which is available to the site.

63. The development will rely on public sewer service, which is available to the site. The property is located within a designated Sewer Service Area.

64. The public sewage collection system is at capacity, as a result of issues related to groundwater inflow and infiltration (I&I). South Brunswick has adopted ordinances (2018-28 and 2018-30) that require developers to find and remediate I&I in an amount equal to a

development's anticipated flow. The Applicant will comply with those ordinances, as modified by the "Special Hearing Officer's Report Resolving Disputed Issues."

Stormwater Management

65. An area of approximately 111 acres drains onto the site from the north. The stormwater management plan has been designed to account for that drainage, in addition to the on-site drainage.

66. The stormwater management plan includes two infiltration basins on the southern third of the site and a wet pond.

67. The Applicant must meet all requirements and conditions of their stormwater management plan, as approved by the DEP and as discussed in detail in the "Special Hearing Officer's Report Resolving Disputed Issues."

Residential Site Improvement Standards

68. The proposal meets the standards of the RSIS for all site plan elements.

69. There will be 1,019 parking spaces, which exceeds the 911 spaces required by RSIS. The Applicant has agreed to designate one parking space for each affordable unit.

70. Two de minimis exceptions from RSIS are required: (1) to permit a 20 mph speed limit in the townhouse area of the development, where RSIS (N.J.A.C. 5:21-4.20(b)) requires a 25 mph speed limit; and (2) to permit 10 foot curb radii at the intersection of the clubhouse access drive and Road A where RSIS requires 25 foot minimum radii. These exceptions are granted, as detailed in the "Special Hearing Officer's Report Resolving Disputed Issues."

Environmental Standards

71. The Special Hearing Officer is obligated to determine whether the site plan application is clearly contrary to environmental concerns.

72. Based on the evidence adduced at the hearing, the stipulations of the parties, and the decisions rendered in the “Special Hearing Officer’s Report Resolving Disputed Issues,” there are no environmental concerns that prevent the application from being approved.

Sound Land Use Planning

73. The Special Hearing Officer is obligated to determine whether the site plan application is clearly contrary to sound land use planning principles.

74. American Properties’ professional planner, Paul Phillips, stated that the development is indicative of sound planning:

I have reviewed that zoning [CTRAH-1], and I have reviewed it relative to the site and relative to what’s proposed on the site, again a multi-family inclusionary project with a mix of product types and an affordable housing set-aside, and I particularly focused on things, development standards such as setbacks, buffers and so forth and they appear to me to be reasonable and consistent with appropriate planning standards.

[2T123-8 to 17]

75. South Brunswick’s professional planner, Henry Bignell testified:

HEARING OFFICER GOODELL: So with that as a standard, do you have an opinion as to whether this site plan application is clearly contrary to sound land use planning principles?

MR. BIGNELL: It’s not contrary to sound planning principles.

[2T160-9 to 14]

76. Based on the evidence adduced at the hearing, the stipulations of the parties, and the decisions rendered in the “Special Hearing Officer’s Report Resolving Disputed Issues,” there are no violations of sound land use planning principles that prevent the application from being approved.

Zoning

77. The development plan was designed to meet, and does meet, the requirements of the CTRAH-1 zone.

78. The Application requires no variances from the zone requirements.

CONCLUSIONS

79. The Application is not clearly contrary to the principles of sound land use planning or environmental concerns.

80. The Application complies with, or was granted a de minimis exception for, all residential design elements governed by the RSIS.

81. The Application promotes the general welfare by providing for affordable housing in an inclusionary development.

82. Adequate information has been presented by the parties to grant preliminary and final major site plan and preliminary and final major subdivision approval.

83. This approval is subject to and limited by the Findings of Facts set forth herein, the Appendices, the “Special Hearing Officer’s Report Resolving Disputed Issues,” and the Conditions.

84. Any dispute over the interpretation or requirements of this Resolution shall be referred to the Special Master. If the Special Master does not resolve the dispute to the satisfaction of the parties, it shall be referred to the Special Hearing Officer.

CONDITIONS

1. American Properties shall comply with the requirements and conditions of the South Brunswick professional reports (**Appendix C**), as specifically agreed to in the Joint Exhibit, Part

II, “Stipulations of American Properties at South Brunswick LLC, Township of South Brunswick and Planning Board” (**Appendix D**), and as required by the Special Hearing Officer’s Report Resolving Disputed Issues (**Appendix H**).

2. American Properties shall pay any and all fees due to the Township, the Planning Board, the Special Hearing Officer and Special Master. The Special Master shall resolve any and all disputes as to supplemental escrow requests. (October 26, 2016 Court Order, ¶ 2E). Any further complaints about escrow charges shall be referred to the Superior Court.

3. All conditions contained in this Resolution and in the record of the proceedings, including any agreements made by the Applicant, were essential to the Special Hearing Officer’s decision to grant the approvals set forth herein. A breach of any such condition or failure by either party to adhere to the terms of any agreement within the time required may result in the need to return to the Special Hearing Officer.

4. The subdivision of the Property shall be implemented in accordance with the subdivision plan prepared by MidAtlantic Engineering, dated January 22, 2021, last revised through August 26, 2021, as well as any subsequent revisions to the plan as directed by the Planning Board’s engineer in connection with the Special Hearing Officer process, unless specifically modified herein.

5. The subdivision of the Property shall be accomplished in accordance with the requirements of Municipal Land Use Law and Map Filing Law.

6. American Properties shall prepare Deed Restrictions, in the form required by UHAC and/or HMFA regulations, indicating that the Property is being developed to provide affordable housing. The proposed Deed Restrictions shall be provided to the Township for review by the

Township professionals. After review and approval, the Deed Restrictions shall be filed with the Clerk of Middlesex County.

7. American Properties shall obtain any and all other governmental approvals required for the application.

SPECIAL HEARING OFFICER

s/ Steven P. Goodell
Steven P. Goodell, Esq.

Date: March 7, 2022

4884-2622-4403, v. 1

APPENDIX LIST

Appendix A: American Properties' Exhibits Marked at Hearing

Appendix B: American Properties' Submission Documents

Appendix C: Township /Planning Board Exhibit and Witness List

Appendix D: Joint Exhibit - Open Issues and Stipulations

Appendix E: Special Master Christine Cofone's report to Judge Cresitello, dated March 18, 2019

Appendix F: Court's Third Round Affordable Housing District -1 ("CTRAH-1 Zone") Ordinance

Appendix G: Report prepared by Richard A. Alaimo Associates, dated April 19, 2018.

Appendix H: Special Hearing Officer's Report Resolving Disputed Issues.

APPENDIX A

American Properties at South Brunswick, LLC
Preliminary and Final Major Site Plan & Preliminary and Final Major Subdivision Approval
.893 Ridge Road & 2-11 Perrine Road
Lots 1.06, 11 & 12, Block 79

EXHIBITS MARKED AT HEARING

A-1	“Existing Site Aerial Image”, prepared by MidAtlantic Engineering Partners, dated April 12, 2021
A-2	Colorized “Preliminary/Final Plat”, prepared by MidAtlantic Engineering Partners, dated January 15, 2021, consisting of three (3) sheets.
A-3	Color rendering of “Overall Site Plan”, prepared by MidAtlantic Engineering Partners, dated August 10 2021.
A-4	“Building Type ‘D’ Exhibit”, prepared by MidAtlantic Engineering Partners, dated August 10, 2021.
A-5	Color Street view Rendering, dated August 9, 2021.
A-6	“Phasing Plan”, prepared by MidAtlantic Engineering Partners, dated April 12 2021.
A-7	Color rendering of “Tot Lot Plan”, prepared by MidAtlantic Engineering Partners, dated August 10, 2021.
A-8	Color rendering of “Recreation Area Plan”, prepared by MidAtlantic Engineering Partners, dated August 10, 2021.
A-9	Architectural COAH Floor Plan prepared by CPL Partnership.
A-10	“Lot 6 Grading Exhibit”, prepared by MidAtlantic Engineering Partners, dated August 10, 2021.
A-11	“Trash & Recycling Plan, sheet 2 of 2, last revised as of September 8, 2021.
A-12	“Heritage at South Brunswick Townhouse Front” prepared by CPL Partnership, dated April 12, 2021.
A-13	“Heritage at South Brunswick Townhouse Rear” prepared by CPL Partnership, dated April 12, 2021.
A-14	“Heritage at South Brunswick Market/Affordable-Front” prepared by CPL Partnership, dated April 12, 2021.
A-15	“Heritage at South Brunswick Market/Affordable-Rear” prepared by CPL Partnership, dated April 12, 2021.
A-16	Architectural Floor Plans & Elevations, prepared by CPL Partnership, last revised August 25, 2021.
A-17	“Heritage at South Brunswick Randolph Model” prepared by CPL Partnership, dated April 12, 2021.
A-18	“Heritage at South Brunswick Clubhouse” prepared by CPL Partnership, dated April 12, 2021.

A-19	Material Board -3.
A-20	Material Board -2.
A-21	Material Board -1.
A-22	September 2, 2021 DEP Permit issued for a Freshwater Wetlands General Permit 11, outfall in a transition area averaging plan.
A-23	February 26, 2021 DEP Review Memorandum.
A-24	March 1, 2021 letter from MidAtlantic Engineering to DEP in response to the February 26, 2021 DEP review memorandum.
A-25	MidAtlantic Engineering Partners Submission Letter to the Township of South Brunswick Planning Department, dated August 27, 2021.
A-26	CPL Concept Sketch dated September 8, 2021 (untitled) representing one-two, and three-bedroom ground floors, as well as the front and side elevation of the affordable module.

APPENDIX B

American Properties at South Brunswick, LLC
Preliminary and Final Major Site Plan & Preliminary and Final Major Subdivision Approval
893 Ridge Road & 2-11 Perrine Road
Lots 1.06, 11 & 12, Block 79

SUBMISSION DOCUMENTS

JANUARY 27, 2021 SUBMISSION

AP-1	“Boundary & Topographic Survey”, prepared by MidAtlantic Engineering Partners, last revised December 17, 2020.
AP-2	“Preliminary/Final Major Site Plan & Subdivision” Plans prepared by MidAtlantic Engineering Partners, dated January 22 2021.
AP-3	“Overall Geometry, Signage & Striping Plan”, prepared by MidAtlantic Engineering Partners, dated January 22 2021.
AP-4	“Preliminary / Final Plat”, prepared by MidAtlantic Engineering Partners, dated January 15 2021.
AP-5	Architectural Floor Plans & Elevations, titled “Heritage at South Brunswick, a Residential Community” prepared by CPL Partnership, last revised December 23 2020.
AP-6	“Turning Template and Fire Protection Plan”, prepared by MidAtlantic Engineering Partners, dated January 22 2021.
AP-7	“Trash & Recycling Plan”, prepared by MidAtlantic Engineering Partners, dated January 22 2021.
AP-8	“Traffic Engineering Assessment”, prepared by Shropshire Associates, dated December 17 2020.
AP-9	“RSIS Compliance Letter – Streets & Parking”, prepared by Shropshire Associates, dated January 04 2021.
AP-10	“Environmental Impact Statement”, prepared by MidAtlantic Engineering Partners, dated January 22 2021.
AP-11	“Stormwater Management Report”, prepared by MidAtlantic Engineering Partners, dated January 22 2021.
AP-12	“Operation & Maintenance Manual for Stormwater Management Facilities”, prepared by MidAtlantic Engineering Partners, dated January 22 2021.
AP-13	“Sanitary Sewer Report”, prepared by MidAtlantic Engineering Partners, dated January 22 2021.
AP-14	“Engineer’s Report for Water Service Connection”, prepared by MidAtlantic Engineering Partners, dated January 22 2021.
AP-15	“Geotechnical Engineering Assessment,” prepared by French & Parrello Associates, last revised January 14 2010.

AP-16	Letter of Interpretation (LOI), issued by New Jersey Department of Environmental Protection dated December 04 2019.
AP-17	Will serve letters from: PSE&G; Cablevision; Verizon; Comcast; Township Utilities Dept. (water).
AP-18	Township of South Brunswick Application for Development.
AP-19	Checklist for Preliminary Approval of Site Plans.
AP-20	Checklist for Final Approval of Site Plans.
AP-21	Checklist for Preliminary Approval of Major Subdivisions.
AP-22	Checklist for Final Approval of Major Subdivisions.
AP-23	Waiver letter and forms.
AP-24	Tree Removal Application.
AP-25	Business Entity Disclosure Certification.
AP-26	Submission Cover Letter to the Township of South Brunswick Planning Department from Giordano, Halleran & Ciesla, P.C. dated January 27, 2021.

APRIL 12, 2021 SUBMISSION

AP-27	Notice of Hearing, dated April 12, 2021.
AP-28	“Phasing Plan”, prepared by MidAtlantic Engineering Partners, dated April 12 2021, [MARKED A-2. See 1T 46] .
AP-29	“Trash & Recycling Plan”, prepared by MidAtlantic Engineering Partners, revised April 12 2021.
AP-30	“Existing Site Aerial Image”, prepared by MidAtlantic Engineering Partners, dated April 12 2021.
AP-31	Color rendering of “Recreation Area Plan”, prepared by MidAtlantic Engineering Partners, dated April 9 2021.
AP-32	Color rendering of “Overall Site Plan”, prepared by MidAtlantic Engineering Partners, dated April 9 2021.
AP-33	Color renderings of Architectural Elevations (unit types and clubhouse), dated April 12, 2021.
AP-34	Submission Cover Letter to the Township of South Brunswick Planning Department from Giordano, Halleran & Ciesla, P.C. dated April 12, 2021.

APRIL 16, 2021 SUBMISSION

AP-35	Architectural Plans & Elevations, titled "Heritage at South Brunswick, a Residential Community" prepared by CPL Partnership, last revised April 12, 2021.
AP-36	Letter to the Township of South Brunswick Planning Department, responding to the Township of South Brunswick Review Letters, from MidAtlantic Engineering Partners, dated April 13, 2021.
AP-37	Submission Cover Letter to the Township of South Brunswick Planning Department from Giordano, Halleran & Ciesla, P.C. dated April 16, 2021.

JULY 28, 2021 SUBMISSION

AP-38	"Overall Layout Plan" (Sheet 3), prepared by MidAtlantic Engineering, last revised July 28, 2021.
AP-39	"Grading Plan" (Sheet 12), prepared by MidAtlantic Engineering, last revised July 28, 2021.
AP-40	Submission Cover Letter to the Township of South Brunswick Planning Department from MidAtlantic Engineering Partners dated July 28, 2021.
AP-41	"Preliminary/Final Major Site Plan & Subdivision", page 3 of 36; dated January 22, 2021 and revised July 28, 2021.
AP-42	"Preliminary/Final Major Site Plan & Subdivision", page 12 of 36, dated January 22, 2021 and revised July 28, 2021.
AP-43	Cover Letter to Bryan Bidlack, South Brunswick Planning Department, from Shropshire Associates, dated July 27, 2021, attaching Updated Traffic Assessment.
AP-44	"Updated Traffic Engineering Assessment" dated July 27, 2021 from Shropshire Associates LLC.
AP-45	CPL submission letter from Robert Larsen to Bryan Bidlack, dated July 27, 2021, along with the Architectural Floor Plans & Elevations, 13 sheets total, last revised July 26, 2021.

AUGUST 6, 2021 SUBMISSION

AP-46	"Phasing Plan", prepared by MidAtlantic Engineering Partners, dated April 12, 2021.
AP-47	"Existing Site Aerial Image", prepared by MidAtlantic Engineering Partners, dated April 12, 2021. [MARKED A-1. See 1T 6]
AP-48	Color rendering of "Recreation Area Plan", prepared by MidAtlantic Engineering Partners, dated August 10, 2021. [MARKED A-8. See 1T 55]
AP-49	Color rendering of "Tot Lot Plan", prepared by MidAtlantic Engineering Partners, dated August 10, 2021. [MARKED A-7. See 1T 55]
AP-50	Color rendering of "Overall Site Plan", prepared by MidAtlantic Engineering Partners, dated August 10 2021. [MARKED A-3. See 1T 29]

AP-51	Color Building Façade renderings (Edison, Middlesex, Randolph, Townhouse, Market/Affordable, and Clubhouse), dated April 12, 2021. [Townhouse Front MARKED A-12, See 2T 49; Townhouse Rear MARKED A-13, See 2T 50; Market/Affordable-Front MARKED A-14, See 2T 51; Market/Affordable-Rear MARKED A-15, See 2T 52; Randolph MARKED A-17, See 2T 60; Clubhouse MARKED A-18, See 2T 61;]
AP-52	“Lot 6 Grading Exhibit”, prepared by MidAtlantic Engineering Partners, dated August 10, 2021. [MARKED A-10. See 1T 77]
AP-53	“Building Type ‘D’ Exhibit”, prepared by MidAtlantic Engineering Partners, dated August 10, 2021. [MARKED A-4. See 1T 37]
AP-54	“Preliminary/Final Plat”, prepared by MidAtlantic Engineering Partners, dated January 15, 2021.
AP-55	Copies of photographs of “material boards”, taken by Applicant, consisting of three (3) sheets. [MARKED A-19, A-20, A-21. See 2T 95]

AUGUST 9, 2021

AP-56	Color Streetview Rendering, dated August 9, 2021. [MARKED A-5. See 1T 41]
AP-57	Color Market-Affordable Façade Rendering (5-plex), dated August 9, 2021.
AP-58	Colorized “Preliminary/Final Plat”, prepared by MidAtlantic Engineering Partners, dated January 15, 2021, consisting of three (3) sheets. [MARKED A-2. See 1T 27]

AUGUST 27, 2021

AP-59	Submission Cover Letter to the Township of South Brunswick Planning Department from MidAtlantic Engineering Partners dated August 27, 2021. [MARKED A-25. See 3T 49]
AP-60	“Preliminary/Final Major Site Plan & Subdivision”, prepared by MidAtlantic Engineering and last revised August 26, 2021.
AP-61	“Preliminary/Final Plat”, prepared by MidAtlantic Engineering and last revised August 26, 2021.
AP-62	Architectural Floor Plans & Elevations, prepared by CPL Partnership, last revised August 25, 2021. [MARKED A-16, 2T 54]

MARKED AS EXHIBITS AT HEARINGS

AP-63	September 2, 2021 DEP Permit issued for a Freshwater Wetlands General Permit 11, outfall in a transition area averaging plan. [MARKED A-22 at the September 9, 2021 hearing]
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AP-64	February 26, 2021 DEP Review Memorandum in response to MidAtlantic's initial submission of January 21, 2021. [MARKED A-23 at the September 9, 2021 hearing]
AP-65	March 1, 2021 letter from MidAtlantic Engineering to DEP in response to the February 26, 2021 DEP review memorandum. [MARKED A-24 at the September 9, 2021 hearing]
AP-66	CPL Concept Sketch dated September 8, 2021 (untitled) representing one-two, and three-bedroom ground floors, as well as the front and side elevation of the affordable module. [MARKED A-26 at the September 9, hearing]
AP-67	Trash & Recycling Plan, sheet 2 of 2, last revised as of September 8, 2021. [MARKED A-11. See 2T 13]
AP-68	Architectural COAH Floor Plan prepared by CPL Partnership. [MARKED A-9. See 1T 63]

APPENDIX C

**American Properties at South Brunswick, LLC
Site Plan Application
Township/Planning Board Exhibit and Witness List**

SB 1-5	Expert Witness List and Resumes
SB-1	Kenneth Zielinski Resume
SB-2	Hank Bignell Resume
SB-3	Mary Beth Lonergan Resume
SB-4	Bryan Bidlack Resume
SB-5	Wayne Simpson Resume
SB 6-10	Completeness Review Memoranda
SB-6	Sullivan Completeness Review Memo dated February 23, 2021
SB-7	Bignell Planning Consultants Completeness Review Memo dated February 22, 2021
SB-8	CME Completeness Review Memo dated February 26, 2021
SB-9	Clarke Caton Hintz Affordable Housing Review Memo dated February 23, 2021
SB-10	Alaimo Completeness Review Memo dated February 24, 2021
SB 11-15	Technical Review Memoranda
SB-11	CME Technical Review Memo dated March 11, 2021
SB-12	CME Traffic Review Memo dated March 12, 2021
SB-13	Bignell Technical Review Memo dated March 10, 2021
SB-14	Bryan Bidlack Technical Review Memo dated March 16, 2021 revised April 16, 2021
SB-15	Alaimo Technical Review Memo dated March 9, 2021
SB 16-22	Other Exhibits
SB-16	NJDEP Treatment Works Approval Permit Application

SB-17	NJDEP Statements of Consent
SB-18	NJDEP Engineer's Report for Domestic Treatment Works Approval Applications
SB-19	Alaimo Map - Kingston and Ridge Road Infiltration and Inflow Study - April 2018
SB-20	2017 Sanitary Sewer System Capacity and Flow Study prepared by Alaimo Associates last revised October 19, 2018
SB-21	Master Plan Reexamination Report - January 2018
SB-22	South Brunswick Ord. 2018-28
SB-23	South Brunswick Ord. 2018-30
SB-24	Traffic Engineering Assessment (2 nd Review), prepared by Township Engineer CME Associates, dated August 3, 2021
SB-25	Technical Review Memoranda Regarding Partial Site Plan Submittal (1 st Review), prepared by Township Engineer CME Associates, dated August 4, 2021
SB-26	Township Department of Public Works Memorandum dated August 4, 2021
SB-27	Technical Review Memoranda Preliminary and Final Site Plan Affordable Housing Review, prepared by Township Affordable Housing Planner Clarke Caton Hintz, dated February 23, 2021 revised August 5, 2021
SB-28	Township Traffic Services Bureau Memorandum prepared by Township Traffic Safety Coordinator, dated August 6, 2021

APPENDIX D

AMERICAN PROPERTIES/SOUTH BRUNSWICK TOWNSHIP AND PLANNING BOARD
JOINT EXHIBIT

IMO Application of the Township of South Brunswick
Docket No. MID-L-4433-17/MID-L-3878-15

American Properties at South Brunswick, LLC v. Township of South Brunswick, et al.
Docket No. MID-L-4437-17

**American Properties at South Brunswick, LLC, Preliminary and Final Major Site Plan & Preliminary and
Final Major Subdivision Application
Block 79, Lots 1.06, 11 & 12**

PART I – OPEN ISSUES TO BE RESOLVED BY SPECIAL HEARING OFFICER

A. Traffic / Site Access

1. Whether American Properties study of the Adaptive Traffic Signal System, utilizing parameters other than those suggested by the Township, is sufficient. See CME March 12, 2021 Traffic Letter [SB-12] Comment 2.
2. Whether American Properties must obtain NJDOT approval or a letter of no interest/jurisdiction regarding whether an intersection improvement permit is required for the development. See CME March 12, 2021 Traffic Letter [SB-12] Comment 3 and CME August 3, 2021 Traffic Letter [SB-24] Comment 2.
3. Whether applicant shall be required to make a fair share contribution towards any off-tract improvements using NJDOT's formula relating to improvements that may be required to the Ridge Road signalized intersection with both Route 1 and Schalks Crossing Road, including the portion of Ridge Road between the two intersections. Both intersections are under NJDOT and County jurisdiction. There is no improvement plan for this location that includes design and associated costs, and American Properties should not have an ongoing obligation to contribute to hypothetical future improvements. See CME August 3, 2021 Traffic Letter [SB-24] Comment 3.

B. RSIS Internal Road Classification and Sidewalks

1. Whether American Properties may provide roadway cross sections showing 5' dimensions from face of curb to sidewalk on Ridge Road and Perrine Road only. See CME March 11, 2021 Letter [SB-11] Comment E.8.

C. Sewer & Water

1. Whether American Properties' costs to perform the testing and remediation for I&I pursuant to Ordinance 28-2018 are capped. See Scott Cevera Review Letter.
2. Whether costs to perform the testing and remediation for I&I pursuant to Ordinance 28-2018, if uncapped, are cost generative and in violation of the Mount Laurel Doctrine or are required pursuant to valid Township ordinances and are in accordance with sound planning principles.
3. Whether applicant must comply with the Township's standards related to stormwater and sewers. See Alaimo September 7, 2021 Letter [SB-not provided] Comment 5.

4. Whether American Properties must update the sanitary sewer and water distribution plan details to conform to the Township's latest standards. See Alaimo September 7, 2021 Letter [SB-not provided] Comments 5 and/or 6.
5. Whether the Township's calculation of 440 equivalent residential units for public water service is overstated. See Bidlack Review Letter [SB-14], Comment E.13.
6. Whether the Township's calculation of 497 equivalent residential units for public sewer service is overstated. See Bidlack Review Letter [SB-14], Comment F.12.

D. Architecture

1. Whether American Properties must comply with Bignell Review Letter [SB-13], Comment 13.U., and provide at least twelve (12) single family dwelling models and a set of layout rules, in the absence of a look-alike ordinance, whereas American Properties provides five (5) single family model types with alternative elevations, add-ons and optional finishes.

E. Tree Replacement & Plantings

1. Whether American Properties must comply with Bignell Review Letter [SB-13], Comment 13.O.1, and drastically increase landscaping on the site and for each single-family dwelling lot to contain two (2) rear yard specimen trees and one (1) front yard specimen tree, in addition to the street trees.
2. Whether American Properties must comply with Bignell Review Letter [SB-13], Comment 13.O.2, and drastically increase the perimeter buffer by tripling the number of plantings.
3. Whether American Properties must comply with Bignell Review Letter [SB-13], Comment 13.O.2, and plant evergreens in the perimeter buffer of a minimum size of 8' at the time of planting to create an effective buffer on a former farmland site.
4. Whether American Properties must comply with Bignell Review Letter [SB-13], Comment 13.O.3, recommending that the area around all detention basins be heavily planted.
5. Whether American Properties must do anything additional to comply with Bignell Review Letter [SB-13], Comment 13.O.4, recommending that collector roads within the development be designed to mimic public streets and be lined with shade trees at least 50' on center on both sides of streets, to be maintained in perpetuity.
6. Whether American Properties must do anything additional to comply with Bignell Review Letter [SB-13], Comment 13.O.5, recommending that all straight or curvilinear parking rows should be abutted by rows of 36" high all season shrub plantings.
7. Whether American Properties must do anything additional to comply with Bignell Review Letter [SB-13], Comment 13.O.6, recommending that all dumpster and trash enclosures should be heavily landscaped on three sides.
8. Whether each of the above requests are required by Township ordinances and/or sound planning principles.
9. Whether each of the above requests and/or ordinance requirements are cost generative to the inclusionary development and contrary to the Mount Laurel Doctrine.

F. Stormwater

1. Whether stormwater management review and approval for the American Properties development, in connection with the NJDEP freshwater Wetlands General Permit and Transition

Area Waiver, which includes stormwater management review, satisfies all Township stormwater related comments and requirements or whether the Township can regulate same pursuant to its own municipal ordinances. See CME March 11, 2021 Letter [SB-11] Comments D.10, 12-14, 18-29, 35, 38, 39.

2. Whether American Properties must comply with the requirement to provide a 15' wide area with a maximum slope of 2% around the infiltration basin, despite the fact that RSIS and NJDEP regulations do not require same. See CME March 11, 2021 Letter [SB-11] Comment D.32.
3. Whether American Properties must comply with the requirement to submit test pits for each footprint. See CME March 11, 2021 Letter [SB-11] Comment D.66.
4. Whether American Properties is "grandfathered" and subject to the NJDEP Stormwater Management regulations and related provisions of the Township Ordinance that were in place prior to the March 2, 2021 effective date of the current rules or whether the new NJDEP Stormwater regulations and new Township ordinances apply to the development.

G. Miscellaneous Engineering Issues

1. Whether American Properties should be granted Preliminary and Final Major Subdivision and Site Plan approval as requested, or Preliminary only as suggested in the Bignell Review Letter [SB-13], Comment 13.C.
2. Whether American Properties can use treated post/rail wood fence with chain mesh around the basins in order to avoid unduly cost generative requirement of utilizing aluminum fencing as requested by the Township. See Bignell Review Letter [SB-13] Comment 13.N.
3. Whether Road H and the culs-de-sac satisfy applicable RSIS standards. See Bignell Review Letter [SB-13], Comment 13.W.
4. Whether block curbing enclosing paved driveways for single-family homes is required per Township ordinances or sound planning principles. See Bignell Review Letter [SB-13], Comment 13.X.
5. Whether additional parking for maintenance vehicles, service trucks, snow plows, salt trucks, landscaper parking, etc. must be provided for the multi-family development, beyond what is required by the ordinance and RSIS. See Bignell Review Letter [SB-13], Comment 13.BB.
6. Whether ground floor storage for each unit based on ordinance/HUD standards is required. See Bignell Review Letter [SB-13], Comment 13.DD.
7. Whether a bus shelter is required and, if not required, should be installed pursuant to sound planning principles. See Bignell Review Letter [SB-13], Comment 13.GG.
8. Whether American Properties is entitled to a de minimis exception for 25' curb radii at the clubhouse entrance. See CME Review Letter [SB-11], Comment A.8.
9. Whether American Properties must remove the center island at the entrance at Schalks Crossing road. See Raymond Olsen DPW Letter [SB-26] dated August 4, 2021, Roads, Comment 11.

H. Miscellaneous Design Issues

1. Whether the width of the roadways where on-street parking is permitted must be a minimum of 30'. See Raymond Olsen DPW Letter [SB-26] dated August 4, 2021, Comment 16.
2. Whether the Township will pick up trash and recycling, whether trash and recycling must be collected curbside for all units, and whether weekly pick-ups are sufficient. See Paul Luceri Public Works email June 15, 2021, and Raymond Olsen DPW Letter [SB-26] dated August 4, 2021, Recycling, Comment 1.

I. Miscellaneous Issues

1. Whether American Properties is required to submit the additional documentation requested by the Township in order to be deemed technically complete to proceed to hearings. See Bignell Letter dated February 22, 2021 [SB-7]; Scott Cevera Letter dated February 23, 2021 [SB-6]; Alaimo Letter dated February 24, 2021 [SB-10]; CME Letter dated February 26, 2021 [SB-8]; Bignell Letter dated March 10, 2021 [SB-13];
2. Whether the Township will provide street sweeping for the roadways that are to be dedicated to the Township. See Mike Rakes Letter dated April 28, 2021, Street Sweeping, Comment a).
3. Whether the radius portion of curbing at all intersections may be concrete instead of Belgian block. See Olsen Letter dated August 4, 2021 [SB-26], Comment 12.

PART II - STIPULATIONS OF AMERICAN PROPERTIES AT SOUTH BRUNSWICK, LLC, TOWNSHIP OF SOUTH BRUNSWICK AND PLANNING BOARD

I. Completeness Review Letter (Planning) prepared by Henry Bignell, P.P., of Bignell Planning Consultants, Inc., dated February 22, 2021; [SB-7]

1. *See Part I above.*
2. *See Part I above.*

II. Affordable Housing Review Memorandum prepared by Mary Beth Lonergan, P.P. A.I.C.P. and Elaine R. Clisham, of Clarke, Caton, Hintz, dated February 23, 2021, and revised August 5, 2021; [SB-9; SB-27]

- 4.1. Stipulated to. In compliance.
- 4.2. Stipulated to. American Properties will comply.
- 4.3. Stipulated to. American Properties will comply.
- 4.4. Stipulated to. American Properties will comply per hearing testimony/ revised architectural plans on unit sizes and relocation of trash enclosures. [T3: 113]
- 4.5. Stipulated to. American Properties agrees to maintain the bedroom s.f. in Revised Architectural Plans.
- 4.6. Stipulated to. American Properties requests and Township/Board agree and recommend approval of UHAC waiver by Special Hearing Officer.
- 4.7. Stipulated to. American Properties will comply per hearing testimony and revised architectural plans on relocation of trash enclosures. [T3: 113]
- 4.8. Stipulated to. American Properties will comply.
- 4.9. Stipulated to. American Properties plan complies and agrees to designate 1 parking space per affordable unit. [T2: 178-179].
- 4.10. Stipulated to. American Properties will comply and work with Township consultants to designate assigned parking spaces for affordable units as well as location of handicapped spaces on the existing site plan. The number of parking spaces and handicapped spaces will not increase.
- 4.11. Stipulated to. American Properties will comply.
- 4.12. Stipulated to. American Properties will comply.
- 4.13. Stipulated to. American Properties will comply.
- 4.14. Stipulated to. American Properties will comply and utilize and record the deed restriction appended to the UHAC regulations.
- 4.15. Stipulated to. American Properties will comply.
- 4.16. Stipulated to. American Properties has represented through testimony at the hearing that it will comply.

4.17. Stipulated to per hearing testimony. American Properties will comply.

4.18. Stipulated to. American Properties will comply.

4.19. Stipulated to. American Properties will comply.

III. Utilities Department Completeness Review Memorandum prepared by Scott Cevera, Sewer Supervisor, dated February 23, 2021; [SB-6]

See Part I above.

IV. Completeness Review Memorandum (Water and Sewer) prepared by Wayne D. Simpson, P.E., of Richard A. Alaimo Associates, dated February 24, 2021; [SB-10]

See Part I above.

V. Completeness Review Letter (Engineering) prepared by David J. Samuel, P.E., of CME Associates, dated February 26, 2021; [SB-8]

See Part I above.

VI. Technical Review Memorandum (Water and Sewer) prepared by Wayne D. Simpson, P.E., of Richard A. Alaimo Associates, dated March 9, 2021; [SB-15]

1. Stipulated to. American Properties complies.
2. a-d. Stipulated to. American Properties complies.
3. Stipulated to. American Properties complies.
4. Stipulated to. American Properties will comply.
5. Stipulated to. American Properties will comply.
6. Stipulated to. American Properties will comply.
7. Stipulated to. American Properties will comply.
8. Stipulated to. American Properties will comply.

VII. Planning Review Letter prepared by Henry Bignell, P.P., of Bignell Planning Consultants, Inc., dated March 10, 2021; [SB-13]

1. Informational. No response required.
- 2A. *See Part I above.*
- 2B. A-E. *See Part I above.*
3. Informational. No response required.
4. Informational. No response required.
5. Informational. No response required.
6. Informational. No response required.
7. A.1-2. Informational. No response required.
7. A.3. Stipulated to. In compliance.

- 7. B. Stipulated to. In compliance.
- 8.A.1. *See Part I above*
- 8.A.2-3. In compliance. No action required.
- 8.A.4. Stipulated to. In compliance.
- 8.B. Stipulated to. In compliance.
- 8.C. In compliance. No action required.
- 9. Monument sign in compliance, no action required. Building and wayfinding signage stipulated to, American Properties will comply.
- 10.A. In compliance. No action required.
- 10.B. American Properties provided additional open space on the right hand side of the main entrance. No further action required.
- 10.C. In compliance. No action required.
- 10.D. Stipulated to. In compliance.
- 10.E. Stipulated to. American Properties will comply pursuant to the Preliminary/Final Plat dated 1/15/21, revised through 8/27/21, the Town will accept dedication of Road A, Road G, Road E, and Road H, and sidewalks adjacent to single family homes and clubhouse, as well as all onsite sewer and water mains.
- 10.F. Stipulated to. In compliance, except that the basin setback to the residence on Lot 6 will be modified to 30 ft. [3T: 46-47]
- 10.G. Stipulated to. American Properties will comply.
- 11.A. In compliance. No action required.
- 11.B. In compliance. No action required.
- 12. Informational. No response required.
- 13.A. Stipulated to. American Properties will comply.
- 13.B. *See Part I above.*
- 13.C. *See Part I above.*
- 13.D. In compliance, 349 units. No action required.
- 13.E. Stipulated to. In compliance.
- 13.F. Stipulated to. In compliance.
- 13.G. Stipulated to. American Properties will comply pursuant to the Preliminary/Final Plat dated 1/15/21, revised through 8/27/21, the Town will accept dedication of Road A, Road G, Road E, and Road H, and sidewalks adjacent to single family homes and clubhouse, as well as all onsite sewer and water mains.
- 13.H. Stipulated to. In compliance.
- 13.I. Stipulated to. In compliance.
- 13.J. Stipulated to. In compliance.

- 13.K. Stipulated to. In compliance.
- 13.L. Stipulated to. In compliance.
- 13.M. Stipulated to. In compliance.
- 13.N. *See Part I above.*
- 13.O.1-6. *See Part I above.*
- 13.P, Q Stipulated to. In compliance. .
- 13.R. Stipulated to. In compliance, except that basin setback to residence on Lot 6 will be modified to 30 ft. [3T: 46-47]
- 13.S. Stipulated to. In compliance.
- 13.T. Stipulated to. American Properties will comply, except that vinyl siding shall be a permitted material on all elevations.
- 13.U. *See Part I above.*
- 13.V. In compliance. No action required.
- 13.W, X. *See Part I above.*
- 13.Y. In compliance. No action required.
- 13.Z. Buildings are not sprinklered, so no sprinkler room, and all other meters located outside as required by utility companies. In compliance. No action required.
- 13.AA. In compliance. No action required.
- 13.BB. *See Part I above.*
- 13.CC. In compliance. No action required.
- 13.DD. *See Part I above.*
- 13.EE. In compliance. No action required.
- 13.FF. In compliance. No action required.
- 13.GG. *See Part I above.*
- 13.HH. In compliance. No action required.
- 13.II. In compliance. No action required.
- * all items hereafter labeled as 14, are improperly labeled 13 in the review letter.
- 14.A. In compliance. No action required.
- 14.B. In compliance. No action required.
- 14.C. In compliance. No action required.
- 14.D. In compliance. No action required.
- 14.E. In compliance. No action required.

VIII. Township Engineer's (1st Review) Letter prepared by David J. Samuel, P.E., of CME Associates, dated March 11, 2021; [SB-11]

A. Site Grading And General Comments.

1. Stipulated to. American Properties will comply.
2. Stipulated to. American Properties will comply.
3. Stipulated to. American Properties will comply.
4. Stipulated to. American Properties will comply.
5. Stipulated to. American Properties will comply.
6. Stipulated to. American Properties will comply.
7. Stipulated to. American Properties complies.
8. *See Part I above.*
9. Stipulated to. American Properties will comply.
10. Stipulated to. American Properties will comply.
11. Stipulated to. American Properties will comply.
12. Stipulated to. American Properties will comply.

B. Sanitary Sewer System.

1. Stipulated to. American Properties will comply.
2. Stipulated to. American Properties will comply.
3. Stipulated to. American Properties will comply.
4. Stipulated to. American Properties complies.
5. Stipulated to. American Properties complies.
6. Stipulated to. American Properties will comply.
7. Stipulated to. American Properties will comply.
8. Stipulated to. American Properties complies.

C. Water System.

1. Stipulated to. American Properties will comply.
2. Stipulated to. American Properties will comply.
3. Stipulated to. American Properties will comply.
4. Stipulated to. American Properties complies.
5. Stipulated to. American Properties complies.
6. Stipulated to. American Properties complies.
7. Stipulated to. American Properties will comply.
8. Stipulated to. American Properties will comply.

9. Stipulated to. American Properties complies.

D. Storm Drainage System.

1. Informational. No action required.

2. Stipulated to. American Properties will comply.

3. Stipulated to. American Properties will comply.

4. Stipulated to. American Properties will comply.

5. Stipulated to. American Properties will comply.

6. Stipulated to. American Properties will comply.

7. Stipulated to. American Properties will comply.

8. Stipulated to. American Properties will comply.

9.-10. *See Part I above.*

11. Stipulated to. American Properties complies.

12. -14. *See Part I above.*

15. Stipulated to. American Properties will comply.

16. Stipulated to. American Properties will comply.

17. Stipulated to. American Properties will comply.

18.-29. *See Part I above.*

30. Stipulated to. American Properties will comply.

31. Stipulated to. American Properties will comply.

32. *See Part I above.*

33. Stipulated to. American Properties complies.

34. Stipulated to. American Properties will comply.

35. *See Part I above.*

36. Stipulated to. American Properties will comply.

37. Stipulated to. American Properties will comply.

38. -39. *See Section I above.*

40. Stipulated to. American Properties will comply.

41. Stipulated to. American Properties will comply.

42. Stipulated to. American Properties will comply.

43. Stipulated to. American Properties will comply.

44. Stipulated to. American Properties will comply.

45. Stipulated to. American Properties will comply.

46. Stipulated to. American Properties will comply.

47. Stipulated to. American Properties complies.
 48. Stipulated to. American Properties will comply.
 49. Stipulated to. American Properties will comply.
 50. Stipulated to. American Properties will comply.
 51. Stipulated to. American Properties will comply.
 52. Stipulated to. American Properties will comply.
 53. Stipulated to. American Properties will comply.
 54. Stipulated to. American Properties will comply.
 55. Stipulated to. American Properties will comply.
 56. Stipulated to. American Properties will comply.
 57. Stipulated to. American Properties will comply.
 58. Stipulated to. American Properties will comply.
 59. Stipulated to. American Properties will comply.
 60. Stipulated to. American Properties complies.
 61. Stipulated to. American Properties will comply.
 62. Stipulated to. American Properties will comply.
 63. Stipulated to. American Properties will comply.
 64. Stipulated to. American Properties will comply.
 65. Stipulated to. American Properties will comply.
 66. *See Part I above.*
 67. -70. Stipulated to. In compliance, except that the basin setback to the residence on Lot 6 will be modified to 30 ft. [3T: 46-47]
 71. Stipulated to. American Properties complies.
 72. Stipulated to. American Properties complies.
 73. A-I. Stipulated to. American Properties will comply.
- E. Road Improvements and Miscellaneous.
1. Stipulated to. American Properties will comply.
 2. Stipulated to. American Properties will comply.
 3. Stipulated to. American Properties will comply.
 4. Stipulated to. American Properties will comply by reducing speed limits on all internal roads to 15 mph. Internal intersections will provide 3-way and 4-way stop controls. Intersections that do not provide stop controls will provide AASHTO compliant sight triangles.
 5. Stipulated to. American Properties will comply as provided in E.5 above.
 6. Stipulated to. American Properties will comply.

7. Stipulated to. American Properties will comply.
8. *See Part I above.*
9. Stipulated to. American Properties will comply.
10. Stipulated to. American Properties complies.
11. Stipulated to. American Properties complies.
12. Stipulated to. American Properties complies.
13. Stipulated to. American Properties will comply.
14. Stipulated to. American Properties complies.

F. Final Subdivision Plat.

1. Stipulated to. American Properties will comply.
2. Stipulated to. American Properties will comply.
3. Stipulated to. American Properties will comply.
4. Stipulated to. American Properties will comply.
5. Stipulated to. American Properties will comply by reducing speed limits on all internal roads to 15 mph. Internal intersections will provide 3-way and 4-way stop controls. Intersections that do not provide stop controls will provide AASHTO compliant sight triangles.
6. Stipulated to. American Properties will comply.

IX. Traffic Engineering Assessment (1st Review) Letter prepared by David J. Samuel, P.E., of CME Associates, dated March 12, 2021; [SB-12]

1. Informational. No response required.
2. *See Part I above.*
3. *See Part I above.*
4. Stipulated to. American Properties will comply.

X. Planning Review Memorandum prepared by Brian B. Bidlack, Director of Planning, dated March 16, 2021; [SB-14]

- I. Informational. No response required.
- II. Informational. No response required.
- III. Informational. No response required.
- IV. Informational. No response required.
- V. Staff comments are as follows:
 - A. Informational. No response required.
 - B. Informational. No response required.
 - C. Informational. No response required.

D. Informational. No response required.

E. Water Supervisor – Tim Lesko

1. Informational. No response required.
2. Stipulated to. American Properties will comply.
3. Stipulated to. American Properties will comply.
4. Stipulated to. American Properties will comply.
5. Township will be responsible for all water mains, unit owners or HOA will be responsible for individual laterals. Stipulated, the applicant will comply.
6. Stipulated to. American Properties will comply.
7. Stipulated to. American Properties will comply.
8. Stipulated to. American Properties will comply.
9. Stipulated to. American Properties will comply.
10. Stipulated to. American Properties will comply.
11. Stipulated to. American Properties will comply.
12. Informational. No response required.
13. *See Part I above.*

F. Sewer Supervisor – Scott Cevera

1. Stipulated to. American Properties complies.
2. Stipulated to. American Properties complies.
3. Stipulated to. American Properties complies.
4. Stipulated to. American Properties will comply.
5. Stipulated to. American Properties complies.
6. Stipulated to. American Properties will comply.
7. Stipulated to. American Properties will comply.
8. Stipulated to. American Properties will comply.
9. Stipulated to. American Properties will comply.
10. Informational. No response required.
11. Informational. No response required.
12. *See Part I above.*
14. *See Part I above.*
15. *See Part I above.*

G. Health Officer – Robert Uhrig

1. Informational. No response required.

H. Construction Official – James Dogwin

1. Stipulated, the applicant will comply.

I. Fire Official – John Funcheon. See responses below to the updated September 7, 2021 Review Correspondence (Fire Safety Bureau) from John J. Funcheon.

J. Public Works Director - Raymond Olsen. See responses below to updated August 4, 2021 Review Memorandum (Department of Public Works) from Raymond T. Olsen.

K. Deputy Tax Assessor – Bradley Millman

- Informational. No response required.
- Stipulated to. American Properties will comply.
- Stipulated to. American Properties will comply.
- Informational. No response required.
- Stipulated to. American Properties will comply.

L. Police Department – TSC. Joseph Charmello. See responses below to the August 6 and September 7, 2021 Review Memorandum.

M. Environmental Commission – Olivia Forte-Gardner

1. Informational. No response required.

N. Board of Education – David Pawlowski

1. Informational. No response required.

O. Shade Tree Commission – Dave Cramer

1. Informational. No response required.

XI. Planning Review Memorandum prepared by Brian B. Bidlack, Director of Planning, dated April 16, 2021; [SB-14]

I. Informational. No response required.

II. Informational. No response required.

III. Informational. No response required.

IV. Informational. No response required.

V. The comments noted or responded to below are new and the duplicative comments from Bidlack's March 16, 2021 Review Memorandum have been omitted.

G. Health Officer – Robert Uhrik

1. Informational. No response required.

N. Board of Education – David Pawlowski

1. Informational. No response required.

O. Shade Tree Commission – Dave Cramer

a) Informational. No response required.

b) Informational. No response required.

c) Informational. No response required.

- 3) Stipulated to. American Properties will comply.

XII. Review Memorandum prepared by Mike Rakes, Road Dept. Supervisor, dated April 28, 2021; [SB-not listed by Twp.]

Snow Plowing

- a) Informational. No response required.
- b) Informational. No response required.
- c) Informational. No response required.
- d) Informational. No response required.

Street Sweeping

- a) *See Part I above.*

XIII. June 15, 2021 Review Correspondences (Department of Public Works) from Paul Luceri [SB-not listed by Twp.]

1. *To be decided by Special Hearing Officer. See Part I above.*

XIV. Traffic Engineering Assessment (2nd Review) Letter prepared by David J. Samuel, P.E., of CME Associates, dated August 3, 2021; [SB-24]

1. Informational. No response required.
2. *See Part I above.*
3. *See Part I above.*
4. Stipulated to. American Properties will comply.

XV. Township Engineering Review Letter, Partial Site Plan Submittal (1st Review) prepared by David J. Samuel, P.E., of CME Associates, dated August 4, 2021; [SB-25]

1. Informational. No response required.
2. Stipulated to. In compliance, the basin setback to the residence on Lot 6 will be modified to 30 ft. and the retaining wall will be relocated in conjunction with this modification. [3T: 46-47]

XVI. Director of Public Works Memorandum, prepared by Raymond T. Olsen, Director of Public Works, dated August 4, 2021; [SB-26]

Roads

1. Stipulated to. American Properties will comply pursuant to the Preliminary/Final Plat dated 1/15/21, revised through 8/27/21, the Town will accept dedication of Road A, Road G, Road E, and Road H, and sidewalks adjacent to single family homes and clubhouse, as well as all onsite sewer and water mains.
2. Stipulated, the applicant will comply.

3. Stipulated, the applicant will comply.
4. Stipulated, the applicant will comply.
5. Stipulated, the applicant will comply.
6. Stipulated, the applicant will comply.
7. Stipulated, the applicant will comply.
8. Stipulated, the applicant will comply.
9. Stipulated, the applicant will comply.
10. Stipulated, the applicant will comply to the extent reasonably practical.
11. *See Part I above.*
12. Stipulated. American Properties shall be permitted to utilize Belgium block.
13. Stipulated, the applicant will comply.
14. Stipulated, the applicant will comply.
15. Stipulated, the applicant will comply.
16. *See Part I above.*
17. Stipulated, the applicant will comply.

Parks

1. Stipulated, the American Properties will comply.
2. Stipulated, the American Properties will comply, except with respect to single family residences.
3. Stipulated, the American Properties will comply.
4. Stipulated, the American Properties will comply.
5. Stipulated, the American Properties will comply.

Recycling

1. *See Part I above.*
2. *See Part I above.*

XVII. Traffic Services Bureau Memorandum, prepared by Joseph Charmello, Traffic Safety Coordinator, dated September 7, 2021; [SB-not listed by Twp.]

- Stipulated to. American Properties has or will comply with the August 6 and September 7 Memoranda.

XVIII. Review Correspondence (email) Township Fire Safety Bureau, prepared by Fire Marshal John J. Funcheon, dated September 7, 2021; [SB-not listed by Twp.]

1. Stipulated to. American Properties will comply.
2. Stipulated to. American Properties will comply.
3. Stipulated to. American Properties will comply.
4. Stipulated to. American Properties will comply.
5. Stipulated to. American Properties will comply.
6. Stipulated to. American Properties will comply.

XIX. Technical Review Memorandum (Water and Sewer) prepared by Wayne D. Simpson, P.E., of Richard A. Alaimo Associates, dated September 7, 2021; [SB-not listed by Twp.]

1. Stipulated, the American Properties will comply.
2. Stipulated, the American Properties will comply.
3. Stipulated, the applicant will comply.
4. Stipulated, to the extent applicant must obtain County approval.
5. *See Part I above.*
6. *See Part I above.*
7. Stipulated, the applicant will comply.

GIORDANO HALLERAN & CIESLA, PC
Attorneys for American Properties at South Brunswick, LLC



MARC D. POLICASTRO, ESQ.

Dated: October 7, 2021

TOWNSHIP OF SOUTH BRUNSWICK

Shamy and Shamy

Special Counsel to the Township of South Brunswick

_____ George Shamy, Esq.

Dated: October __, 2021

VOGEL, CHAIT, COLLINS AND SCHNEIDER, P.C.

Special Counsel to the Planning Board of the Township of South Brunswick

THOMAS J. MOLICA, JR., ESQ.

Dated: October __, 2021

Docs #5321195-v3

APPENDIX E



CHRISTINE A. COFONE, PE, AICP
Principal

COFONE CONSULTING GROUP, LLC

March 18, 2019

Honorable Michael V. Cresitello, Jr., J.S.C.
Superior Court of New Jersey
Middlesex County Courthouse
56 Paterson Street
P.O. Box 964
New Brunswick, NJ 08903-0964

**RE: I/M/O Township of South Brunswick
Docket No. MID-L-4433-17**

Dear Judge Cresitello:

In my capacity as the South Brunswick Township ("Township") Special Master, the purpose of this letter is to provide the Court with my opinion relative to the motion request from American Properties at South Brunswick, LLC ("AP") to amend its complaint in order to amend the location of its proposed inclusionary housing development in conjunction with the above-captioned litigation.

REQUEST FROM AP

As detailed in a March 13, 2019 from Paul H. Schneider, Esq., AP's attorney, to the Court, AP had originally sought to construct an inclusionary development on the "Blackhorse Lane" ("Original AP Site") property, which was determined by me to be suitable for inclusionary development as referenced in Judge Wolfson's October 21, 2016 order.

Sometime between the Wolfson order and the present time, in his letter, Schneider writes that the purchase contract between AP and the owner of the Blackhorse Lane site "has fallen through," resulting in AP entering into a new contract to purchase a different site (known as the Schalks Crossing Road property) at Block 70, Lots 1.06, 11, and 12 ("Proposed AP Site") within the Township.

Schneider further details AP's intentions and request to the Court:
"American Properties would like to develop this 64 acre parcel with an inclusionary residential community with a significant affordable set aside.

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CHRISTINE A. COFONE, PP, AICP
Principal

COFONE CONSULTING GROUP, LLC

Accordingly, American Properties asks the Court for leave to amend its complaint to substitute the Schalks Crossing Road site for the Blackhorse Lane parcel."

AP'S SITE SUITABILITY REPORT

In support of its request, AP submitted an analysis, entitled "Site Suitability Report on Block 79, Lots 1.06, 11 & 12," prepared by Louis L. Zuegner IV, PP, of MidAtlantic Engineering Partners and dated March 11, 2019.

Zuegner states that the objective of the report "is to establish whether the referenced property is a suitable site for a mixed use development with approximately 373 units consisting of single family homes, villas and flats with a 20% set aside as affordable housing units."

in accordance with the Council on Affordable Housing's site suitability criteria found at N.J.A.C. 5:93-1.3, all sites to be used for affordable housing purposes must be "available, approvable, developable, and suitable," as follows:

- The site has clear title and is free of encumbrances which preclude development of multi-family housing with an inclusionary affordable component and is available for such use.
- The site is adjacent to compatible land uses and has access to appropriate streets.
- The site is developable as it has access to appropriate water and sewer infrastructure and is consistent with the applicable areawide water quality management plan.
- The site is approvable as it may be developed for low and moderate income housing in a manner consistent with the rules and regulations of all agencies with jurisdiction over the site.

Zuegner's analysis found that the site is:

- Available: No title or deed restriction encumbrances or other hindrances that would preclude an inclusionary development.
 - Response: I take no exception to this statement.

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CHRISTINE A. COFONE, PE, AICP
Principal

COFONE CONSULTING GROUP, LLC

- **Approvable:** Prior approvals for development were granted to the site from various regulatory agencies; located within existing sewer and water service areas; and, development is supported by local, regional, and state planning policies.
 - Response: I take no exception to this statement.
- **Developable:** There is available sewer and water capacity, and a prior development had utility authority and state level approvals for sewer and water service.
 - Response: I take no exception to this statement, however, it is known that the Township may be experiencing sewer capacity issues.
- **Suitable:** An inclusionary development would be compatible with the surrounding land use context of residential, office, and vacant land uses. There is direct access to multiple roadways that feed into the local and regional road network. The site is not within a flood zone.
 - Response: I take no exception to this statement.

In addition the application of the site suitability criteria, Zuegner also provided extensive supporting documentation in the report's appendix that I deem as evidence in support of the request.

CONCLUSION

Accordingly, based on Zuegner's analysis, I find that the Proposed AP Site is "available, approvable, developable, and suitable" for the proposed inclusionary development. I further find that Schneider's request on behalf of AP to substitute the Proposed AP Site for the Original Site AP is appropriate.

As always, I would be happy to discuss this matter further if the Court desires.

Very truly yours,

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CHRISTINE A. COFONE, PP, AICP
Principal

COFONE CONSULTING GROUP, LLC

Christine A. Nazzaro-Cofone, PP/AICP
South Brunswick Special Master

cc: MID-L-4433-17 distribution list

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APPENDIX F

South Brunswick Township ORD-2020-8

540 Ridge Road

Monmouth Junction, NJ 08852

ORDINANCE 2020-8

Amending and Supplementing Chapter 62, Land Use, Creating the Court's Third Round Affordable Housing (CTRAH) District and Rezoning Certain Builder's Remedy Properties Under Protest (Amended 5/26/2020)

WHEREAS, pursuant to a Court Order dated December 5, 2018, in In the Matter of the Application of the Township of South Brunswick, County of Middlesex, currently before the Superior Court of New Jersey, Law Division, under Docket No. MID-L-4433-17 ("Declaratory Judgment Action"), the Township has been ordered to provide for 1,417 units of affordable housing as its Third Round Fair Share obligation; and

WHEREAS, pursuant to a further Court Order dated November 27, 2019 (as modified by Order dated April 30, 2020), the Superior Court ordered that the Township: (1) adopt an amendment to the Township's Housing Element and Fair Share Plan as well as (2) adopt ordinances rezoning sites proposed by the Builder's Remedy intervenors no later than June 29, 2020; and

WHEREAS, each of the Builder's Remedy intervenors proposed terms of the rezoning ordinances for their respective sites, which were reviewed, and in some instances modified, by the recommendation of the Special Master assigned to this matter in a report letter to the court dated January 16, 2020; and

WHEREAS, the Township continues to dispute the Court's findings and conclusions that resulted in a declaration that the Township was proceeding in bad faith; removed the Township's immunity from Builder's Remedy suits; and determined the Township's Third Round Affordable Housing obligation, available credits and compliance mechanisms available to address that obligation. The Township, nonetheless, recognizes its legal obligation to comply with the Court's Orders, but does so under protest, as permitted by the New Jersey Supreme Court in So. Burlington County N.A.A.C.P. v. Mount Laurel Twp., 92 N.J. 158 (1983) (Mount Laurel II); and

WHEREAS, to comply with the Court's Orders, the Township's Planning Consultant, Clarke Caton Hintz, has prepared an Amended Third Round Housing Element and Fair Share Plan and Amended Third Round Spending Plan which is dated March 6, 2020; and

WHEREAS, the Township has adopted/endorsed the March 6, 2020 Amended Plan under protest, as permitted by the New Jersey Supreme Court in Mount Laurel II. As such, the Township of South Brunswick and the Planning Board of the Township of South Brunswick continue to assert their on-going objections to the Court's finding of bad faith, revocation of temporary immunity, determination of the Township's fair share obligation, the grant of Builder's Remedy suits/claims as well as the process outlined in the Court's October 21, 2016, Order on how such suits/claims must be handled, the Court's December 5, 2018 and November 27, 2019 Orders; and

WHEREAS, the Township and Planning Board reserve all rights they may have to contest any and all rulings by the Court as well as all such suits/claims for Builder's Remedy relief by way of further motion and/or appeal. Nothing contained herein is intended to nor shall it be construed to waive any and all such rights or in any way imply that the Township or Planning Board agree with the entire Amended Plan or the within rezoning ordinance, which rezoning ordinance is specifically adopted under protest; and

WHEREAS, it continues to be the desire of the Township Council to voluntarily comply with its obligation to provide for a realistic opportunity for the development of low and moderate income housing with a plan that includes appropriate projects, sites, programs and/or compliance mechanisms that represent sound planning and land use principles. Adoption/endorsement of the March 6, 2020, Amended Third Round Housing Element and Fair Share Plan and Amended Third Round Spending Plan, as well as the adoption of the within rezoning ordinance, should in no way be construed as an affirmative decision by the Township that the submitted Plan or the within rezoning ordinance best satisfies the Township's Third Round obligation;

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, Land Use, of the South Brunswick Township Code, shall be and is hereby amended and supplemented with the addition of the following:

CHAPTER 62

Article XVI. Court's Third Round Affordable Housing (CTRAH) District

Subdivision I. General.

Sec. 62-2921. Purpose.

The purpose of the Court's Third Round Affordable Housing (CTRAH) District is to comply with the November 27, 2019, court order in In the Matter of the Application of the Township of South Brunswick, County of Middlesex, Superior Court of New Jersey, Law Division, Docket No. MID-L-4433-17, and adopt rezoning ordinances which provide an opportunity for the development of inclusionary residential developments with a mix of housing types in conjunction with the Township's promulgated housing plan, policies and legal directives.

Sec. 62-2922. Adopted Under Protest.

The ordinance from which this Article is derived was adopted under protest, as permitted by the November 27, 2019, order and by the New Jersey Supreme Court in So. Burlington County N.A.A.C.P. v. Mount Laurel Twp., 92 N.J. 158 (1983), and is subject to being voided and/or otherwise modified by further action of the court.

Secs. 62-2922. Affordable Housing Standards Applicable to All CTRAH Districts.

Unless otherwise required in the specific subdistricts listed in this Article, all development in the CTRAH District shall conform to the following standards:

1) 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 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.

2) At least 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; at least 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 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.

3) 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.

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.

4) 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 for households at 30% or less of median income and pursuant to N.J.S.A. 52:27D-329.1). An affordable housing chart shall be prepared showing bedroom breakdown and income breakdown combined.

5) 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:

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

An Affordable Housing Agreement shall address minimum area of units, minimum bedroom size, and floor area inclusions and exclusions.

6) The affordable units shall utilize the same heating sources as the market units within the inclusionary development.

7) With regard to Americans with Disabilities Act (“ADA”) compliance, all very-low, low and moderate income housing provided as townhouses or multistory dwelling units shall comply with N.J.A.C. 5:97-3.14.

8) The developer shall contract with an experienced administrative agent as per the UHAC regulations (N.J.A.C. 5:80-26.14).

9) The affordable units shall comply with the UHAC regulations with regards to affirmative marketing per N.J.A.C. 5:80-26.15 and the Township’s Housing Element and Fair Share Plan. For the for sale very-low-income units, the developer shall use best faith efforts, consistent with UHAC regulations and applicable affirmative marketing requirements, through a period of 90 days following the issuance of a certificate of occupancy for each unit designated for a very-low-income household, to find very-low-income households to purchase these units. For any units for which the developer is unable to find any such households qualified under the standards of UHAC and applicable law, the units shall be sold at a price affordable to a very-low-income household to a low-income household, provided the deed restrictions shall require upon resale that any such units shall be marketed to and priced at levels affordable to very-low-income households, subject to the same 90 day period provided for in this subsection.

10) The affordable units shall otherwise comply with the Affordable Housing Ordinance of the Township of South Brunswick contained in Chapter 62, Article IV, Division 14 of the Code of the Township of South Brunswick.

11) Any development in any CTRAH District shall be subject to the limitations pertaining to unnecessary cost-generating requirements as set forth in N.J.A.C. 5:97-10.2.

Secs. 62-2923. Compliance with Residential Site Improvement Standards Required.

Any development in any CTRAH District shall comply with all of the requirements of the Residential Site Improvement Standards (N.J.A.C. 5:21-1, et seq.), unless the approving authority grants a properly filed

application for a de minimis exception, or a waiver is granted by the State of New Jersey, pursuant to the process set forth in the Residential Site Improvement Standards.

Secs. 62-2924 - 62-2935. Reserved.

Subdivision II. Court's Third Round Affordable Housing (CTRAH) I District

Sec. 62-2936. Property Included in CTRAH I District.

The CTRAH I District shall consist of those properties known as Block 79, Lots 1.06, 11 & 12 on the Tax Maps of the Township of South Brunswick, encompassing approximately 64.54 acres located generally in the area of Ridge Road and Schalks Crossing Road.

Sec. 62-2937. Permitted Principal Uses.

In the CTRAH I District, no building, structure or premises shall be used and no building or structure shall be erected or structurally altered except for the following uses:

- 1) Single-family detached dwellings
- 2) Townhouses and single-family semi-attached dwellings
- 3) Multi-family dwellings

Sec. 62-2938. Permitted Accessory Uses and Structures.

- 1) Private garages and off-street parking
- 2) Recreation areas and recreation facilities and buildings for the common use and enjoyment of residents, including but not limited to community swimming pools, tennis courts, basketball courts, tot lots, walking paths and trails, dog park and other recreational amenities.
- 3) Clubhouse and clubhouse-like spaces, including, but not limited to a fitness center, multi-purpose rooms, wellness center, leasing office, entertainment center, meeting rooms and business center.
- 4) Gazebos, trellises, arbors, pergolas, decks, patios, balconies, benches, gardens and landscaped areas including fountains, ponds and other water features.
- 5) Electric vehicle charging stations.
- 6) Maintenance and storage buildings.
- 7) Stormwater facilities
- 8) Fences and walls
- 9) Pump stations
- 10) Gatehouses
- 11) Trash enclosures

12) Other uses and structures customarily incidental and subordinate to a permitted principal use.

Sec. 62-2939. Maximum Number of Units and Set Aside Requirements.

The maximum number of dwelling units to be developed within the CTRAH I District shall not exceed 373 units.

Twenty (20%) percent of all residential units in any development within the CTRAH I District, or 75 residential units if the maximum number of units is developed, shall be set aside for very-low, low- and moderate-income households in accordance with the standards set forth in Sec. 62-2922.

Sec. 62-2940. Bulk Standards.

1) The following standards shall be applicable to the CTRAH I District in its entirety and shall not be applied to any individual lot or lots which may be created as part of the overall plan of development.

- a) Minimum area of predevelopment tract: 40 acres
- b) Minimum building setback to all outer property lines of predevelopment tract: 50 feet to all public right of way and 25 feet to all other outer property lines of a development tract.
- c) Buffer: a 50-foot buffer to any public right-of-way, and a 25-foot buffer on all other sides, shall be established around the perimeter of the predevelopment tract. Permitted structures within the buffer area include fences, basins, roadways, parking areas, sidewalks, signs and other accessory structures.
- d) Maximum impervious coverage: 60%
- e) Maximum building coverage: 40%

2) The following maximum building height requirements shall apply to all buildings constructed within the zone.

- a) Principal single family, townhomes and multifamily buildings: 3 stories and 42 feet
- b) Clubhouses and other accessory structures: 2 stories and 20 feet
- c) The building height exceptions set forth in Sec. 62-2341 shall be applicable to all structures within the CTRAH I District.

3) Additional requirements for single-family detached structures:

- a) Minimum lot area: 5,500 square feet
- b) Minimum lot frontage: 55 feet; except that for lots fronting in part along a cul-de-sac the lot width may be met at the required setback line rather than at the street line, in which case the lot width at the street line may be reduced to 35 feet
- c) Minimum lot depth: 100 feet

- d) Minimum front yard setback: 20 feet
 - e) Minimum rear yard setback: 20 feet
 - f) Minimum side yard setback: 7 feet on each side/ total 15 feet
- 4) Additional requirements for multi-family, townhouses and single-family semi-attached structures:
- a) Multiple principal uses and buildings shall be allowed on a single lot, except for lots containing single-family detached dwellings.
 - b) Minimum distance between buildings: 25 feet
 - c) Minimum setback to internal streets: 10 feet or such distance as may be required to comply with the Residential Site Improvement Standards to allow for vehicle parking in front of the dwelling
 - d) Single-family semi-attached structures shall also conform to Sec. 62-696

Sec. 62-2941. Off-Street Parking and Circulation.

- 1) Unless otherwise stated to the contrary, the minimum parking space requirements of the Residential Site Improvement Standards shall apply. However, the Planning Board may grant a de minimis exception to such standards upon a showing that the proposed parking plan is sufficient to serve the parking needs of the particular use and site, including but not limited to such factors as household characteristics, availability of mass transit, location of site and available off-site parking resources.
- 2) Off-street parking spaces may be located in the front, side and rear yards, provided that no parking space be nearer than fifteen (15) feet to any outer property line of the overall development tract.
- 3) Off-street parking areas, including stalls and aisles, and internal circulation streets shall be designed in accordance with the New Jersey Residential Site Improvement Standards.
- 4) All other parking lot design, screening and lighting standards found in the Township's Parking, Lighting and Landscaping Ordinance(s) shall apply.

Sec. 62-2942. Signage.

- 1) Two freestanding sign shall be permitted at each entrance located on Ridge Road and Schalks Crossing Road. Each sign shall be no greater than 50 square feet in area and not exceed 6 feet in height located outside of the sight triangles. If a monument sign is proposed, a decorative base shall be provided. The area immediately surrounding the sign shall be landscaped.

- 2) Signs containing building identification numbers, verbiage or similar information are also permitted, and shall be subject to Planning Board approval.

Sec. 62-2943. Pedestrian Access.

- 1) Pedestrian connections, sidewalks and crosswalks shall be allowed along the frontage of the development and in a manner which provides connectivity between all residential buildings.
- 2) Sidewalks shall only be required on one side of all internal roadways within the overall development tract so long as there is a comprehensive sidewalk network throughout the development.

Sec. 62-2944. Recreational Amenities.

A recreation area or areas to serve the needs of the development shall be provided and shall consist of at least the following:

- 1) One or more fenced-off play lots, including play equipment, shall be provided.
- 2) Open fields for general, multi-purpose use shall also be provided.
- 3) Total recreational areas within the development shall be not less than 80 square feet per dwelling unit, with a minimum size of 2,500 square feet for each recreational area.

Sec. 62-2945. Parcel Division for Diverse Title or other Financial Condition.

Following or concurrent with an application for site plan approval, a developer may seek subdivision approval to divide the overall development tract into two or more lots for financial or diverse ownership/title purposes. The affordable component should be integrated within the market rate units throughout the entire development if feasible, but may be on a separate subdivided lot.

Sec. 62-2946. Trash and Recycling.

- 1) For multifamily apartments, there shall be trash and recyclables storage areas completely surrounded by a six-foot-high solid architectural fence with front solid gates. All outside trash shall be stored in this area and shall not be in public view over the fence height.
- 2) Each area proposed for multifamily apartments shall include provisions for the collection, deposition and recycling of recyclable materials. Each multifamily apartment development area must provide bins in convenient locations or locations in a common area as drop-offs for storing recyclables until collection occurs. The holding area(s) shall provide for truck access and loading. The holding area(s) shall be of sufficient size and contain other attributes such as signage and lighting as may be determined by the municipal recycling coordinator.

3) All trash and recyclable storage areas for multifamily apartments shall be uniform in function, size and appearance.

4) For for-sale residential units, all trash and recyclables collection shall be via curbside pickup pursuant to the requirements of the Township Code.

Sec. 62-2947. Lighting.

Lighting proposed for any development in the CTRAH I District shall conform to the requirements of Secs. 62-205 and 62-208.

Sec. 62-2948. Other Provisions

1) All roadways, water mains and sewer mains within the CTRAH I District shall be privately owned and maintained by the developer or incorporated association.

2) Unless expressly stated herein, development within the CTRAH I District shall be exempt from the requirements of Sec. 62-206 and all other sections of Article IV of the Township Code.

3) In addition, the setback requirements for detention basins set forth in Sec. 62-2576(b)(8) shall not apply to the CTRAH I District, and instead the following shall apply:

a. The top of the basin excavation or the toe of the outside slope shall be set back 10 feet from adjoining property lines and street right-of-way lines. The edge of the design high water for detention basins shall be set back 100 feet from existing or proposed dwelling units or comply with either one of the following requirements:

i. The Lowest Floor Elevation of a dwelling unit within 100 feet of the design high water line shall be 2 feet higher in elevation than the design high water elevation; or

ii. A PVC liner shall be installed between the basin and the dwelling units. The liner shall extend vertically from 2 feet below the basin bottom to 2 feet above the design high water elevation.

Sec. 62-2949. Design Standards.

1) Multi-family buildings shall have a unified theme, displayed through the application of common building materials. Vinyl, stucco, and fiber-cement may be utilized as primary cladding material.

2) If a clubhouse is provided it shall have architectural features that are compatible with adjacent structures.

3) Architectural requirements in other sections of the Township Code shall not apply.

Secs. 62-2950 - 62-2960. Reserved.

Subdivision III. Court's Third Round Affordable Housing (CTRAH) II District

Sec. 62-2961. Property Included in CTRAH II District.

The CTRAH II District shall consist of those properties known as Block 86, Lots 63, 65 & 67 - 71 on the Tax Maps of the Township of South Brunswick, encompassing approximately 40.99 acres located generally in the area of Major Road and U.S. Route 1 North.

Sec. 62-2963. Permitted Principal Uses.

1) The following principal uses shall be permitted uses in the CTRAH II District:

- a) Multifamily dwellings.
- b) Townhouses.
- c) Stacked Townhouses.

2) Multiple principal buildings and principal uses shall be permitted on the same lot.

Sec. 62-2964. Permitted Accessory Uses and Structures.

1) The following accessory uses are permitted in the CTRAH II District:

- a) Facilities and structures for maintenance and administration of the community grounds and the infrastructure contained therein.
- b) Temporary sales trailer and/or sales office.
- c) Construction trailers.
- d) Public and private utilities inside and outside of buildings.
- e) Off-street parking areas.
- f) Signs, as regulated in this subdivision.
- g) Fences and walls, as regulated in this subdivision.
- h) Attached garages.
- i) Electric vehicle charging stations.
- j) Any amenities, including but not limited to community spaces and recreational areas, included within the development at the sole discretion of the developer.
- k) Any uses that are customarily incidental and subordinate to the permitted principal uses on the same lot.

Sec. 62-2965. Maximum Number of Units and Set-Aside Requirements.

The maximum number of dwelling units to be developed within the CTRAH II District shall not exceed 152 units.

Twenty (20%) percent of all residential units in any development within the CTRAH II District, or 31 residential units if the maximum number of units is developed, shall be set aside for very-low, low- and moderate-income households in accordance with the standards set forth in Sec. 62-2922.

Sec. 62-2966. Development standards.

1) Minimum tract size: 15 acres

2) Maximum gross density: 8 dwelling units per acre.

3) A minimum perimeter buffer area of 12 feet is required and retaining walls with fences are permitted within the buffer area.

4) Minimum building setback to tract boundary shall be 30 feet.

5) Maximum building height: 55 feet.

6) Minimum distance between buildings:

Measurement	Distance
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Front to front	40 feet excluding stairs and porches
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Rear to rear	35 feet excluding decks and balconies
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Side to side	20 feet
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Front to side	35 feet excluding stairs and porches
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Front to rear	40 feet excluding stairs, porches, decks and balconies
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Side to rear	30 feet excluding stairs and porches
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7) Maximum allowable building coverage: 30%.

8) Maximum allowable impervious coverage: 50%.

9) No building shall be closer than ten (10) feet to any curb line or parking area excluding stairs and porches. Driveways and surface parking for affordable housing dwellings units are permitted within the 10-foot setback.

10) No building shall be closer than fifteen (15) feet to any street or roadway excluding stairs or porches.

11) No more than eight (8) townhouse units shall be contained within a single building.

12) No more than twenty-four (24) multifamily units including stacked townhouses shall be contained within a single building.

13) Forty percent (40%) of the lot shall be open space and may include wetlands, wetland buffers, streams, riparian zones, flood hazard areas and stormwater management facilities. Sidewalks, paving, walls and accessory buildings incidental to the use or required due to elevation changes may be included in the calculation.

14) Sidewalks and streets shall be installed in accordance with the Residential Site Improvement Standards (N.J.A.C. 5:21-1.1 et seq.).

15) Public sewer and water service shall be provided and may include pump stations to service the development. Pump stations may be located in any yard area and setback a minimum of ten (10) feet from the property line.

16) Solid waste removal shall be provided and may include compactors, exterior refuse storage areas or interior refuse storage areas. On site dumpsters shall be serviced by private hauler. The method of solid waste disposal for market rate units and affordable housing units shall be substantially similar, including distance to and location of dumpsters throughout the development.

17) All on-site utilities shall be underground where reasonably possible or where required by utility provider.

18) Satellite dishes and antennas shall be permitted on residential buildings.

19) No decks shall be permitted to extend to any property line.

Sec. 62-2967. Parking Requirements.

- 1) Off-street parking shall be provided as set forth in Residential Site Improvement Standards (N.J.A.C. 5:21).
- 2) Parking stall size shall be 9'x18'
- 3) Parking areas shall be setback a minimum of 20 feet from lot lines and shall be permitted in front, side and rear yard areas.

Sec. 62-2968. Sign Requirements.

- 1) A maximum sign area shall be permitted on each side of a sign. The area of a sign shall be the total square footage of the background upon which the lettering, illustration or display is presented excluding all support structures, walls and decorative elements.
- 2) One (1) ground mounted sign shall be permitted for each residential subdivision project.
- 3) A sign area up to thirty-two (32) square feet per side is permitted.
- 4) No ground sign shall exceed four (4) feet in height and eight (8) feet in width, which may be mounted on a base no greater than two (2) feet in height.
- 5) Signs shall be setback a minimum of 5 feet from the property line or right of way line and must be placed outside of sight triangles.
- 6) Identification signs not exceeding 3 sf in area indicating the project developer may be placed on ground mounted signs. The identification sign area shall be excluded from the allowable sign area.
- 7) Temporary sales identification signs including informational signage, directional signs, banners and flags may be implemented at the developers' discretion along interior roadways, within sales areas and within the model area. Temporary sales identification signs shall be permitted to remain for up to 90 days following the closing of the final unit on the project. In addition to the foregoing, one temporary sign announcing the sale of residential units is permitted. Such temporary sign shall not exceed 32 square feet when situated on a tract larger than three acres.
- 8) Any residential development may employ vehicular or pedestrian directional signs, provided that such signs do not exceed two square feet in area, four feet in height and are located a minimum of five feet from any property line.
- 9) All new street signs are required to have six-inch lettering.

Sec. 62-2969. Lighting, Buffer and Vegetation.

- 1) Perimeter buffer planting. Where existing vegetation is not preserved and retaining walls are not proposed within 20 feet of the property line, a buffer planting consisting of evergreen trees at least six feet high and planted at ten feet on center shall be installed. A 6-foot privacy fence can be installed in lieu of planting.

- 2) Parking areas shall have shade trees within islands not containing light fixtures.
- 3) The maximum height of freestanding lights should not exceed the height of the principal building or 25 feet, whichever is less.
- 4) Lights shall be appropriately shielded and directed so that the lighting, to the extent possible, shall not spill over onto adjacent properties.
- 5) Illumination values shall have a minimum of .2 foot candles throughout with a maximum to minimum illumination ratio not exceeding 15: 1.
- 6) House side shields shall be implemented adjacent to property lines.
- 7) Light fixtures shall be dark sky compliant.

Sec. 62-2970. Fences and Walls.

- 1) Fences up to 6 feet in height shall be permitted.
- 2) Solid privacy fences are permitted in all yards and may be constructed of vinyl or wood.
- 3) All structural supporting members of the fence must face the interior portion of the lot.
- 4) Retaining walls shall be permitted as necessary to facilitate grade changes without height restrictions.
- 5) Retaining walls shall have a setback of 5 feet from the perimeter property line.

Sec. 62-2971. Temporary construction trailers, sales offices and sales trailers.

- 1) A temporary sales center is permitted. The sales center may be located within a model building and/or temporary trailer.
- 2) Ten (10) parking spaces shall be provided for the sales center. The parking spaces may be gravel or paved.
- 3) A sales trailer may only be located on the site until the final certificate of occupancy is issued and the final closing occurs for the last dwelling unit. At that time, the developer shall have 90 days to remove the temporary sales trailer from the site and restore any area disturbed.
- 4) Up to two (2) temporary construction trailers are permitted.
- 5) The developer has the discretion regarding the number of parking spaces for the construction trailer. Parking areas for construction trailers may be gravel or paved. The parking spaces shall be sized at the discretion of the developer.
- 6) Construction trailers may remain on site until the final certificate of occupancy is issued and the final closing occurs for the dwelling unit. At that time, the developer shall have 90 days to remove the construction trailer and any appurtenances from the site and restore any area disturbed in the vicinity of the trailer location.

Sec. 62-2972. Steep Slopes and State Regulated Areas.

- 1) Areas containing slopes 20% or greater as measured over a minimum distance of ten (10) feet perpendicular to the contour line shall be considered steep slope areas.
- 2) Steep slope areas may be disturbed as required to facilitate development provided stabilization is provided in accordance with the New Jersey Soil Erosion and Sediment Control Act, Chapter 251 standards administered by the Freehold Soil Conservation District.
- 3) Conservation easements and preservation are not required in steep slope areas.
- 4) Proposed slopes shall not exceed 33-1/3% and shall not require an engineer's certification.
- 5) Stream corridors, wetlands, flood hazard areas, riparian zones, and threatened and endangered species shall fall under the jurisdiction of the New Jersey Department of Environmental Protection (NJDEP). The standards, buffers and permitting requirements set forth in the following regulations shall apply and supersede any and all requirements set forth within the Township of South Brunswick Code:
 - a) Wetlands -N.J.A.C. 7:7A Freshwater Wetlands Protection Act
 - b) Stream Corridors, Flood Hazard Areas and Riparian Zones - N.J.A.C. 7:13 Flood Hazard Area Control Act Rules
 - c) Threatened and Endangered Species - N.J.A.C. 7:7A Freshwater Wetlands Protection Act and N.J.A.C. 7: 13 Flood Hazard Area Control Act Rules
 - d) All other ordinances, parts of ordinances, sections of this Code or other local requirements that are inconsistent or in conflict with this section are hereby superseded and any inconsistency or conflict shall be superseded by the New Jersey Department of Environmental Protection Agency Standard. The provisions of this section shall be a substitution for, all other applicable zoning, planning and land use regulations.
 - e) Review and approval of activities shall be the sole responsibility of the NJDEP.

Sec. 62-2973. Off-tract improvements required.

- 1) The realignment of Major Road along the property frontage shall satisfy a portion of any off site improvement requirements for the subject property. Additional off-site improvements shall be required at the discretion of the approving authority. The installation of any off-tract improvements shall commence prior to issuance of the certificate of occupancy for the 50th dwelling unit.
- 2) The full cost of these off-tract improvements shall be included in the basis for calculating the size of the performance bond.

Sec. 62-2974. Stormwater Management Facilities.

All stormwater management facilities will be designed in accordance with the standards set forth in N.J.A.C. 7:8 Stormwater Management and N.J.A.C. 5:21 Residential Site Improvement Standards.

Sec. 62-2975. Architectural Requirements.

1) Materials

- a) Building materials shall be at the developers discretion and may include vinyl siding.

2) Fire Access

a) Fire access shall be provided from adjacent roadways to buildings 4 stories or less.

3) Telecommunication Equipment

a) Telecommunication equipment will be built into dwellings where reasonably possible.

b) Individual satellite dish service and antennas are specifically excluded.

Sec. 62-2976. Performance and Maintenance Guarantees.

Projects contained within the CTRAH II District shall comply with all requirements for the posting of performance and maintenance guarantees as set forth in the New Jersey Municipal Land Use Law (N.J.S.A. 40:55D-1, et. Seq).

Sec. 62-2977. Affordable Housing Integration Requirements.

No more than 50% of a proposed building may contain affordable housing units. The affordable housing units shall be dispersed throughout the development at the developer's discretion.

Sec. 62-2978. Recreational Amenities.

A recreation area or areas to serve the needs of the development shall be provided and shall consist of at least the following:

- 1) One or more fenced-off play lots, including play equipment, shall be provided.
- 2) Open fields for general, multi-purpose use shall also be provided.
- 3) Total recreational areas within the development shall be not less than 80 square feet per dwelling unit, with a minimum size of 2,500 square feet for each recreational area.

Secs. 62-2979 - 62-2990. Reserved.

Subdivision IV. Court's Third Round Affordable Housing (CTRAH) III Overlay Zone District

Sec. 62-2991. Property Included in CTRAH III Overlay Zone District

The CTRAH III Overlay Zone District shall consist of those properties known as Block 80, Lot 3.024 on the Tax Maps of the Township of South Brunswick, encompassing approximately 19.35 acres located generally in the area of Ridge Road, Independence Way and U.S. Route 1 North. For the purpose of permitting the development of a multi-family inclusionary development, the provisions and requirements of the CTRAH III Overlay Zone shall supersede the provisions and restrictions of the underlying OR (Office Research/Laboratory) Zone district. The underlying OR Zone District will remain applicable to any use other than a multi-family inclusionary development. In the event of a conflict between the provisions of this subdivision and other sections of the Township development regulations

with respect to the development of market-rate townhouses and affordable housing, the provisions of this CTRAH III Overlay Zone District shall govern.

Sec. 62-2992. Permitted Principal Uses.

1) The following principal uses are permitted in the CTRAH III District:

a) Townhouse attached dwellings.

2) A "townhouse attached dwelling" shall be defined as a residential structure with common walls, without common ceilings or floors, consisting of three or more dwellings.

Sec. 62-2993. Permitted Accessory Uses and Structures.

The following accessory uses and structures are permitted in the CTRAH III District:

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

2) Signs, as regulated in this chapter.

3) Fences, as regulated in this chapter.

4) Patios and decks, as regulated in this chapter.

5) Certain authorized improvements on common area property, as described in 62-2997 (7) below.

Sec. 62-2994. Maximum Number of Units and Set-Aside Requirements.

The maximum number of dwelling units to be developed within the CTRAH III District shall not exceed 129 units.

Twenty-three (23%) percent of all residential units in any development within the CTRAH III District, or 30 residential units if the maximum number of units is developed, shall be set aside for low- and moderate-income households in accordance with the standards set forth in Sec. 62-2922.

Sec. 62-2995. Very Low Income Affordable Housing requirements.

1) Instead of providing very-low income units on site, a contribution may be made in an amount between \$17,500.00 to no more than \$20,000.00 per bedroom, said amount to be determined by the Township and ARC of Middlesex (or other qualified provider of affordable housing group homes for persons with developmental disabilities), to subsidize the construction of a four (4) bedroom group home, for a total contribution not to exceed \$80,000.

2) The contribution shall be due upon the issuance of the 50th Certificate of Occupancy and shall be paid into the Township's Affordable Housing Trust Fund for specific use to create the four bedroom group home.

3) The four (4) bedroom group home shall be in addition to the twenty-three (23%) percent of units produced on-site required to be affordable. Including those units, a total of thirty-four (34) affordable units will be created or assisted in financing as a result of any development in the CTRAH III District, of which four (4) will be very-low-income provided through the group home for persons with developmental disabilities, eleven (11) will be low-income on-site units, and nineteen (19) will be moderate-income on-site units.

4) The thirty (30) on-site units will be required to comply with the affordability average required pursuant to N.J.A.C. 5:80-26.1 et. seq.

Sec. 62-2996. Minimum tract size and open space requirements.

- 1) The minimum tract size for a development in the CTRAH III District shall be 15 acres.
- 2) The property owner shall provide for the establishment of an organization for the ownership and maintenance of any common property and such organization shall be established and regulated by all applicable statutory standards and conditions.
- 3) A perimeter tract buffer shall be required at a minimum width of 50 feet, within which no building improvements shall be permitted, except as provided for in Sec. 62-2997(5) and (6) below.
- 4) "Open Space" shall include the stormwater basin and the entirety of the buffer area with the total area of any encroachments and individual lot areas deducted from the total area of the buffer. A minimum of 25% Open Space shall be maintained for the entire tract.

Sec. 62-2997. Area, yard, density and locational requirements for residential development.

- 1) For the purpose of determining gross residential density, the total tract of land shall be considered.
- 2) The gross residential density shall not exceed seven (7) units per acre, with no more than 129 total units being permitted in the zone.
- 3) If townhouse dwellings are to be constructed and sold on fee-simple lots, the following area and dimensional requirements shall apply:

Market-Rate Units

- a) Minimum Lot Area: 2,340 square feet
- b) Minimum Lot Width: 26 feet
- c) Minimum Lot Depth: 90 feet

Low- and Moderate-Income Units

- a) Minimum Lot Area: 1,260 square feet
- b) Minimum Lot Width: 14 feet
- c) Minimum Lot Depth: 90 feet

4) Setback and additional requirements for residential use:

a) Minimum building separation:

Front to Front: 60 feet

Rear to Rear: 40 feet

All other building to building: 25 feet

b) Minimum Setbacks

From a street line: 15 feet

From a parking area: 8 feet

c) Maximum number of attached units per building: 8

5) No building intended for residential occupancy shall be located within 50 feet of the tract boundary line; however, building lot lines may extend into the perimeter tract buffer area provided that no building improvements are located therein.

6) Common area property may contain certain improvements, such as underground utility lines, stormwater management features, decks/patios, landscaping, signage, walking paths and sidewalks.

7) No residential building or structure shall exceed 40 feet and 2-1/2 stories in height, except as regulated by the height exception provisions of this chapter.

8) Impervious Coverage. A maximum of 50% impervious coverage shall be permitted for the entirety of the tract.

9) Building Coverage. A maximum of 25% building coverage shall be permitted for the entirety of the tract.

Sec. 62-2998. Miscellaneous requirements.

The installation of signs shall comply with regulations contained in Article IV, Division 7, Secs. 62-1816 thru -1823.

Secs. 62-2999 - 62-3015. Reserved.

Subdivision V. Court's Third Round Affordable Housing (CTRAH) IV District.

Sec. 62-3016. Property Included in CTRAH IV District.

The CTRAH IV District shall consist of those properties known as Block 79, Lots 4.02, 4.031, 4.032, 4.04, 6.01 & 6.03 ("Tract") on the Tax Maps of the Township of South Brunswick, encompassing approximately 176.26 acres located generally in the area of Ridge Road and Perrine Road.

Sec. 62-3017. General Provisions.

- 1) The development regulations set forth herein shall apply to the Tract as a whole, not to individual lots which may be created within the Tract, except that fee simple lots associated with single-family dwellings or townhouses shall be subject to the special development regulations set forth herein.
- 2) The Tract shall be permitted to be subdivided into one or more lots, and one or more buildings or uses shall be permitted on a single lot, except that fee simple lots associated with single-family dwellings or townhouses shall be subject to the special development regulations set forth herein.
- 3) The Tract shall be permitted to be constructed in one or more phases.
- 4) Any street within the Tract shall be privately owned and maintained.
- 5) The land development regulations set forth herein shall constitute an overlay to the underlying Office Research (OR) zoning and a developer shall have the flexibility to develop all or a portion of the site under the OR zoning or the overlay. Any portion of the site that is developed based on this overlay zoning shall be subject to the regulations set forth herein, which shall supersede any municipal land development regulations that are in discrepancy with same.
- 6) Nothing in this Article shall contravene the statutory requirements of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

Sec. 62-3018. Use Regulations.

- 1) Required uses.

The following uses shall be required as part of any development within the CTRAH IV District:

a) Affordable housing. Twenty percent (20%) of the total number of residential dwelling units (“Dwelling Units”) shall be income-restricted in accordance with the standards set forth at Sec. 62-2922.

b) Open space. A minimum of 20% of the Tract shall be dedicated as open space. Notwithstanding the foregoing, in the event that the development provides for at least 7,500 square feet of communal recreational space, which shall include clubhouse(s), pool(s), tot lots, play courts, open lawns and/or green areas for lawn games and play and walking paths, the development shall be exempt from the twenty percent (20%) open space requirement. In addition to the definition of open space contained in Sec. 62-3, the following shall apply to the calculation of open space:

i. Buildings, structures, and lands accessible for common recreational purposes shall count toward the open space calculation; and shall include off-street parking areas associated with same. By way of example, a clubhouse, pool, tot lots, play courts, walking paths and open lawn areas available for spontaneous recreational use and lawn games such as corn hole, bocce, croquet, ball playing; and any off-street parking associated with same shall count toward the open space calculation.

ii. Outdoor amenity areas associated with dwelling units such as decks, patios, balconies, and terraces, whether for private use by individual units or for common use, shall count toward the open space requirement.

iii. Graded detention and stormwater management areas shall count toward the open space calculation provided they are landscaped or fenced.

c) Green space. A minimum of 45% of the Tract shall be green space. Green space shall mean any area onsite that is pervious, such as lawns and landscaped areas. Graded detention and stormwater management areas shall count toward the green space calculation.

2) Permitted principal uses.

One or more of the following uses, in any combination unless otherwise noted below, shall be permitted as part of any development within the CTRAH IV District:

- a) Single-family detached dwellings.
- b) Single-family semi-attached dwellings.
- c) Townhouse attached dwellings.
- d) Multifamily dwellings.

- e) Open space.
- f) Central Sewage Facilities.
- g) Central water storage, pumping treatment and conveyance facilities.
- h) Mixed residential. Any combination of the above uses, except that no one residential category shall exceed fifty percent (50%) of the total residential unit mix, and no residential use category shall constitute less than twenty percent (20%) of the total residential unit mix. For the purposes of this calculation, single-family detached or semi-attached dwellings shall be considered one use category.

3) Permitted accessory uses.

- a) Private garages.
- b) Outdoor recreation amenities such as community swimming pools, tennis courts, basketball courts, tot lots, volleyball courts and the like.
- c) Indoor recreation amenities such as a clubhouse and clubhouse-like spaces within multifamily buildings, including but not limited to a fitness center, multipurpose rooms, wellness center, leasing office, entertainment center, meeting rooms, resident food and beverage area, and business center.
- d) Gazebos, trellises, arbors, pergolas, decks, patios, gardens and landscaped areas including fountains, ponds and other water features.
- e) Maintenance and storage buildings.
- f) Signs, as regulated in this chapter.
- g) Fences and walls, as regulated in this chapter.
- h) Parking facilities and garages, either surface (open air) or enclosed.
- i) Home occupations.
- j) Electric vehicle charging stations.
- k) Any other use customarily incidental to a principal use.

Sec. 62-3019. Maximum Number of Units and Set-Aside Requirements.

The maximum number of dwelling units to be developed within the CTRAH IV District shall not exceed 1,320 units.

Twenty (20%) percent of all residential units in any development within the CTRAH IV District, or 264 residential units if the maximum number of units is developed, shall be set aside for very-low, low- and moderate-income households in accordance with the standards set forth in Sec. 62-2922.

Sec. 62-3020. Area and Bulk Requirements.

- 1) Tract requirements:
 - a) Tract area: 100 acres, minimum
 - b) Tract density: 1,320 Dwelling Units, maximum
 - c) Tract coverage: 55% of the Tract, maximum (impervious coverage)

- 2) Principal Building requirements:
 - a) Building height. The maximum building height shall be as follows:
 - i. Multifamily dwellings: 4 stories and 55 feet
 - ii. All other dwellings: 3 stories and 40 feet

Building height shall be measured from the finished floor to the middle point of a pitched roof or the top of a flat roof; provided, however, that roof appurtenances, such as parapets, rooftop machinery and rooftop recreation facilities shall not be included in building height.

Floor levels in multifamily buildings that are devoted entirely to parking shall not count as a story.

- b) Building setbacks: The minimum building setbacks shall be as follows:
 - i. From Ridge Road street line (right-of-way line): 100 feet *
 - ii. From Perrine Road street line (right-of-way line): 100 feet *
 - iii. From any other perimeter line on the Tract: 20 feet *

* Setback dimensions shall be measured from the location of the above lines as they exist at the time of the adoption of the ordinance from which this Section derives.

- c) From other buildings: 20 feet, minimum. Building-to-building separation requirements do not apply to individual units that are attached within a building.

d) Building projections such as roof overhangs, stoops, steps, chimneys, bay windows, and related architectural elements, shall be permitted to extend into required setbacks, to a maximum of four (4) feet.

e) Building extensions for outdoor living such as decks, patios, and terraces shall be permitted to extend into required setbacks, to a maximum of ten (10) feet.

3) Building width. The minimum building width shall be as follows:

- a) Townhomes: 20 feet
- b) All other buildings: no minimum

4) Special development regulations for single-family dwellings and townhouse dwellings.

The following regulations shall apply to any fee simple lots that are created for single-family dwellings and/or townhouse dwellings, in addition to the other regulations set forth herein.

- a) Lot area:
 - i. Single-family dwellings, detached: 5,000 square feet, minimum
 - ii. Townhouses or attached dwellings: 2,000 square feet, minimum
- b) Lot width:
 - i. Single-family dwellings, detached: 40 feet, minimum
 - ii. Townhouses or attached dwellings: 20 feet, minimum
- c) Lot coverage:
 - i. Single-family dwellings, detached: 60 percent, maximum
 - ii. Townhouses or attached dwellings: 80 percent, maximum
- d) Front setbacks:
 - i. Single-family dwellings, detached: 10 feet, minimum
 - ii. Townhouses or attached dwellings: 10 feet, minimum

- e) Side setbacks:
 - i. Single-family dwellings, detached: 5 feet, minimum
 - ii. Townhouses or attached dwellings: 0 feet, minimum
- f) Rear setbacks:
 - i. Single-family dwellings, detached: 15 feet, minimum
 - ii. Townhouses or attached dwellings: 10 feet, minimum

In addition to the bulk regulations set forth above, only one use per lot shall be permitted for single-family dwellings or townhouse dwellings, except that townhouse lots which include an affordable unit may include an additional stacked or interlocking dwelling in accordance with the affordable housing requirements in Sec. 62-2922.

Sec. 62-3021. Buffering and Landscape Requirements.

- 1) Buffer dimensions. The minimum buffer widths shall be as follows:
 - a) From Ridge Road right-of-way line: 50 feet, minimum *
 - b) From Perrine Road right-of-way line: 50 feet, minimum *
 - c) From any other Tract perimeter line: 25 feet, minimum *

* Buffer dimensions shall be measured from the location of the above lines as they exist at the time of the adoption of the ordinance from which this Section is derived. The buffer requirement shall not apply to any lot that is developed with a single-family detached dwelling.

- 2) The buffer shall be maintained as a landscaped area and no structures shall be permitted within the buffer except for access drives, fencing, recreation paths, walkways, stormwater basins, utilities and/or signs. Stormwater basin(s) in the buffer shall include landscaping and/or fencing for safety and aesthetic, provided that same shall not be required where it will compromise functionality of the basin.
- 3) The buffer landscaping shall consist of a combination of trees and shrubs, and may also include ornamental grasses, perennials, and annuals.
- 4) The minimum planting height for shrubs shall be 3 feet and the minimum planting height for trees shall be 8 feet.

- 5) Where existing vegetation is preserved, new plantings shall not be required.
- 6) Buffers may include a privacy fence (solid or open).
- 7) Building projections such as roof overhangs, stoops, steps, chimneys, bay windows, and related architectural elements, shall be permitted to extend into required buffers, to a maximum of four (4) feet.
- 8) Building extensions for outdoor living such as decks, patios, and terraces shall be permitted to extend into required buffers, to a maximum of ten (10) feet.

Sec. 62-3022. Parking Requirements.

- 1) All off-street parking requirements, including the number of off-street parking spaces and the dimensional aspects of same, shall be in accordance with the Residential Site Improvement Standards.
- 2) Accessory uses such as clubhouses or recreation areas shall provide 1 parking space per 200 square foot of floor area.

Sec. 62-3023. Design Regulations.

- 1) Architecture.
 - a) Roofs. Flat and/or pitched roofs shall be permitted.
 - b) Residential density per building. No single building shall have more than 100 Dwelling Units.
- 2) Landscape Architecture.
 - a) All areas that do not contain buildings or structures shall be landscaped with plantings and/or lawn.
 - b) All plant materials shall be in accordance with "The American Standards for Nursery Stock"
- 3) Access, Circulation, and Parking Design.
 - a) All access, circulation, and parking dimensions shall be in accordance with RSIS and the Americans with Disabilities Act ("ADA").
 - b) Parking areas shall be permitted in any yard, including the front yard, provided the buffer requirements set forth above are met.
- 4) Stormwater and Utility Design.

- a) All stormwater shall be in accordance with RSIS and the New Jersey Department of Environmental Protection (NJ DEP) requirements.
 - b) All utility design shall be in accordance with RSIS and NJ DEP requirements.
 - c) All stormwater basins shall be appropriately fenced and/or landscaped.
- 5) Lighting.
- a) All freestanding light fixtures shall be no higher than 20 feet above grade level.
 - b) The maximum illumination at all abutting existing residential property lines shall be 0.5 footcandles.
 - c) Light fixtures shall be shielded and shall utilize metal halide, LED or other white light source.
- 6) Refuse.
- a) All refuse and recycling storage shall be fully enclosed and screened within the building or, if outside, within a refuse enclosure that is a minimum of 6 feet high on all sides.
 - b) The refuse enclosure shall include a separate access gate for persons, aside from the main gate for vehicle access.
- 7) Fences and Walls
- a) Fences and walls shall be permitted in any yard, including the front.
 - b) Fences and walls in the front yard shall be a maximum of 4 feet high.
 - c) Fences in the front yard shall be 50% open.
 - d) Fences and walls in yards other than the front yard shall be a maximum of 6 feet high.
- 8) Signs.
- a) One roadside entry sign shall be permitted at each accessway along Ridge Road and Perrine Road.
 - i. The maximum sign area for any roadside entry sign shall be 60 square feet.
 - ii. The maximum sign height for any roadside entry sign shall be 8 feet.
 - b) One wall sign shall be permitted per multifamily building. The maximum sign area for any wall sign on a multifamily building shall be 60 square feet.

- c) Directory ground signs shall be permitted within the interior of the Tract, to identify or distinguish different neighborhoods or clusters of building types within the development.
 - i. Directory signs shall not exceed 16 square feet in area.
 - ii. Directory signs shall not exceed 8 feet in height.
 - d) Directional ground signs shall be permitted within the interior of the Tract, to facilitate wayfinding to amenity areas such as clubhouses or neighborhoods or clusters of building types within the development.
 - i. Directional signs shall not exceed 16 square feet in area.
 - ii. Directional signs shall not exceed 8 feet in height.
 - e) All signs within the Tract shall be designed in a cohesive manner.
- 9) Mechanical Equipment.
- a) Air conditioning units, HVAC systems, exhaust pipes or stacks, and related mechanical equipment and elevator housing shall be screened to minimize visual impact.

Sec. 62-3024. Additional Affordable Housing Standards.

Townhouses shall be permitted to be arranged in a stacked or interlocking fashion, whereby an affordable housing unit shall be permitted to be located vertically above or vertically below a market rate unit.

Sec. 62-3025. Recreational Amenities.

Development within the Tract shall include areas for active recreation in accordance with the standards set forth below.

- 1) "Active recreation" shall mean leisure-time activities, usually of a formal nature and often performed with others, requiring equipment and taking place at prescribed buildings, sites, courts, or fields. Types of active recreational uses and structures shall include, by way of example, swimming pools, tennis courts, basketball courts, clubhouses, ballplaying and children's play structures (tot lots)

2) One or more active recreation areas shall be permitted with the Tract. It shall be encouraged that recreation areas be dispersed throughout the Tract. There shall be at least one active recreation area located within 2,000 feet of every dwelling unit within the Tract.

3) One or more active recreation uses or structures shall be permitted within an active recreation area. For example, an active recreation area shall be permitted to consist of a single tot-lot or a tot-lot in combination with a pool or clubhouse or other active recreation uses. Clustering of active recreation uses and structures within an active recreation area shall be encouraged but not required.

4) Active recreation areas shall be delineated by fencing or landscaping and shall be available and accessible to all dwelling units within the Tract. Open lawn areas shall be permitted in lieu of the above uses or structures where providing same is impracticable, and in the interest of inviting spontaneous play or lawn games, such as bocce, croquet, badminton, frisbee, corn hole, or the like.

5) Deviations from the above standards shall be considered design exceptions, not variances, and relief shall be subject to the criteria set forth in N.J.S.A. 40:55D-51 i.e. reasonableness and impracticability.

Secs. 62-3026 - 62-3040. Reserved.

Subdivision VI. Court's Third Round Affordable Housing (CTRAH) V District.

Sec. 62-3041. Property Included in CTRAH V District.

The CTRAH V District shall consist of those properties known as Block 96, Lots 29.01 & 29.02 on the Tax Maps of the Township of South Brunswick, encompassing approximately 12.9 acres located generally in the area of 127-129 New Road.

Sec. 62-3042. Uses Permitted.

Uses permitted in the CTRAH V District are:

- 1) Multifamily residential units.

Sec. 62-3043. Uses permitted as conditional uses.

Uses permitted as conditional uses in the CTRAH V District shall be subject to approval under N.J.S.A. 40:55D-67 by the planning board, zoning board, court or court-appointed hearing officer, as the case may be (the "Approving Authority"). 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.
- 2) Activities of a quasi-public, social or fraternal character.

Sec. 62-3044. Accessory uses permitted.

Accessory uses permitted in the CTRAH V District:

- 1) Private garages.
- 2) Electric vehicle charging stations.
- 3) Parking lots.
- 4) Public utility uses.
- 5) Community swimming pools, tennis courts, basketball courts, handball courts, tot lots, child care facilities, volley ball courts, picnic tables, chess tables, benches and other recreational facilities.
- 6) Gazebos, trellises, arbors, pergolas, decks, patios, parks, gardens and landscaped areas including fountains, ponds and other water features.
- 7) A clubhouse, including, but not limited to: a fitness center; multi-purpose rooms; wellness center; leasing office; entertainment center; childcare center; meeting rooms; resident food and beverage area; and business center.
- 8) Maintenance and storage buildings not higher than 2 stories and 35 feet.
- 9) Fences and walls, as regulated by this chapter.
- 10) Signage:
 - a. Entry signs: There may be up to two freestanding entry signs, each not higher than 6 feet and each with a sign area not larger than 50 square feet. Monument type signs are permitted. Where practical, the sign base shall be decorative and the ground adjacent to the sign shall be landscaped.

b. Incidental signs: There may be incidental signs including but not limited to those containing building or apartment identification numbers, rules, directions, maps and similar information. Up to 3 flagpoles shall be permitted. No flagpole shall be higher than the residential buildings. Flags of the United States of America, the state of New Jersey and flags identifying or promoting the development or its owner are acceptable.

c. Sign lighting: Signage may be illuminated by internal light sources or by focused (spot) light sources. No sign shall be lighted by means of flashing or intermittent illumination. Sign lighting shall not transmit glare to motorists or to the windows of residential buildings on or off the Tract.

Sec. 62-3045. Maximum Number of Units and Set-Aside Requirements.

1) If the New Jersey Department of Environmental Protection issues a wetlands fill permit, up to 230 total residential units shall be built in the CTRAH V District, of which 15% (35 units) shall be set-aside for affordable housing.

2) If the New Jersey Department of Environmental Protection fails to issue a wetlands fill permit, up to 220 total residential units shall be built in the CTRAH V District, of which 15% (33 units) shall be set aside for affordable housing.

3) All units set aside for affordable housing shall be developed in accordance with the standards set forth in Sec. 62-2922.

Sec. 62-3046. Tract and open space requirements.

1) The Tract bulk standards associated within the CTRAH V District 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.

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. Open space for the purposes herein, is defined as land that is covered with neither buildings nor pavement.

4) Tract buffers. A landscaped buffer twenty (20) feet wide shall be provided along property lines common to Block 96, Lot 37.011, a residentially-zoned parcel, also known as 141 New Road, Monmouth Junction:

- From the southeast corner of the Tract, 225 feet north along the Tract's eastern property line.
- From the same southeast corner of the Tract, 140 feet west along the Tract's southern property line.

5) The following encroachments into the Tract buffers are permitted:

a) Pedestrian trails, sidewalks, benches, signs, retaining walls, landscaped areas, berms and fencing are permitted in Tract buffer areas.

b) Emergency access if required by the Township.

- c) Stormwater facilities are not permitted within Tract buffers.

Sec. 62-3047. Tract Area, Yard, and Density Requirements.

- 1) The maximum yield shall be 230 residential units.
- 2) The maximum impervious coverage shall be 70%.
- 3) Multiple principal buildings shall be allowed on a single lot.
- 4) No building shall exceed 244 feet in length, 62 feet in depth and 50 feet in height, except as regulated by the height exception provision of Section 62-2341.
- 5) Residential buildings shall be set back at least:
 - a) 75 feet from New Road, the Tract's eastern property line (front yard set- back).
 - b) 20 feet from Kendall Woods, the Tract's western property line (rear yard setback).
 - c) 30 feet from the Tract's southern property line (side yard setback).
 - d) 29 feet from the Tract's northern property line (side yard setback).
 - e) 10 feet from any street.
 - f) 8 feet from the portion of any parking space where a vehicle overhangs a sidewalk and 6 feet from all other parking spaces; No setbacks shall be necessary from parking spaces in driveways leading to garages integral to buildings
 - g) 3 feet from any drive aisle between buildings leading to parking behind buildings.
 - h) Minimum distances between residential buildings shall be 30 feet, measured from exterior wall to exterior wall, ignoring covered and uncovered stairs, stoops, stairways, balconies, decks, cornices, eaves, gutters, bay windows, chimneys and other projections from buildings.
- 6) The development must be served by public water and sanitary sewer service.

Sec. 62-3048. Parking, Sidewalk and Drive Aisle Requirements.

- 1) **Parking:** The parking requirements of the Residential Site Improvement Standards shall apply. However, the Approving Authority may grant a de minimis exception to such standards upon a showing that the proposed parking plan is sufficient to serve the parking needs of the particular use and site, including but not limited to such factors as household characteristics, availability of off-site parking resources, location of site, availability of mass transit, proximity to schools and proximity to public recreation facilities. In all cases, a minimum of 1.5 spaces for one-bedroom units and 1.75 spaces for two and three-bedroom units, inclusive of guest parking requirements, shall be provided.
- 2) Parking and parking setbacks are as follows:
 - a) No parking is allowed within Tract buffers.
 - b) Parking and drive aisles shall be permitted in all building setback areas.
 - c) Drive aisles to parking spaces shall be permitted between buildings.

d) Parking lots shall be set back a minimum of 5 feet from the Tract property line common to the lands of the Kendall Park Volunteer Fire Company, New Road Solar and the Tract property line common to Kendall Woods park.

3) Sidewalks: The sidewalk requirements of the Residential Site Improvement Standards shall apply. However, the Approving Authority may grant a de minimis exception to such standards upon a showing that the proposed pedestrian circulation plan is sufficient to serve the pedestrian circulation needs of the particular use and site, including but not limited to such factors as existence of a comprehensive sidewalk network, amount of pedestrian generation, reasonable expectation of use or nonuse of specific portion(s) of the sidewalk network, danger minimization by selective omission of sidewalks adjacent to storm water management facilities and Tract perimeters, except where necessary to provide safe access to parallel parked vehicles.

4) Drive aisles shall be designed for a posted speed limit of 15 mph, or such other speed limit as design constraints permit.

5) The minimum curb radii provided at the intersections of drive aisles shall be 20 feet or such other measurement as design constraints or the Approving Authority shall permit.

Sec. 62-3049. 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.

Sec. 62-3050. Trash and Recycling Enclosures.

1) There shall be one enclosure of at least 240 square feet for every three (3) residential buildings for trash and recycling.

2) Trash and recycling enclosures shall be completely surrounded by a solid architectural masonry wall and solid gate. Wall and gate height shall be sufficient to shield the contents of the enclosure from public view. All similar accessory appurtenances, such as propane tanks, shall be similarly enclosed.

Sec. 62-3051. Recreational facilities.

Section 62-206(5) e shall not apply to the CTRAH V District. Instead, 80 square feet of recreational facilities per housing unit shall be provided. Recreational facilities in the CTRAH V District may include a clubhouse, pool, pool area, courtyards, linear parks, pocket parks and fenced off play areas designated for children of different ages. Benches, chess tables and picnic tables located in areas not included within other recreational areas, shall each be a minimum of 200 square feet of recreational facilities.

Sec. 62-3052. Additional Affordable Housing Standards.

1) The affordable units shall comply with the following income-based allocation:

a) If 35 affordable residential units are built, five (5) units, or 14.3% 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; thirteen (13) units, or 37.1% of the affordable units, shall be affordable to low-income households, defined as those households earning greater than 30 percent and no more than 50 percent of the regional median income; and seventeen (17) units, or 48.6% of the affordable units, shall be affordable to moderate-income households, defined as those households earning greater than 50 percent and no more than 80 percent of the regional median income.

b) If only 33 affordable residential units are built, the allocation of units shall remain at five (5) very low and twelve (12) low, leaving sixteen (16) units for moderate-income households.

2) The affordable units shall comply with the following bedroom-based allocation:

a) If 35 affordable residential units are built, there shall be seven (7) three bedroom units (1 very-low, 3 low and 3 moderate), twenty-one (21) two bedroom units (3 very-low, 7 low and 11 moderate) and seven (7) one bedroom units (1 very-low, 3 low and 3 moderate).

b) If only 33 affordable residential units are built, the bedroom-based allocation of units shall be seven (7) three bedroom units (1 very-low, 3 low and 3 moderate), twenty (20) two bedroom units (3 very-low, 7 low and 10 moderate) and six (6) one bedroom units (1 very-low, 2 low and 3 moderate).

Sec. 62-3053. Conflicts in Standards.

The Residential Site Improvement Standards and the CTRAH V standards set forth herein shall supersede all conflicting standards.

Secs. 62-3054 - 62-3070. Reserved.

Subdivision VII. Court's Third Round Affordable Housing (CTRAH) VI District.

Sec. 62-3071. Property Included in CTRAH VI District.

The CTRAH VI District shall consist of those properties known as Block 95, Lots 48.011, 49, 50.02, 50.03, 50.04, 50.06 & 50.07 on the Tax Maps of the Township of South Brunswick, encompassing approximately 28 acres located generally in the area of U.S. Route 1 South and Pinter Lane.

Sec. 62-3072. Permitted Uses.

The following uses shall be permitted in the CTRAH VI District, subject to the design standards of this Article:

- 1) Townhouse (attached dwellings)
- 2) Multifamily dwellings, including apartments

Sec. 62-3073. Accessory Uses.

The following accessory uses are permitted in the CTRAH VI District, subject to the requirements of this Article:

- 1) Uses and structures customary and incidental to the principal use, including but not limited to: Recreation Center that may include meeting rooms, gyms, and other amenities.

Sec. 62-3074. Maximum Number of Units and Set-Aside Requirements.

The maximum number of dwelling units to be developed within the CTRAH VI District shall not exceed 145 units.

Twenty-five (25%) percent of all residential units in any development within the CTRAH VI District, or 36 residential units if the maximum number of units is developed, shall be set aside for very-low, low- and moderate-income households in accordance with the standards set forth in Sec. 62-2922.

Sec. 62-3075. Tract Area, Yard, and Density Requirements*

- 1) Maximum density shall not exceed six (6) dwelling units (DU) per gross acre.
- 2) Minimum tract size shall be twenty-five (25) acres.
- 3) Minimum tract width shall be ninety (90) feet
- 4) Minimum tract depth shall be five hundred (500) feet.
- 5) Minimum setbacks shall be as follows:
 - a) Front yard from US-1 frontage: twenty (20) feet.
 - b) Side yard; Townhouse Building: fifty (50) feet, perimeter setback from tract perimeter; not unit to unit.
 - c) Side yard; Multifamily Building: twenty (20) feet.
 - d) Side yard; Parking: fifteen (15) feet.
 - e) Rear yard; Building: fifty (50) feet, perimeter setback from tract perimeter; not unit to unit.
 - f) Rear yard; Parking shall be thirty (30) feet.
 - g) Freshwater transition area; ten (10) feet.
- 6) Maximum impervious coverage shall be forty-five percent (45%)
- 7) Maximum building coverage shall be twenty percent (20%)
- 8) Maximum building height shall be three (3) stories and forty (40) feet, except as regulated by the height exception provisions of Section 62-2341.
- 9) Minimum market rate townhouse width shall be twenty (20) feet.
- 10) Minimum Distance between buildings shall be as follows:

- a) Side-to-Side: thirty (30) feet
- b) Side-to-Rear: forty (40) feet
- c) Rear-to-Rear: forty (40) feet

11) The dwelling unit setback from the edge of high water for detention basins as set forth in in §62-2576(b)(8) shall not apply to inclusionary developments within the CTRAH VI District. No dwelling shall be closer that twenty-five (25) feet to the mean high water line, such that the basin is properly secured using best safety and engineering practices. All basins shall have fencing installed around them.

*Lots created only for individual (fee-simple) ownership are not subject to overall tract standards. No such ownership lot shall be less than two-thousand (2,000) square feet.

Sec. 62-3076. Parking Standards.

Parking will be provided in sufficient quantity per the Residential Site Improvement Standards (RSIS). Parking will be provided in private garages, driveways and on surface lots.

Sec. 62-3077. Signage.

Signs shall be in harmony and consistent with the architecture of the building and relate to the features of the building in terms of location, scale, color, lettering, materials, texture and depth. Signs shall not block the sight easement or sight distance areas.

1) The following will be allowed:

a) Two (2) project identification signs per exit/entrance. Such ground signs shall not exceed six (6) feet in height and shall not exceed ninety (90) square feet. Such signage shall be located no closer than 5 feet to any property line and shall not be located within the sight triangle of any intersection or access drive with a public street. The sign shall incorporate the design and materials that match the architecture of the development.

b) Way finding signage to direct visitors toward parking areas, building identification, building entrances and activity centers is permitted as appropriate. Way finding signage shall be no greater than ten (10) square feet per sign.

2) A comprehensive signage plan shall be submitted for each site which clearly indicates the location, dimension, area, color and materials of all existing and proposed permanent signs and provide a detail of each proposed sign.

Sec. 62-3078. Trash and Recycling.

1) For multifamily apartments there shall be trash and recyclables storage areas completely surrounded by a six-foot-high solid architectural fence with front solid gates. All outside trash shall be stored in this area and shall not be in public view over the fence height.

2) Each area proposed for multifamily apartments shall include provisions for the collection, deposition and recycling of recyclable materials. Each multifamily apartment development area must provide bins in convenient locations or locations in a common area as drop-offs for storing recyclables until collection occurs. The holding area(s) shall provide for truck access and loading. The holding area(s) shall be of sufficient size and contain other attributes such as signage and lighting as may be determined by the municipal recycling coordinator.

3) All trash and recyclable storage areas for multifamily apartments shall be uniform in function, size and appearance.

4) For for-sale townhouse units, all trash and recyclables collection shall be via curbside pickup pursuant to the requirements of the Township Code.

Sec. 62-3079. Architectural Requirements.

Except as otherwise stated in this Subdivision, the design and performance standards within and without any proposed development in the CTRAH VI District shall conform to the requirements of Sec. 62-206, except as modified by the provisions of this Subdivision.

Sec. 62-3080. Lighting.

Lighting proposed for any development in the CTRAH VI District shall conform to the requirements of Secs. 62-205 and 62-208.

Sec. 62-3081. Recreational Amenities.

A recreation area or areas to serve the needs of the development shall be provided and shall consist of at least the following:

- 1) One or more fenced-off play lots, including play equipment, shall be provided.
- 2) Open fields for general, multi-purpose use shall also be provided.
- 3) Total recreational areas within the development shall be not less than 80 square feet per dwelling unit, with a minimum size of 2,500 square feet for each recreational area.

Sec. 62-3082. Additional Affordable Housing Standards.

All residential development within this district shall be required to include affordable housing as a component. The following requirements shall apply:

- 1) The Township-designated Affordable Housing Administrative Agent shall be responsible to affirmatively market, administer and certify the occupant of each affordable unit, with all administrative costs to be paid by the Developer.

Secs. 62-3082 - 62-3100. Reserved.

Subdivision VIII. Court's Third Round Affordable Housing (CTRAH) VII District.

Sec. 62-3101. Property Included in CTRAH VII District.

The CTRAH VII District shall consist of those properties known as Block 85, Lot 17.014 on the Tax Maps of the Township of South Brunswick, encompassing approximately 14.3 acres located generally in the area of Major Road and Northumberland Way.

Sec. 62-3102. Uses permitted

The following use shall be permitted in the CTRAH VII District:

1) Multifamily dwellings

Sec. 62-3103. Accessory uses and structures permitted.

The following accessory uses are permitted in the CTRAH VII District subject to the requirements of this chapter:

4) Recreational uses.

5) Public utility uses.

6) Signs, as regulated in this chapter.

7) Fences, as regulated in this chapter.

8) Accessory uses and structures on the same lot and customarily incidental to a principal permitted use.

Sec. 62-3104. Maximum Number of Units and Set-Aside Requirements.

The maximum number of dwelling units to be developed within the CTRAH VII District shall not exceed 84 units.

Fifteen (15%) percent of all residential units in any development within the CTRAH VII District, or 13 residential units if the maximum number of units is developed, shall be set aside for very-low, low- and moderate-income households in accordance with the standards set forth in Sec. 62-2922.

Sec. 62-3105. Area, yard and density requirements.

1) The minimum tract size is 14 acres.

2) Maximum gross density is 7 units per acre.

3) Minimum side yard- 25 feet and minimum rear yard- 10 feet.

4) No building or structure shall exceed 40 feet, and three stories, except as regulated by the height exception provisions of this chapter.

5) A minimum of 40 percent of the total tract area must be reserved as open space to be devoted to passive and active recreational uses. All delineated wetlands, transitional areas and riparian areas shall be included as open space areas.

6) Public sewer and water must be provided.

Sec 62-3106. Off-street parking requirements.

Off-street parking in the CTRAH VII District shall be provided in compliance with Residential Site Improvements Standards (R.S.I.S.).

Secs. 62-3107 - 62-3120. 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.

The above ordinance was introduced and passed (under protest) on first reading at a meeting of the Township Council of the Township of South Brunswick held on February 25, 2020. It was scheduled for a hearing on March 24, 2020, but was tabled at that time to April 28, 2020, at which time it was tabled again to May 26, 2020, at which time it was amended. It will be considered on second and final reading and final passage (under protest) at a meeting of the Township Council of the Township of South Brunswick to be held either: (1) at the Municipal Building, Monmouth Junction, New Jersey; or, if that is not possible, (2) via video conference, at 6:00 p.m. on June 23, 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.

RESULT: ADOPTED [UNANIMOUS]

MOVER: Joseph Camarota, Deputy Mayor

SECONDER: Archana "Ann" Grover, Councilwoman

AYES: Joseph Camarota, Archana "Ann" Grover, Charlie Carley

ABSENT: Ken Bierman, Josephine "Jo" Hochman

This is to certify that the foregoing is a true copy of a Ordinance Amended at the South Brunswick Township Council meeting held on June 23, 2020.

APPENDIX G

TOWNSHIP OF SOUTH BRUNSWICK

**2017 SANITARY SEWER SYSTEM CAPACITY AND FLOW
STUDY**

APRIL 19, 2018

OUR FILE NO. M-300-110-000

Richard A. Alaimo Associates
- Consulting Engineers -

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EXECUTIVE SUMMARY

The Township of South Brunswick authorized Richard A. Alaimo Associates to conduct a Capacity and Flow Study of the Township's major sanitary sewer interceptors in the spring of 2017. The first step of this study was to perform flow monitoring to identify areas within the sanitary sewer system that have problems with infiltration and inflow (I & I). The flow data were then analyzed and recommendations were made for both further investigations and corrective actions that would help mitigate the problems identified.

The Township is divided into two service areas. The eastern side of the Township's wastewater system flows to the Middlesex County Utilities Authority (MCUA) and the western side flows to the Stony Brook Regional Sewerage Authority (SBRSA). Flow meters were installed at thirteen locations along five interceptors for a two month period starting in early June 2017. Three flow meters each were placed along the Kingston and Ridge Road interceptors, which discharge to the SBRSA. Also, three flow meters each were placed in the Oakeys Brook and Town Center interceptors and one in the Route 130 interceptor. All three of these interceptors discharge into the MCUA system.

Given the age of the Township's sewage collection system and the proximity of some of the sewer mains to water bodies, it was not surprising to see significant I & I flows measured in the interceptors. The most significant I & I was measured in portions of the Oakeys Brook, Town Center and Ridge Road interceptors. Recommendations for further investigation and rehabilitation within these interceptors are presented at the end of this report. The report also addresses the remaining capacity of the interceptors so that there will be a basis for deciding whether sufficient capacity exists to allow for future connections within each drainage basin. The downstream portions of the Oakeys Brook and Ridge Road interceptors proved to be currently over capacity and little remaining capacity is shown to exist in an upstream portion of the Oakeys Brook Interceptor and the two upstream portions of the Ridge Road Interceptor. New sewer main construction may be required to allow future flows into these lines.

I. INTRODUCTION

In accordance with South Brunswick Township Resolutions No. RES-2017-132 and RES-2017-211, Richard A. Alaimo Associates (Alaimo) has conducted a study to determine the magnitude of inflow and infiltration (I & I) in the Township's major sanitary sewer interceptors. The goal of this study is to use flow metering data to identify areas prone to I & I problems, recommend areas for further study and recommend corrective actions.

This study is a follow-up to a previous study performed by Alaimo in 1998 and 1999. A report with recommendations for further investigation and system rehabilitation was presented to the Township dated October 1999. Pipeline inspection and rehabilitation work was performed in 2003 in accordance with the recommendations made in the report.

In May 2017, Alaimo retained the services of CSL Services Incorporated (CSL), to perform flow monitoring and provide an analysis of the flow monitoring results. The flow monitoring was conducted within the Kingston, Ridge Road, Oakeys Brook, Town Center and Route 130 interceptors. A total of thirteen flow meters and two rain gauges were installed and monitored over the two month period. CSL presented the results of their analysis of the data collected during this period in a report dated November 1, 2017. Their report is included as Appendix A of this report.

CSL started collecting data from the flow meters and rain gauges on June 10, 2017 and continued doing so until August 10, 2017. During this period, there were eleven rain events with rainfall ranging from less than 0.2 inches to almost two inches per event. This weather pattern provided a good look at how the collection system is affected by various rainfall amounts. Also, the flow meters were installed at the end of a short period without rain, so the first week of data collection could be used as the dry weather benchmark period.

After the measurement period was completed, CSL presented the raw data to Alaimo along with simple statistical analyses in early September 2017. CSL also conducted further analyses of the data and prepared the November 2017 report that provided estimates of the dry weather flow, wet weather flow and rainfall induced infiltration and inflow (RDII) quantities.

Typically, inflow and infiltration are caused by a combination of the following:

Inflow

- Surface water leakage through manhole covers.
- Discharge from basement sump pumps.

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- Consulting Engineers -

- Roof drain connections to the sanitary system.
- Storm sewer connections.

Infiltration

- Groundwater leakage through cracks or broken seals in sewer pipes and manholes.
- Groundwater leakage through poorly laid or broken private laterals.

II. METHODOLOGY

The Township is divided into two separate service areas with multiple drainage basins based on the direction of flows through the sanitary system to the receiving regional systems. Each drainage basin is served by an interceptor sewer main that conveys sewage to a point where it is transferred to the respective regional system. Manhole locations were identified within five interceptors to isolate the drainage basins and their flows. The manholes that were identified were then inspected to ensure the condition of the system and potential for use in the installation of metering devices.

Figure 1 shows a map of the entire Township with the service areas, drainage basins, and manholes used for metering identified.

The meters used in this study were the area/velocity type. The flow meter consists of sensors that measures depth, which is used for calculating the area of the pipe, and velocity measurements, which are used in determining the flow rate through the pipe. The depth and velocity measurements were taken every five minutes using pressure and/or ultrasonic sensors. Two rain gauges were installed, one in each service area, to record the rain events during the flow metering. The locations of the rain gauges are also shown in Figure 1.

III. SEWER SYSTEM AREA

The Township's sanitary sewer system is divided into two service areas that flow to either Stony Brook Regional Sewerage Authority (SBRSA) in Princeton or the Middlesex County Utilities Authority (MCUA) in Sayreville. Within the two service areas, the major sewer interceptors of concern were identified. In the SBRSA the interceptors investigated were Kingston and Ridge Road. The Oakeys Brook, Town Center, and the Route 130 interceptors were investigated in the MCUA service area.

Each of the interceptors identified were used as the basis in creating drainage basins that were then sub-divided into smaller sub-basins to facilitate ease of monitoring and data collection. Descriptions on the locations of meter installations within the sub-basins are listed below:

- Kingston Interceptor

The Kingston drainage basin was split into three sub-basins. The first meter was installed in a manhole near a baseball field on Quentin Road. The meter was placed in an eighteen inch diameter pipe. The second meter was placed in a twenty-four inch diameter pipe located in the woods off of Ridge Road. The final meter was installed in a thirty inch diameter pipe in the woods off of Ridge Road. Those last two meters were installed in two parallel pipes in order to capture the total flow in the downstream part of the drainage basin. It must be noted, however, that not all of the Kingston drainage basin consists of parallel lines and that approximately 10,000 feet of single twenty-four inch sewers comprise this drainage basin between the K1 and K2, K3 sites. In total the Kingston drainage basin consists of 255,117 linear feet of pipe that includes eight inch through thirty inch diameter pipe.

- Ridge Road Interceptor

The Ridge Road drainage basin was divided into three sub-basins. The first meter was installed in a manhole along Stouts Lane in a twenty inch diameter pipe. The second meter was placed in a twenty-one inch diameter pipe located on the southbound side of Route 1 across from a lake located next to the Kilgore Center. The final meter was installed in a twenty-four inch diameter pipe in the woods off of Ridge Road. In total the Ridge Road drainage basin consists of 191,884 linear feet of pipe that includes eight inch through twenty-four inch diameter pipe.

- Oakeys Brook Interceptor

The Oakeys Brook drainage basin was separated into three sub-basins. The first meter was installed in a manhole along Black Horse Lane in an eighteen inch diameter pipe with flows coming from Henderson Road. The second meter was placed in a twelve inch diameter pipe along Black Horse Lane with flows coming from Deans Lane. The pipes into which the first and second meters were placed join together on Black Horse Lane, from which point flows continue towards Route 130. The final meter was installed in a twenty-one inch diameter pipe across the street from Pump Station No. 10. In total the Oakeys Brook drainage basin includes 142,708 linear feet of pipe that consists of eight inch through twenty-one inch diameter pipe.

- Town Center Interceptor

The Town Center drainage basin was split into three sub-basins. The first meter was installed in a manhole off of Major Road in a twelve inch diameter pipe. The second meter was placed in a twenty-four inch diameter pipe along Deans Pond Lane. This line does not receive flow from the pipe in which the first meter along this drainage basin is located, but it will receive flow from the proposed South Brunswick Center development. The final meter was installed in a thirty-six inch diameter pipe located next to the Teyma building off of Route 130 along the creek. In total the Town Center drainage basin consists of 57,495 linear feet of pipe that includes eight inch through thirty-six inch diameter pipe.

- Route 130 Interceptor

The meter used to measure the Route 130 drainage basin was placed in a thirty-six inch diameter pipe in a manhole near the intersection of Route 130 and Viking Way. In total the Route 130 drainage basin consists of 93,592 linear feet of pipe that includes eight inch through thirty-six inch diameter pipe.

IV. FLOW ANALYSIS

CSL conducted an analysis of the data recorded from June 2017 through August 2017 in the Township's collection system. The results of this analysis are shown in Table 1, which is a copy of Table 3.2 of the CSL report. CSL first separated the data into two time periods. The first is the "dry" period prior to the first rainfall event of the study period. This period ran from June 10 through June 16. Since the previous recorded rainfall for the area occurred on June 6, the "dry" period reflects the system flows over a ten day period with no rain. CSL then estimated the amount of dry weather infiltration (DWI) by assuming eighty-five percent of the minimum flow through the pipes during this period came from seepage of groundwater into the pipes and manholes. This is a good baseline estimate of the constant flow of groundwater into the collection system. These flows will be higher during the late winter/early spring when groundwater levels are higher than they were during this study period.

The second time period was the wet weather period (June 17 – August 11) when flows were analyzed and statistical projections were made to predict the rates of flow in the interceptors after a twenty-four hour rain event with a two-year frequency. This flow rate represents the Rain Derived Infiltration and Inflow (RDII) for each metering location. The RDII was then divided by the total length of sewers upstream from the metering location to obtain the RDII/LF value which can be used to compare the relative integrity of each sewer sub-basin. A ranking of each sub-basin was then generated based upon this comparison and the resulting priority for further investigation and rehabilitation is shown in Table 1.

Table 1
South Brunswick Township
Interceptor Flow Studies
Flow Monitoring Data Analysis

Sub-Basin Details					Dry Weather Results										Wet Weather Results					
Site	Sewer Service Area	Pipe Diameter (in)	Sub-basin Size (LF)	Silt Debris, Gravel, Grease	Average			Minimum			Peak				Net Flow (mgd)	Net RDII 2 yr-24 hr (mgd)	Net RDII per LF (gpd/LF)	Priority	Peak Depth (in)	Peak Depth/Diameter (%)
					Depth (in)	Depth/Diameter (%)	Velocity (fps)	Flow (mgd)	Min Flow (mgd)	DWI (mgd)	Depth (in)	Depth/Diameter (%)	Velocity (fps)							
K1	SBRSA	18	138,720	0	1.77	10%	1.22	0.16	0.00	0.00	4.13	23%	3.9	0.693	1.420	10.23	7	7.82	43%	
K2		24	118,222	0	6.93	29%	1.68	0.82	0.44	0.38	8.65	36%	2.0	0.915	1.701	14.39	6	20.75	86%	
K3		30	118,222	0	3.43	11%	3.36	0.68	0.43	0.37	4.37	15%	3.9	0.707	0.74	6.26	11	7.61	25%	
OB1	MCUA	18	23,195	0	5.76	32%	1.88	0.60	0.24	0.20	7.69	43%	2.5	1.093	0.97	41.82	1	25.8	143%	
OB2		12	109,248	0	3.56	30%	1.50	0.16	0.06	0.05	4.47	37%	2.1	0.351	0.19	1.74	13	8.06	67%	
OB3		20	10,265	0	5.78	29%	2.58	0.91	0.39	0.33	7.02	35%	3.8	0.056	0.28	27.28	3	10.5	52%	
TC1	MCUA	24	18,216	0	5.38	22%	1.10	0.39	0.10	0.08	7.20	30%	1.7	0.856	0.128	7.01	10	12.24	51%	
TC2		24	6,246	0	0.54	2%	0.43	0.01	0	0	1.01	4%	0.9	0.024	0.019	3.02	12	5.23	22%	
TC3		36	33,033	1.5	13.94	39%	0.69	1.08	0.55	0.47	15.5	51%	1.3	1.697	0.648	19.61	4	31.04	86%	
RR1	SBRSA	20	112,110	0	8.36	42%	1.48	0.84	0.37	0.32	10.38	52%	2.2	1.513	0.848	7.56	9	44.75	224%	
RR2		21	49,102	0	7.64	36%	1.87	0.97	0.42	0.36	10.5	50%	2.4	0.285	0.824	16.78	5	43.47	207%	
RR3		24	30,672	0	11.34	47%	1.67	1.58	0.77	0.65	14.47	60%	2.2	0.966	1.085	35.37	2	31.25	130%	
RT130	MCUA	36	93,592	0	9.91	28%	1.19	1.24	0.40	0.34	12.38	34%	1.8	2.214	0.83	8.87	8	14.9	41%	
Total			860,843											9.683	199.97					

Note: The metering points K2 and K3 are in parallel sewer mains, allowing for extra capacity. The 24" sewer main directly upstream from the parallel pipes will likely be subject to surcharging.

Table 2
South Brunswick Township
Interceptor Flow Studies
Sewer Capacity Analysis

Interceptor	Monitoring MH	Pipe Diameter, in	Average Dry Weather Flow, MGD	Dry Weather Infiltration, MGD	Dry Weather Connected Flow, MGD	Depth/Diameter (%)	Full Flow, MGD	Committed Capacity Ratio
Kingston	K1	18	0.16	0.00	0.16	10%	1.86	17%
	K2	24	0.82	0.38	0.44	29%	3.27	27%
	K3	30	0.68	0.37	0.31	11%	4.96	13%
Oakeys Brook	OB1	18	0.60	0.20	0.40	32%	1.86	43%
	OB2	12	0.16	0.05	0.11	30%	0.89	25%
	OB3	20	0.91	0.33	0.58	29%	2.29	51%
Town Center	TC1	24	0.39	0.08	0.31	22%	3.27	19%
	TC2	24	0.01	0.00	0.01	2%	3.27	1%
	TC3	36	1.08	0.47	0.61	39%	7.22	17%
Ridge Road	RR1	20	0.84	0.32	0.52	42%	2.29	45%
	RR2	21	0.97	0.36	0.61	36%	2.51	49%
	RR3	24	1.58	0.65	0.93	47%	3.27	57%
Route 130	RT130	36	1.24	0.34	0.90	28%	7.22	25%

V. FINDINGS

A. Interceptor Capacity

The New Jersey Department of Environmental Protection (DEP) requires that sanitary sewers be able to convey twice the average flow from the connected properties while flowing no more than half full. This is to allow for eventual infiltration and inflow during peak storm events. In order to evaluate the remaining capacity of each sewer sub-basin, we started with the Average Dry Weather Flow from Table 1 and subtracted the Dry Weather Infiltration since it is accounted for in the DEP's capacity calculations. The full flow capacity for each pipe diameter was calculated at the minimum allowable slope and a Coefficient of Roughness of 0.013 to reflect the existing pipe material. The Committed Capacity Ratio was then developed by dividing twice the Dry Weather Connected Flow by the full flow capacity. If the resulting value exceeds fifty percent, then the interceptor has insufficient capacity to receive additional connections. As can be seen on Table 2, this occurs only for the OB3 and RR3 metering locations. It should be noted, however, that the OB1, RR1 and RR2 locations have limited remaining capacity. Also, since the interceptors at K2 and K3 are parallel lines, the twenty-four inch interceptor immediately upstream from these locations must be evaluated for capacity issues. The combined dry weather connected flow upstream from these metering points is 0.75 MGD, which would require forty-six percent of the upstream twenty-four inch sewer capacity.

B. Response to Rainfall Events

In addition to having the capacity to transmit sanitary sewage flows in accordance with NJDEP regulations, the collection system must be able to carry infiltration and inflow that would be expected from a periodic rainfall event. CSL used the rainfall expected over a twenty-four hour period with a frequency of every two years based on historic data as its baseline storm. The storm data was obtained from the National Oceanographic and Atmospheric Administration (NOAA) Intensity Frequency Curves for South Brunswick, New Jersey.

As shown in the last column on Table 1, all of the Ridge Road interceptor and the Oakeys Brook interceptor at OB1 can be expected to surcharge at least once every two years. Also, since the interceptors at K2 and K3 are parallel lines, the twenty-four inch interceptor immediately upstream from these locations must be evaluated for possible surcharges during storm events. If the combined RDII from K2 and K3 (2.441 MGD) were to flow through the single twenty-four inch upstream sewer, that sewer would flow at 123% of its capacity, thereby surcharging this line during the two year rain event. It should also be noted that flows in the Town Center Interceptor approach the maximum capacity during the selected storm event. This is likely due to insufficient capacity at Pumping Station No. 10 causing backups into this interceptor.

The Township has already experienced surcharges in the Town Center and Ridge Road interceptors during major storm events. As required, the surcharges were reported to the NJDEP emergency hotline. No enforcement actions were lodged against the Township as a result of timely and appropriate actions taken by the Sewer Utility in response to the surcharges.

C. Base Dry Weather Flows

The analysis performed by CSL on the minimum dry weather flows provides insight into the cost of a leaky collection system to the Township. We have prepared Table 3 to further analyze this relationship. This table separates the interceptors by the regional system to which they discharge and repeats the values for the total feet of sewer mains directly upstream from each measuring site. The estimated volume of dry weather infiltration is also entered for each site. The length of sewer mains within each sub-basin was then used to arrive at a value for the volume of dry weather inflow per linear foot of upstream pipe. This value can be used to help establish priorities for rehabilitation work.

The importance of reducing the volume of dry weather infiltration flow is twofold. First, these flows take up sewer capacity that may be needed for current and future customers. Secondly, the Township must pay for the treatment of this groundwater by the regional sewerage authorities. The magnitude of this flow can be seen for each of the two major collection basins that are totaled on Table 3. These basin totals represent a significant portion of the sewage that is conveyed to the regional treatment authorities each day. For instance, the total flows from South Brunswick to the SBRSA in the months of June and July 2017 averaged 3.31 MGD. Therefore, the estimated total DWI in this basin would represent over forty percent of the total daily flow discharged to SBRSA. While the estimate may be high, it is apparent that DWI significantly increases the amount that the Township must pay to the regional authorities each year. Efforts to reduce the amount of DWI in all sewer mains within the Township should prove cost effective. It will not be possible to eliminate 100% of the DWI, but efforts to do so in the oldest sewer mains and those in the areas of high groundwater will show the largest return on investment.

2017 Sewer Capacity & Flow Study

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April 19, 2018

Table 3
South Brunswick Township
Interceptor Flow Studies
Dry Weather Infiltration Analysis

Interceptor	Monitoring MH	Direct Contributions, LF	Cumulative Contributions, LF	Net DWI, MGD	Net DWI/LF, gpd/lf
Oakeys Brook	OB1	23,195	23,195	0.20	8.62
	OB2	109,248	132,443	0.05	0.46
	OB3	10,265	142,708	0.08	7.79
Town Center	TC1	18,216	18,216	0.08	4.39
	TC2	6,246	6,246	0.00	0.00
	TC3	33,033	57,495	0.39	11.81
Route 130	RT130	93,592	93,592	0.34	3.63
MCUA BASIN TOTAL				1.14	
Kingston	K1	138,720	138,720	0.00	0.00
	K2	118,222	256,942	0.38	1.48
	K3	118,222	256,942	0.37	1.44
Ridge Road	RR1	112,110	112,110	0.32	2.85
	RR2	49,102	161,212	0.04	0.81
	RR3	30,672	191,884	0.29	9.45
SBRSA BASIN TOTAL				1.40	

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VI. IMPACT OF PROPOSED FUTURE DEVELOPMENTS

Fourteen new developments are proposed for the Third Round of Affordable Housing within South Brunswick Township. We previously prepared a desktop analysis of the impact of future flows from these projects on the Township's sewage collection system. We presented our findings in a report dated August 2016.

The data that was collected for the current study has enabled us to check some of the assumptions made in the 2016 study and take a closer look at the issues of capacity and surcharges. As reported in earlier sections of this report, the Ridge Road and Oakeys Brook interceptors have already exceeded the allowable capacities of the downstream sections. Also, the remaining capacity in the upper reaches of the Ridge Road Interceptor is minimal. Additionally, surcharging can be expected in the entire Ridge Road Interceptor, the upper portion of the Oakeys Brook Interceptor that services Henderson Road and the portion of the Kingston twenty-four inch interceptor upstream from metering points K2 and K3.

To assess the impact of the flows from the Third Round of Affordable Housing projects, we have created Table 4, which designates the metering points along the interceptors through which the flow from each development will pass. The proposed development locations are shown on Figure 2.

Tables 5 and 6 were then generated to analyze the impact of the proposed developments on pipe capacity and the likelihood of surcharging. From Table 5 it can be seen from the increase in the committed capacity ratio that the existing capacity issues in the Ridge Road and Oakeys Brook Interceptors will be exacerbated. Additionally, the twenty-four inch sewers upstream from the parallel metering points K1 and K2 will receive flows that take up fifty-two percent of its capacity if the proposed development flows are connected.

The analysis performed on Table 6 evaluates the ability of each interceptor to accommodate the future maximum flows. It also provides an estimate of the total maximum flows to each of the two regional sewerage authorities. The results show that surcharging can be expected during significant future storm events in the Oakeys Brook, Kingston and Ridge Road interceptors.

Table 6 also shows that the firm capacity of Pumping Station No. 10, which receives all flows within the MCUA basin, will be exceeded by these projected maximum flows. Our November 2000 report on this pumping station calculated the station's firm capacity to be 9.55 MGD. As stated in our earlier report, the Township has entered into an agreement with Cranbury Township to reserve 1.75 MGD of capacity at this pump station for future connections within Cranbury. Therefore, the total capacity available for South Brunswick Township is 7.80 MGD. The projected maximum flows of 10.17 MGD greatly exceed this capacity. The tendencies for the maximum flows to surcharge the interceptors and exceed the pumping station capacity can be alleviated through an

aggressive I & I reduction program in both the Oakeys Brook and Town Center Interceptors, but improvements to the pump station and force mains may also be necessary.

From those analyses, it is recommended that no new developments be allowed into the Oakeys Brook, Kingston or Ridge Road Interceptors without improvements to the interceptors to provide the required capacity. Such improvements may include construction of parallel sewers or diversion of flows to an interceptor with available capacity. Furthermore, it is also recommended that developments that propose to connect into interceptors predicted to surcharge, and all interceptors that contribute flows to Pumping Station No. 10, contribute to the cost of reducing I & I in the drainage basins to which they will flow into plus any costs required to upgrade Pumping Station No. 10 and its force main.

VII. FURTHER INVESTIGATION AND REHABILITATION

This report contains three metrics that can be used to determine priorities for further investigation and rehabilitation work. They are percent of sewer capacity used by the average dry weather flow, the likelihood of surcharging based upon the Net RDII/LF and the estimated DWI/LF. All three of these metrics are summarized and prioritized on Table 7. Determining which of these are most important to the Township in allocating resources will depend on the goals for each sub-basin. The percent of sewer capacity estimation will be most important within those sub-basins where capacity is needed for proposed development projects. The RDII/LF priorities should govern where surcharges have been most frequently reported. If best return on investment is the main consideration, then the DWI/LF priorities are most important.

Table 4
South Brunswick Township
Third Round Affordable Housing
Interceptor Runs Impacted

Map Label	Project	Proposed Flow, gpd	Meter Locations
A	Roedel	27,000	K2,K3
B	Cambridge Crossing	25,050	RR1,RR2,RR3
C	American Properties	20,250	OB1,OB3
D	Avalon Bay	42,750	TC1,TC3
E	SBC	457,875	TC2,TC3
F	Princeton Orchards	78,150	Rte 130
G	Windsor Assoc	13,950	TC1,TC3
H	RPM	45,750	OB2,OB3
I	E. Meadow Estates	16,500	OB1,OB3
J	Stanton Girard	27,000	K1,K2,K3
K	Wilson Farms	45,075	K1,K2,K3
L	Toll Bros (Mindel)	25,500	RR1,RR2,RR3
M	K Hovnanian (Bellemead)	28,125	RR3
N	PPF Industrial	142,200	TC3

Table 5
South Brunswick Township
Interceptor Flow Studies
Future Sewer Capacity Analysis

INTERCEPTOR	Monitoring MH	Pipe Diameter, in	Average Dry Weather Flow, MGD	Dry Weather Infiltration, MGD	Dry Weather Connected Flow, MGD	Proposed Connections, MGD	Future Flow, MGD	Full Flow, MGD	Committed Capacity Ratio
KINGSTON	K1	18	0.16	0.00	0.16	0.07	0.23	1.86	25%
	K2	24	0.82	0.38	0.44	0.04	0.48	3.27	29%
	K3	30	0.68	0.37	0.31	0.06	0.37	4.96	15%
OAKEYS BROOK	OB1	18	0.60	0.20	0.40	0.04	0.44	1.86	47%
	OB2	12	0.16	0.05	0.11	0.05	0.16	0.89	35%
	OB3	20	0.91	0.33	0.58	0.08	0.66	2.29	58%
TOWN CENTER	TC1	24	0.39	0.08	0.31	0.06	0.37	3.27	22%
	TC2	24	0.01	0.00	0.01	0.46	0.47	3.27	29%
	TC3	36	1.08	0.47	0.61	0.66	1.27	7.22	35%
RIDGE ROAD	RR1	20	0.84	0.32	0.52	0.06	0.58	2.29	50%
	RR2	21	0.97	0.36	0.61	0.06	0.67	2.51	58%
	RR3	24	1.58	0.65	0.93	0.08	1.01	3.27	62%
ROUTE 130	RT130	36	1.24	0.34	0.90	0.08	0.98	7.22	27%

Note: The K1 and K2 combined flows will exceed the capacity of the single twenty-four inch sewers upstream from these locations.

Table 6
South Brunswick Township
Interceptor Flow Studies
Maximum Future Flow Analysis

Interceptor	Monitoring Manhole	Sewer Service Area	Pipe Diameter (In)	Net Peak Dry Weather Flow (mgd)	Net RDII 2 yr-24 hour (mgd)	Basin Total Peak Flow, MGD	Basin Total RDII, MGD	Basin Present Max Flow, MGD	Basin Proposed Connections, MGD	Basin Future Flows, MGD	Full Flow, MGD	Committed Capacity Ratio	Total Service Area Mnx Flows, MGD
Oakeys Brook	OB1	MCUA	18	1.09	0.97	1.09	0.97	2.06	0.04	2.10	1.86	113%	
	OB2		12	0.35	0.19	0.35	0.19	0.54	0.05	0.59	0.89	66%	
	OB3		20	0.06	0.28	1.50	1.44	2.94	0.08	3.02	2.29	132%	
Town Center	TC1	MCUA	24	0.86	0.13	0.86	0.13	0.98	0.06	1.04	3.27	32%	
	TC2		24	0.02	0.02	0.02	0.02	0.04	0.46	0.50	3.27	15%	
	TC3		36	1.70	0.65	2.58	0.80	3.37	0.66	4.03	7.22	56%	
Route 130	RT130	MCUA	36	2.21	0.83	2.21	0.83	3.04	0.08	3.12	7.22	43%	10.17
Kingston	K1	SBRSA	18	0.69	1.42	0.69	1.42	2.11	0.07	2.19	1.86	117%	
	K2		24	0.92	1.70	1.19	2.27	3.46	0.04	3.50	3.27	107%	
	K3		30	0.71	0.74	1.12	1.59	2.71	0.06	2.77	4.96	56%	
Ridge Road	RR1	SBRSA	20	1.51	0.85	1.51	0.85	2.36	0.06	2.42	2.29	106%	
	RR2		21	0.29	0.82	1.80	1.67	3.47	0.06	3.53	2.51	140%	
	RR3		24	0.97	1.09	2.76	2.76	5.52	0.08	5.60	3.27	171%	

8.37

Note: Net flows represent only those flows that directly contribute to the sewers directly connected to the portion of the interceptor between the previous metering point to the metering point noted.
 Total flows represent all upstream contributions to the metering point noted.
 Net upstream flows into K2 & K3 were proportionally divided into these parallel lines to arrive at basin totals.
 The total future flows to Pumping Station No. 10 will include the 10.17 MGD from South Brunswick plus 1.75 MGD from Cranbury for a total of 11.92 MGD

The results of the flow monitoring were used to create a picture of the areas within the system that should be prioritized to address the I & I problems. However, further investigations are needed to determine the actual root of the problems within each service area, which is typical following a flow monitoring study. Studies have shown that 100% removal of I & I is not something that can be achieved, but approximately thirty percent removal can be expected. This removal can be obtained by manhole inspections, CCTV inspections and smoke testing in conjunction with flow monitoring.

The goal of the manhole inspections will be to identify any infiltration that is getting into the manhole via cracks within the manhole itself or at the frame and cover. The CCTV inspections will allow for an internal investigation of the pipes to identify any cracked pipes and leaky joints. Smoke testing is useful to locate any illegal connections to the sanitary sewer system as well and any cracked mains and laterals within the system. These investigations should start in the interceptors with the highest priority for corrections. If the corrections made as a result of the investigations do not yield sufficient I & I reduction, the Township should then continue upstream to the sewer mains that supply the interceptors to determine if there are any I & I problems that need to be addressed in the smaller pipes.

It should be noted that addressing sewer capacity issues is a much more costly endeavor than sewer rehabilitation to reduce I & I. Since sewer capacity is determined based upon the size of the pipe, reducing I & I in the affected lines will not serve to increase the pipe's capacity. The construction of a parallel sewer main would be the most practical way to increase an interceptor's capacity. These costs should be the responsibility of the developers that propose to send more flow through the affected sewers.

VIII. RECOMMENDATIONS AND COST ANALYSIS

For the next phase of the Township's I & I corrections program, emphasis should be placed on those interceptors that are rated with a high priority on Table 7. These would include the interceptors upstream from monitoring manholes OB1, OB3, TC3 and RR3. All of these trunk sewers either run along the banks of a stream or have at least one stream crossing. They are probably in areas of high groundwater and any cracked pipes or leaking joints would allow significant amounts of infiltration into the system.

2017 Sewer Capacity & Flow Study

-16-

April 19, 2018

Table 7
South Brunswick Township
Interceptor Flow Studies
Composite Priorities

Interceptor	Monitoring MH	Basis for Priority		
		Interceptor Capacity	Surcharge Prevention	DWI
Kingston	K1	11	4	12
	K2	8	6	8
	K3	13	9	9
Oakeys Brook	OB1	5	5	3
	OB2	6	8	11
	OB3	2	3	4
Town Center	TC1	12	12	5
	TC2	9	13	12
	TC3	6	9	1
Ridge Road	RR1	4	7	7
	RR2	3	2	10
	RR3	1	1	2
Route 130	RT130	10	11	6

Note: The K1 and K2 combined flows will exceed the capacity of the single 24" sewers upstream from these locations.

We have prepared Table 8 to estimate the approximate cost to investigate and correct all of the sewer main runs along the interceptors named above that are projected to have a high likelihood to surcharge during storm events. The cost estimates assume that full rehabilitation will be required for all sewer mains and manholes within these runs. It also assumes that the initial cleaning and TV inspection will be conducted by contracted forces since the heavy flows through the interceptors require specialized bypass pumping procedures. Some of these costs may be reduced by the use of Township forces and equipment, where possible. Also, initial investigations may reveal that rehabilitation of certain pipes and/or manholes is not necessary at this time. However, we recommend that the presented costs be used for budgeting purposes.

Table 8
South Brunswick Township
Interceptor Flow Studies
Investigations and Corrections Cost Estimates

Interceptor	Pipe Diameter, in	Length, LF	Manholes	Clean & TV, \$/LF	Clean & TV, Total \$	Pipe Lining, \$/LF	Pipe Lining, Total \$	Manhole Rehab, Total \$	Total Cost
OB1	18	2,420	9	\$7.00	\$16,940	\$145	\$ 350,900	\$ 54,000	\$ 421,840
OB3	21	2,110	8	\$7.00	\$14,770	\$175	\$ 369,250	\$ 48,000	\$ 432,020
K2&K3	18	1,640	24	\$7.00	\$11,480	\$145	\$ 237,800	\$144,000	\$ 393,280
	20	4,960	33	\$7.00	\$34,720	\$175	\$ 868,000	\$198,000	\$1,100,720
	24	2,240	29	\$7.00	\$15,680	\$195	\$ 436,800	\$174,000	\$ 626,480
RR1	20	5,670	22	\$7.00	\$39,690	\$175	\$ 992,250	\$132,000	\$1,163,940
RR2	20	7,190	19	\$7.00	\$50,330	\$175	\$1,258,250	\$114,000	\$1,422,580
RR3	20	7,400	25	\$7.00	\$51,800	\$175	\$1,295,000	\$150,000	\$1,496,800
Total Corrective Costs									
Follow-up Flow Study									
Smoke Testing, if required									
Total Costs									\$7,057,660
									\$ 70,000
									\$ 20,000
									\$7,147,660

When considering the cost effectiveness of performing the recommended investigations and rehabilitation, several factors should be kept in mind. As we previously noted, 100% reduction of I & I cannot be obtained. However, even typical amounts of reduction can alleviate the surcharging experienced during major storms which subject the Township to fines from the NJDEP. Also, even a thirty percent reduction of dry weather infiltration in the recommended interceptors would result in a 210,000 gpd reduction of flows to MCUA and a 90,000 gpd reduction of flows to SBRSA.

Table 9
South Brunswick Township
Interceptor Flow Studies
Estimated Maximum Cost to Provide Necessary Capacity

Interceptor	Pipe Diameter, in	Length, LF	Manholes	Parallel Main, \$/LF	Parallel Main, Total \$	Manhole Replacement, Total \$	Total Cost
OB 1	18	2,420	9	\$200.00	\$484,000	\$90,000	\$574,000
OB 3	21	2,110	8	\$200.00	\$422,000	\$80,000	\$502,000
TC3	24	5,000	17	\$220.00	\$1,100,000	\$70,000	\$1,270,000
	36	4,400	12	\$300.00	\$1,320,000	\$120,000	\$1,440,000
RR1	20	5,670	22	\$200.00	\$1,134,000	\$220,000	\$1,354,000
RR2	20	7,190	19	\$200.00	\$1,438,000	\$190,000	\$1,628,000
RR3	20	7,400	25	\$200.00	\$1,480,000	\$250,000	\$1,730,000
Estimated Maximum Parallel Main Costs							\$8,498,000

Table 10
South Brunswick Township
Third Round Affordable Housing
Interceptor Runs Impacted

Map Label	Project	Proposed Flow, gpd	Meter Locations	Total Cost of Improvements to Accept Flow	Full Flow, MGD	Improvement Cost per MGD	Project's Pro Rata Share of Cost
A	Roedel	27,000	K2,K3	\$2,120,480	4.96	\$ 427,516	\$ 11,543
B	Cambridge Crossing	25,050	RR1,RR2,RR3	\$4,712,000	3.27	\$1,440,979	\$ 36,097
C	American Properties	20,250	OB1,OB3	\$ 853,860	2.29	\$ 372,865	\$ 7,551
D	Avalon Bay	42,750	TC1,TC3	\$2,710,000	7.22	\$ 375,346	\$ 16,046
E	SBC	457,875	TC2,TC3	\$2,710,000	7.22	\$ 375,346	\$171,862
F	Princeton Orchards	78,150	Rte 130	---	7.22	---	---
G	Windsor Assoc	13,950	TC1,TC3	\$2,710,000	7.22	\$ 375,346	\$ 5,236
H	RPM	45,750	OB2,OB3	\$ 432,020	2.29	\$ 188,655	\$ 8,631
I	E. Meadow Estates	16,500	OB1,OB3	\$ 853,860	2.29	\$ 372,865	\$ 6,152
J	Stanton Girard	27,000	K1,K2,K3	\$2,120,480	4.96	\$ 427,516	\$ 11,543
K	Wilson Farms	45,075	K1,K2,K3	\$2,120,480	4.96	\$ 427,516	\$ 19,270
L	Toll Bros (Mindel)	25,500	RR1,RR2,RR3	\$4,712,000	3.27	\$1,440,979	\$ 36,745
M	K Hovnanian (Bellemead)	28,125	RR3	\$1,496,800	3.27	\$ 457,737	\$ 12,874
N	PPF Industrial	142,200	TC3	\$2,710,000	7.22	\$ 375,346	\$ 53,374

IX. INCREASED CAPACITY COST ANALYSIS

In order to allow any flows into the lower reaches of the Kingston, Oakeys Brook and Ridge Road interceptors, merely decreasing I & I will not be sufficient, and parallel sewer mains may need to be constructed within the interceptor's easements. It should be noted that the determination of remaining capacity in this study was calculated with the assumption that the interceptor sewers were constructed at minimum allowable slopes. It is possible that this is not the case for the entire length of each interceptor. To determine the actual capacity of each run along the interceptors, the actual lengths and depths of each run will need to be determined through an examination of as-built plans, if they exist, or surveying. The costs for any such study should be borne by the developers of the projects looking to connect into the sewer system.

Table 9 presents the estimated costs to increase the capacity of the three interceptors noted above. To develop these estimates, it was assumed that the entire interceptor upstream from the measuring point will need to be paralleled with a new sewer line. It was also assumed that the parallel sewer line would need to be the same size as the existing sewer line in order to comply with the DEP's minimum slope requirement for various size pipes. This is a worst case scenario for developing the maximum possible costs for providing additional capacity. The necessity of parallel mains and the sizes of such mains can only be determined once the above described studies have been completed.

Also included in Table 9 is the estimated cost to provide additional capacity at Pumping Station No. 10 and its downstream force main. These improvements were originally discussed in our July 2003 report on the subject and have been updated to March 2018 dollars.

X. COSTS ATTRIBUTABLE TO PROPOSED DEVELOPMENTS

The additional flows that are estimated to be generated by the currently proposed Third Round Affordable Housing developments will exacerbate the capacity and surcharging issues that exist within the Township's sanitary sewer system. In order to provide capacity for these flows, improvements to the sewer interceptors, the Township's Pumping Station No. 10, and its downstream force main will be necessary. These costs have been allocated to the proposed developments on a pro rata basis. That is, the cost of improvements required for the downstream interceptor and pumping station into which they will contribute flows has been converted into a cost per MGD and this unit cost has been multiplied by the projected rate of flow. The costs presented may be adjusted in the future after additional studies are performed to determine the actual extent of improvements required.

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Richard A. Alaimo Associates
- Consulting Engineers -

APPENDIX

Richard A. Alaimo Associates
- Consulting Engineers -

2017 INFLOW & INFILTRATION REPORT

NOVEMBER 1, 2017



South Brunswick, NJ

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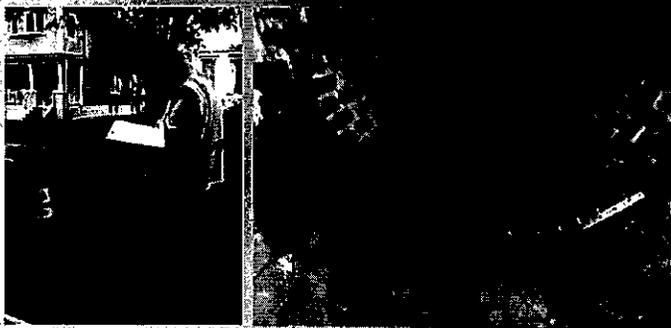




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SECTION ONE: EXECUTIVE SUMMARY

CSL Services, Inc. (CSL) was retained by the Alaimo Group to conduct a temporary flow monitoring study in South Brunswick, NJ's wastewater collection system. A total of 13 flow monitors and 2 rain gauges were installed in early June 2017 and the monitoring period began on June 10th and continued to August 10th, 2017. The Final Report was submitted in September 2017. Figure 1.1 shows a typical flow monitor installation.

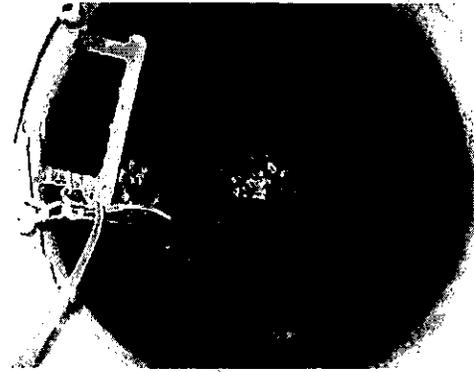


Figure 1.1: Typical Flow Monitoring Installation

Generally speaking, wastewater collection systems are designed with the capacity to handle the peak wastewater flow that is discharged by the homes and businesses that are the customers of the wastewater utility. There is also an allowance made for some extraneous contribution in the form of groundwater (infiltration) and rainwater runoff (inflow). Together these extraneous flows are called "I & I". As the pipes and manholes that make up a wastewater collection system deteriorate, the amount of I & I that enters the collection system can increase to unacceptable levels. Excessive I & I can result in an increase in treatment and transportation costs, and backups and overflows of untreated wastewater. The purpose of this study is to determine the amount of I & I that is entering the South Brunswick wastewater collection system and to identify which areas of the system should be considered priority areas as the Township takes the steps necessary to reduce this I & I.

This report is based on analysis of the data collected during the two-month period from June 10th, 2017 to August 10th, 2017. Flow data collected during dry weather periods was analyzed and dry weather infiltration rates were determined for each of the five sub-basins. This dry weather infiltration results from groundwater that is not directly rain related entering the sewer system through such sources as defective joints, cracked and broken pipe and other similar defects that can be below the groundwater table. Flow data collected during 11 rain events were analyzed and rainfall derived infiltration and inflow, or RDII, rates were determined. CSL was then able to compare wastewater flows from dry weather periods to wastewater flows during rain events.

- Rainfall-derived infiltration and inflow (RDII) is the extraneous flow that occurs as a direct result of rain events and is primarily inflow entering the system through sources such as shallow pipe defects, manhole lids, storm connections, and defective cleanouts.
- Dry Weather infiltration is mostly unrelated to rain events and exists more or less continuously. The amount of dry weather infiltration is a function (typically 85%) of dry weather minimum flows.

Figure 1.2 presents a generic hydrograph that illustrates the relationship between typical dry weather flow patterns, typical wet weather flow patterns and typical rainfall related flow patterns.

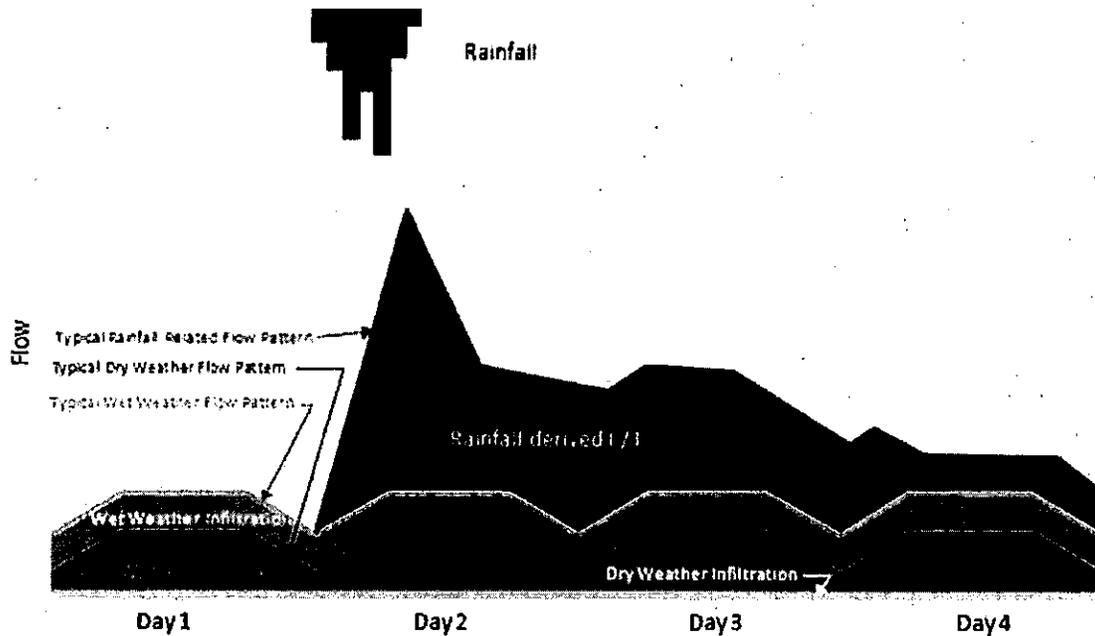


Figure 1.2: Hydrograph showing dry, wet, and rainfall related flow patterns

Note that the green line represents a typical dry day flow pattern and is comprised of Base Wastewater Flow and some amount of Dry Weather Infiltration. The yellow line represents a typical wet weather flow pattern, which is normally somewhat greater than the dry weather pattern. The difference between the green and yellow lines is Wet Weather infiltration and is due to higher groundwater levels during the wet season. The red line represents the flow pattern during and after a rainfall event. The difference between the red line and the yellow line is RDII.

SECTION TWO: INTRODUCTION

The five basins that were monitored within the South Brunswick wastewater collection system contain about 860,843 linear feet of gravity sewer line.

The 13 flow meters and 2 rain gauges were installed at the following locations in the South Brunswick wastewater collection system.

<u>Site</u>	<u>Diameter</u>	<u>Location</u>
K1	18"	8 Quentin Road
K2	24"	1026 Ridge Road
K3	30"	1026 Ridge Road
OB1	18"	398 Black Horse Lane
OB2	12"	335 Black Horse Lane
OB3	20"	2082 US-130
TC1	24"	Access road at 182 Major Road
TC2	24"	1 Deans Pond Lane
TC3	36"	2088 US- 130
RR1	20"	26 Stouts Lane
RR2	21"	4300 Rt. 1
RR3	24"	1022 Ridge Road
RT130	36"	2140 Rt.130
PS 7 RG		3 Pyne Rd
PS 10 RG		2082 US-130

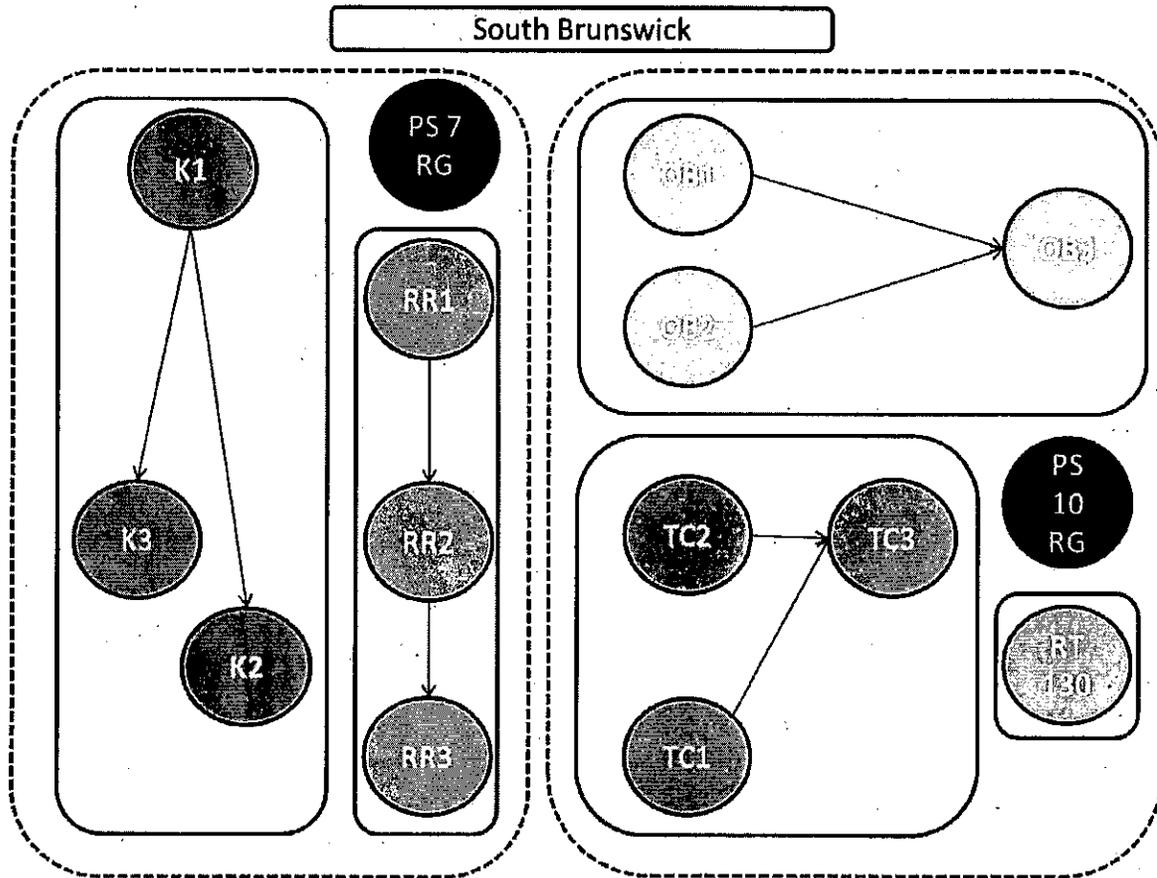


Figure 2.1: Flow Schematic

Figure 2.1 illustrates the relationship between the flow monitors that were installed in the collection system. Note that monitoring points K1, RR1, OB1, OB2, TC1, TC2 and RT 130 have no other flow monitors upstream. The data collected at these points is considered "independent" data because it does not include metered upstream flows. The data collected at monitoring points K2, K3, RR2, RR3, OB3, and TC3 are considered "dependent" data because upstream metered flows must be subtracted to determine the net flow from this sub-basin.

SECTION THREE: ANALYSIS AND RESULTS

Dry Weather Analysis:

This week occurred from June 10th to June 16th, 2017. From this driest week data, the average dry weather flow for weekdays, the average dry weather flow for weekends, the average dry weather flow for the 7-day period and the minimum dry weather flow were determined. Based on the standard assumption that 85% of the average dry weather flow for the 7-day period is base wastewater flow, the dry weather infiltration was determined. These results are shown in Table 3.1.

Wet Weather Analysis:

11 rain events were selected for analysis with varying totals and durations. The rain events used for the study are shown in Table 3.1

Dates	PS 7 (in)	PS 10 (in)
6/17/2017	0.65"	0.64"
6/19/2017	1.28"	1.19"
6/24/2017	1.8"	1.98"
7/7/2017	0.2"	0.46"
7/13/2017	0.52"	0.68"
7/20/2017	0.13"	0.25"
7/22/2017	0.95"	1.05"
7/24/2017	0.79"	0.8"
8/2/2017	1.04"	1.14"
8/5/2017	0.47"	0.58"
8/7/2017	0.6"	0.8"

Table 3.1: Rain Events Selected for Analysis

For each site, the peak 24-hour flow volume was plotted against the contributing 24-hour rain amount for each of the analyzed rains. The results were normalized by conducting a regression analysis to determine the projected RDII that could result from a 2-year 24 hour storm event. National Oceanographic and Atmospheric Administration Intensity Duration Frequency Curves for South Brunswick, New Jersey were used to determine design storms. Regression analysis curves for each site can be found in Appendix A-E.



Summary of Analysis:

Table 3.2 presents a summary of the results of this study in an easy-to read format. The table is divided into three sections: Sewer Sub-System Details, Dry Weather Results, and Wet Weather Results.

Site	Pipe Diameter (in)	Mini System Size (LF)	Silt, Debris, Gravel, Grease	DRY WEATHER RESULTS				WET WEATHER RESULTS										
				Depth (in)	Depth/Diameter (%)	Velocity (fps)	Flow (mgd)	Min Flow (mgd)	DWV (mgd)	Depth (in)	Depth/Diameter (%)	Velocity (fps)	Net Flow (mgd)					
K1	18	138,720	0	1.77	10%	1.22	0.16	0.00	0.00	4.13	23%	3.9	0.693	1.420	10.23	7	7.82	43%
K2	24	118,222	0	6.93	29%	1.68	0.82	0.38	0.44	8.65	36%	2.0	0.915	1.701	14.39	6	20.75	86%
K3	30	118,222	0	3.43	11%	3.36	0.68	0.37	0.43	4.37	15%	3.9	0.707	0.740	6.26	11	7.61	25%
OB1	18	23,195	0	5.76	32%	1.88	0.60	0.20	0.24	7.69	43%	2.5	1.093	0.970	41.82	1	25.80	143%
OB2	12	109,248	0	3.56	30%	1.25	0.16	0.05	0.06	4.47	37%	2.1	0.351	0.190	1.74	13	8.06	67%
OB3	20	10,265	0	5.78	29%	2.58	0.91	0.33	0.39	7.02	35%	3.8	0.056	0.280	27.28	3	10.50	52%
TC1	24	18,216	0	5.38	22%	1.10	0.39	0.08	0.10	7.20	30%	1.7	0.856	0.128	7.01	10	12.24	51%
TC2	24	6,246	0	0.54	2%	0.43	0.01	0.00	0.00	1.01	4%	0.9	0.024	0.019	3.02	12	5.23	22%
TC3	36	33,033	1.5	13.94	39%	0.69	1.08	0.47	0.55	18.50	51%	1.3	1.697	0.648	19.61	4	31.04	86%
RR1	20	112,110	0	8.36	42%	1.48	0.84	0.32	0.37	10.38	52%	2.2	1.513	0.848	7.56	9	44.75	224%
RR2	21	49,102	0	7.64	36%	1.87	0.97	0.36	0.42	10.50	50%	2.4	0.285	0.824	16.78	5	43.47	207%
RR3	24	30,672	0	11.34	47%	1.67	1.58	0.65	0.77	14.47	60%	2.2	0.966	1.085	35.37	2	31.25	130%
RT130	36	93,592	0	9.91	28%	1.19	1.24	0.34	0.40	12.38	34%	1.8	2.214	0.830	8.87	8	14.90	41%
Total		860,843												9.683	199.97			

Table 3.2: Summary of Results



for 2/9
0.50
0.67

SECTION FOUR: CONCLUSIONS

This analysis concluded that an RDII quantity of 199.97 gpd/LF would be expected for a 2-year, 24-hour rain event. Site specific contributions and priority classifications for the study can be found on table 3.2. The three monitoring points of OB1, OB3 and RR3 are identified as the highest priorities based on wet weather RDII rates of over 25 gpd/LF. Overall these three lines contribute to about 52% of the total RDII per linear foot and only contain roughly 7% of the total linear footage in the collection system. It is generally considered to be cost-effective to pursue remedial activities in areas that contribute RDII at rates greater than 5.0 gpd/LF.

Common practices to further identify the specific source of Inflow and Infiltration challenges are:

- Manhole inspections,
- Wet Weather flow Isolations,
- CCTV inspections,
- Smoke testing

APPENDIX H

IMO Application of the Township of South Brunswick, County of Middlesex

Superior Court of New Jersey
Law Division—Middlesex County
Docket No. **MID-L-4433-17 (formerly MID-L-3878-15)**

American Properties at South Brunswick, LLC v. Township of South Brunswick, et al.

Superior Court of New Jersey
Law Division—Middlesex County
Docket No. **MID-L-4437-17**

Special Hearing Officer’s Report Resolving Disputed Issues

**Steven P. Goodell, Esq.
March 7, 2022**

Throughout the hearing process, the parties worked diligently to resolve disputed issues.

On or about October 7, 2021, after the hearing had concluded, the parties agreed to a comprehensive Joint Exhibit (Appendix D) that listed “Open Issues to be Resolved by the Hearing Officer” (Part I), and “Stipulations of American Properties at South Brunswick LLC, Township of South Brunswick and Planning Board” (Part II). This Report presents the Special Hearing Officer’s decisions on the open issues set forth in Part I of the Joint Exhibit.

A. Traffic / Site Access

1. Whether American Properties study of the Adaptive Traffic Signal System, utilizing parameters other than those suggested by the Township, is sufficient. See CME March 12, 2021 Traffic Letter [SB-12] Comment 2.

Special Hearing Officer’s Decision

The intersection of Route One and Ridge Road is under the jurisdiction of the New Jersey Department of Transportation, not the Township of South Brunswick, and is neither on nor adjacent to the American Properties development.

Believing, however, that the development might adversely affect traffic at the intersection, the Township Engineer, David Samuel, wrote that “our office is of the opinion that capacity analyses are required to compare no-build versus build traffic conditions at that (the Route 1/Ridge Road) intersection in order to determine if any improvements are required.” He recommended “that the Applicant’s traffic engineer utilize NJDPT Traffic Signal Timing Directive No. 310–14, in order to determine appropriate traffic signal timings for use in modeling the aforementioned capacity analysis for all critical peak traffic hours.” (SB-12, Paragraph 2).

In response, the Applicant’s traffic engineer, Nathan Mosely, conducted a study of the Route One-Ridge Road intersection. He did so even though, in his professional opinion, the study would not accurately model the traffic flow at the intersection, or the impact on the traffic flow that would result from the American Properties development, because the intersection was governed by a “smart” traffic signal that reacted in real time to the then-existing traffic conditions.

In testimony he stated:

One limiting factor to this is that typical traffic engineering software and modeling programs cannot accurately model the operations of a system – of an adaptive traffic signal system – because it dynamically adjusts itself to the real-world conditions. DOT acknowledges the fact that you really can’t do a capacity analysis of this type of a traffic signal controller....

[1T167:3 to 11]¹

Because the adaptive traffic signal system could not be accurately modeled, he analyzed the intersection assuming that the “backup” system – the traffic light sequence that would be used if the smart system were inoperable – was in use.

The results of his limited study showed that the intersection would fall from service level D

¹ “1T” refers to the Transcript of the August 10, 2021 hearing. “2T” refers to the Transcript of the September 8, 2021 hearing. “3T” refers to the Transcript of the September 9, 2021 hearing.

to service level F with the addition of traffic from the development. During the peak morning traffic period, approximately 2.1 percent of the traffic at the intersection would come from the development, and during the peak evening traffic period, the contribution would be approximately 2.5 percent. (1T169-11 to 18). Mr. Mosely characterized these increases in traffic at the intersection as “minimal.” (1T169-24).

The Township argues that the study Mr. Mosely conducted was deficient, and that “the Applicant should simply comply with this recommendation of the Township Engineer.” (SBb17).²

It is unclear to the Special Hearing Officer what more Mr. Mosely could have done in response to the request by the Township Engineer that he analyze the intersection. The Special Hearing Officer finds that the traffic study provided by the Applicant was adequate. Mr. Mosely is experienced and his testimony was credible. Given the unique challenges to traffic modeling posed by the adaptive traffic signal system at the intersection, his approach was reasonable. The Township has pointed to no law or regulation requiring that a particular type of study be done.

Accordingly, American Properties is not obligated to further study the Route One-Ridge Road intersection.

2. Whether American Properties must obtain NJDOT approval or a letter of no interest/jurisdiction regarding whether an intersection improvement permit is required for the development. See CME March 12, 2021 Traffic Letter [SB-12] Comment 3 and CME August 3, 2021 Traffic Letter [SB-24] Comment 2.

Special Hearing Officer’s Decision

² SBb refers to the South Brunswick brief, submitted November 10, 2021, entitled “Joint Written Summation With Exhibits 1 and 2 Submitted on Behalf of the Township of South Brunswick and the Planning Board of the Township of South Brunswick for the American Properties at South Brunswick, LLC Application for the Proposed Heritage at South Brunswick Residential Inclusionary Development.”

The Township urges the Special Hearing Officer to require American Properties to obtain State Department of Transportation (DOT) approval for its project, based on the development's impact on traffic at the Route One-Ridge Road intersection, or in the alternative, obtain a letter from DOT indicating that it has no interest in or jurisdiction over the matter. The Township has cited no law requiring that this be done.

The Special Hearing Officer has determined that American Properties is not obligated to seek State approval or a letter of no interest or jurisdiction.

As noted above, the Route One-Ridge Road intersection is under the jurisdiction of the State, not South Brunswick. State law defines who must seek State approval for a development affecting a State highway. See e.g., N.J.S.A. 27:7-92a ("Any person seeking to construct or open a driveway or public street or highway entering into a State highway shall first obtain an access permit from the commissioner."). Pursuant to that State law, the State Highway Access Management Code sets forth eight activities requiring an access permit. (N.J.A.C. 16:47-8.1a (1) to (8)). None of those eight activities apply to the American Properties development. Indeed, there is no law requiring that a developer seek State DOT approval in a situation like this, where the development is not adjacent to the State highway or does not propose to directly access the State highway.

In addition, American Properties provided notice to the State of its proposed development. The State has not intervened, asked for additional information, or in any other way indicated an interest in the application.

Accordingly, American Properties is not obligated to obtain State DOT approval or a letter of no interest or jurisdiction regarding whether an intersection improvement permit is required for the development.

3. Whether applicant shall be required to make a fair share contribution towards any off-tract improvements using NJDOT's formula relating to improvements that may be required to the Ridge Road signalized intersection with both Route 1 and Schalks Crossing Road, including the portion of Ridge Road between the two intersections. Both intersections are under NJDOT and County jurisdiction. There is no improvement plan for this location that includes design and associated costs, and American Properties should not have an ongoing obligation to contribute to hypothetical future improvements. See CME August 3, 2021 Traffic Letter [SB-24] Comment 3.

Special Hearing Officer's Decision

Courts have limited a planning board's authority to consider off-tract traffic when reviewing applications. It can consider traffic coming in and out of the site; it can require contributions when permitted by ordinance; but it cannot deny an application based on traffic alone:

A planning board should consider off-site traffic flow and safety in reviewing proposals for vehicular ingress to and egress from a site, N.J.S.A. 40:55D-7, 41(b). Pursuant to ordinance it may condition site plan approval upon a contribution to necessary off-site street improvements, N.J.S.A. 40:55D-42. But the authority to prohibit or limit uses generating traffic into already congested streets or streets with a high rate of accidents is an exercise of the zoning power vested in the municipal governing body, N.J.S.A. 40:55D-2, 62.

[Dunkin' Donuts of New Jersey, Inc. v. N. Brunswick Twp. Planning Bd., 193 N.J. Super. 512, 515 (App. Div. 1984), emphasis added.]

American Properties argues that this principle should be dispositive of the issues (APb 7-8).³ South Brunswick argues that in a builders-remedy case like this, where the municipality had not zoned for the development and therefore could not have planned for the resulting traffic, the Special Hearing Officer should be able to consider traffic as an element of "sound planning" (SBb

³ APb refers to the American Properties brief, submitted November 10, 2021, entitled "Summation of Applicant, American Properties at South Brunswick, LLC - - Builder's Remedy Preliminary and Final Major Site Plan and Preliminary and Final Major Subdivision Application."

18-19). For the reasons that follow, the Special Hearing Officer finds that this disputed issue can be resolved without reaching these arguments about whether the Special Hearing Officer should be able to consider traffic as an element of sound planning.

First, South Brunswick would like the Special Hearing Officer to order American Properties to make whatever fair share contribution would be required by the State or Middlesex County to improve the Route One-Ridge Road intersection, Ridge Road, and the Schalks Crossing-Ridge Road intersection. All of these would be off-tract improvements. Developers can only be responsible to a municipality for off-tract improvements related to streets and traffic when the municipality has adopted regulations requiring the developer to pay the pro-rata share of the cost of providing reasonable and necessary street improvements. N.J.S.A. 40:55D-42. Those regulations must be based on a circulation plan and must establish fair and reasonable standards to determine a developer's proportionate amount of the cost of the improvement. Ibid. South Brunswick has pointed to no such regulations or plan that would require American Properties to contribute a pro-rata contribution towards improvement of these roads or intersections.

Second, the Special Hearing Officer finds that American Properties has no obligation to affirmatively reach out to the State to determine whether it must take steps or set aside funds to improve the Route One-Ridge Road intersection. The State is on notice of the proposed development, and the State Highway Access Management Code does not govern this development, which is not adjacent to the State highway and does not propose to directly access the State highway.

Third, American Properties concedes that Middlesex County will determine what, if any, "mitigation or modifications" will be required for the Schalks Crossing-Ridge Road intersection. (APb18). According to Mr. Mosely,

We currently are not proposing any improvements to that existing intersection. We would defer to the County, and their review of our traffic study, to determine if they want any – if they're going to require any mitigation or modifications to that intersection, to our site's traffic. But there was (sic) no comments raised during our preliminary conversations with the County, specifically about that intersection.

[1T199-20 to 200-3]

American Properties will be required to coordinate with Middlesex County for a determination of what, if any, improvements might be required for roads or intersections under County jurisdiction.

In sum, the Township is not entitled to any pro rata contribution for off-tract improvements related to traffic; American Properties is not obligated to seek further guidance from the State regarding the Route One-Ridge Road intersection; and American Properties shall comply with any County requirements for roads or intersections under County jurisdiction, as they have stated they will.

B. RSIS Internal Road Classification and Sidewalks

1. Whether American Properties may provide roadway cross sections showing 5' dimensions from face of curb to sidewalk on Ridge Road and Perrine Road only. See CME March 11, 2021 Letter [SB-11) Comment E.8.

Special Hearing Officer's Decision

American Properties has provided five-foot setback dimensions, from the face of the curb to the sidewalk, for Ridge Road and Perrine Road. Citing the March 11, 2021 CME Engineering Report, South Brunswick argues that American Properties must provide similar setback dimensions for all of the other roads in the development. The report says:

The typical roadway cross sections should be revised to indicate a 5 ft. setback dimension from face of curb to the sidewalk, in accordance with Township Ordinance requirements.

[SB11, page 14, comment E8]

American Properties responds that Schalks Crossing is a County road and under County jurisdiction with respect to sidewalk dimensions, and that the internal driveway and on-site roads comply with RSIS. The Special Hearing Officer agrees. In this instance RSIS controls. Other than the comment in the Engineering Report, there is nothing in the record to substantiate South Brunswick's argument that a Township ordinance should override the RSIS standards.

Accordingly, American Properties is not required to provide further setback dimensions.

C. Sewer & Water

1. Whether American Properties' costs to perform the testing and remediation for 1&1 pursuant to Ordinance 28-2018 are capped. See Scott Cevera Review Letter.

2. Whether costs to perform the testing and remediation for I&I pursuant to Ordinance 28-2018, if uncapped, are cost generative and in violation of the Mount Laurel Doctrine or are required pursuant to valid Township ordinances and are in accordance with sound planning principles.

Special Hearing Officer's Decision

South Brunswick's sewer ordinances are a valid exercise of the municipality's authority to legislate for the benefit of the public health safety and welfare. As this Special Hearing Officer wrote in a separate matter:

Here, the municipality's ordinances require a developer to find and eliminate I&I, in an amount consistent with the applicant's anticipated discharge into the system, before connecting to the system. The ordinances are consistent with the utility element of the municipality's Master Plan ... and are based on a comprehensive engineering study of the system undertaken in 2017. They limit a developer's contribution for off-tract improvements to its pro rata share -- that is, a share consistent with the development's impact on the system. The sewer system is already at or near capacity. A requirement that the Applicant find and eliminate I&I in an amount equal to its new flow is narrowly tailored to address the Applicant's

own impact on the system. The Applicant is not being “compelled to shoulder more than its pro rata share of the cost” of the improvement.⁴

[K Hovnanian Special Hearing Officer’s Report Resolving Disputed Issues at App003-App005, Dkt Nos. MID-L-443-17 and MID-L-1194-17]

American Properties’ anticipated flow is 96,600 gallons per day.

American Properties has agreed to comply with the Township’s sewer ordinances, and find and eliminate I&I in an amount equal to its anticipated flow, but wants the amount of its contribution to be capped, in the same way that other similarly situated developers have had their contributions capped. At the hearing AP’s counsel said:

I know there was another [case] that I guess has been finished. And in that particular case there was a calculation that was done and that exposure to that repair cost was capped. And our – the developer is willing to accept a similar requirement or the same requirement for this particular project and work with the township professionals to do that same calculation which would cap our pro rata share toward that and that’s how we would see that particular issue being handled.

[1T44: 3 to 14]

Mr. Parkhill, American Properties’ engineer, was concerned that without a cap, the process could result in an open-ended commitment:

That effort could be an open-ended case of looking and having the town agree, okay, fix that. And then we fix it. And then go back and go, well, your end results, even though we thought we all agreed it was going to solve it, your end results only reduced it by 80,000, not 99. Go find more and go find more. And the open-ended aspect of that becomes an obstacle to construct, you know, this is inclusionary development. So I think what we are suggesting is that there be a known process and a known cost expense or cost exposure to facilitate the construction of this affordable housing.

[1T96:10 to 21]

⁴ Toll Bros., Inc. v. Bd. of Chosen Freeholders of Cnty. of Burlington, 194 N.J. 223, 245 (2008).

The Special Hearing Officer agrees that American Properties is entitled to a known process and a known cost exposure. This is an inclusionary development, and an open-ended process could result in cost-generative expenses. In addition, American Properties is entitled to the same type of cap on expenditures that the other affordable housing developers that have gone through this process have received.

There is insufficient evidence in the record for the Special Hearing Officer to determine what that cap should be. Accordingly, the parties shall meet and confer in an attempt to resolve the issue. If they are unable to agree, the dispute will be referred to the Special Master. If the Special Master does not resolve the dispute to the satisfaction of the parties, it will be referred back to the Special Hearing Officer for a decision.

3. Whether applicant must comply with the Township's standards related to stormwater and sewers. See Alaimo September 7, 2021 Letter [SB-not provided] Comment 5.

4. Whether American Properties must update the sanitary sewer and water distribution plan details to conform to the Township's latest standards. See Alaimo September 7, 2021 Letter [SB-not provided] Comments 5 and/or 6.

Special Hearing Officer's Decision

According to the American Properties brief, the issues raised at C.3. and C.4. are now stipulated. American Properties writes: "The plan details requested by Mr. Simpson at comments 5 and 6 of his letter dated September 7, 2021 will be met subject to receipt of the 'marked-up plans' referenced in his letter, but that have not yet been provided to AP." (SBb23).

5. Whether the Township's calculation of 440 equivalent residential units for public water service is overstated. See Bidlack Review Letter [SB-14], Comment E.13.

6. Whether the Township's calculation of 497 equivalent residential units for public sewer service is overstated. See Bidlack Review Letter [SB-14], Comment F.12.

Special Hearing Officer's Decision

There is insufficient evidence in the record to determine whether the Township's water and sewer calculations are overstated. The subject was not raised at the hearing. The sewer and water calculations will be made when American Properties applies for connections. If there is still a dispute at that time, the dispute will be referred to the Special Master. If the Special Master does not resolve the dispute to the satisfaction of the parties, it will be referred back to the Special Hearing Officer for a decision.

D. Architecture

1. Whether American Properties must comply with Bignell Review Letter [SB-13], Comment 13.U., and provide at least twelve (12) single family dwelling models and a set of layout rules, in the absence of a look-alike ordinance, whereas American Properties provides five (5) single family model types with alternative elevations, add-ons and optional finishes.

Special Hearing Officer's Decision

American Properties has five different models proposed for the single family homes in the development. South Brunswick argues that there should be at least twelve models. In support of their argument, they cite Mr. Bignell's March 10, 2021 planning review memo, which says:

The applicant should provide a selection of at least twelve (12) single family dwelling models. Models should be drastically different in colors, materials and overall appearance. A package of models and set of layout rules (no two models/colors next to each other, etc.) should be provided to avoid a monotonous pattern of houses. The models should recognize that the final arrangement of will set these buildings 20' from each other (side-to-side). Floorplans should be careful of the location is (sic) side windows, etc.

[SB-13, page 14, comment U]

They also rely on Mr. Bignell's testimony, which confirmed that a purpose of the Municipal Land Use Law was to "promote the establishment of appropriate population densities and

concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions.” (2T165-25 to 166-9).

Mr. Bignell’s memo and testimony do not provide sufficient basis for requiring American Properties to develop at least twelve different models. The law is clear that “a planning board cannot deny an application for site plan approval based on architectural considerations if the application meets the standards set forth in the site plan ordinance.” Morris Cty. Fair Hous. Council v. Boonton Twp., 230 N.J. Super. 345, 357 (App. Div. 1989). South Brunswick does not cite any ordinance that would regulate residential architecture, and even if there were an existing ordinance, the requirements of the CTRAH-I zone would govern, and those requirements have been met.

Here, the testimony shows that American Properties did make adjustments in response to Mr. Bignell’s concerns. They began with four models and added a fifth, and have also agreed to add facade options to increase the variety of exterior designs. Mr. Bignell conceded that adding additional façade options “would make it so that you really couldn’t tell there were multiple or the same facades in this development.” (2T149-14 to 19). Requiring more would be unduly cost-generative.

Accordingly, American Properties is not required to add additional single-family dwelling models beyond the five they have proposed, with the understanding that they will develop additional facade options to provide architectural variety in the development.

E. Tree Replacement & Plantings

1. Whether American Properties must comply with Bignell Review Letter [SB-13], Comment 13.0.1, and drastically increase landscaping on the site and for each single-family dwelling lot to contain two (2) rear yard specimen trees and one (1) front yard specimen tree, in addition to the street trees.

- 2. Whether American Properties must comply with Bignell Review Letter [SB-13], Comment 13.0.2, and drastically increase the perimeter buffer by tripling the number of plantings.**
- 3. Whether American Properties must comply with Bignell Review Letter [SB-13], Comment 13.0.2, and plant evergreens in the perimeter buffer of a minimum size of 8' at the time of planting to create an effective buffer on a former farmland site.**
- 4. Whether American Properties must comply with Bignell Review Letter [SB-13], Comment 13.0.3, recommending that the area around all detention basins be heavily planted.**
- 5. Whether American Properties must do anything additional to comply with Bignell Review Letter [SB-13], Comment 13.0.4, recommending that collector roads within the development be designed to mimic public streets and be lined with shade trees at least 50' on center on both sides of streets, to be maintained in perpetuity.**
- 6. Whether American Properties must do anything additional to comply with Bignell Review Letter [SB-13], Comment 13.0.5, recommending that all straight or curvilinear parking rows should be abutted by rows of 36" high all season shrub plantings.**
- 7. Whether American Properties must do anything additional to comply with Bignell Review Letter [SB-13], Comment 13.0.6, recommending that all dumpster and trash enclosures should be heavily landscaped on three sides.**
- 8. Whether each of the above requests are required by Township ordinances and/or sound planning principles.**
- 9. Whether each of the above requests and/or ordinance requirements are cost generative to the inclusionary development and contrary to the Mount Laurel Doctrine.**

Special Hearing Officer's Decision

In this section, South Brunswick argues that American Properties should enhance the proposed landscaping in the development in several significant ways, as outlined in Mr. Bignell's March 10, 2021 planning memo (SB-13, Comments 13.O, 1-6). American Properties responds that their proposed landscaping is more than adequate, citing the testimony of Mr. Bignell, and noting that the COAH regulations specifically list excessive landscaping requirements as being cost-generative.

The Special Hearing Officer agrees with American Properties, with one caveat described

below.

The evidence showed that the landscaping American Properties will provide is significant. For example, the developer will remove 230 trees from the site and replace them with 1,800 trees – even though the Township ordinance only requires 752.

On the other hand, the landscaping enhancements outlined in Mr. Bignell’s memo were not the subject of testimony at the hearing. There was no testimony addressing why the American Properties landscaping plan was inadequate. To the extent that Mr. Bignell offered any opinion about trees, it was in response to a question by a member of the public about whether some of the large trees on the property could be preserved. He responded by acknowledging that American Properties was complying with the Township’s tree ordinance and was paying “a heavy price”:

Any property owner has a right to cut down trees as long as they comply with the Township’s tree ordinance, and I believe they do....They are providing 1,818 new trees, and they are allowed to do that. So I understand your concern about cutting trees down, but they do – so they are providing new trees throughout the site, too....[T]hey are providing 1,818 trees. It’s a heavy price to pay for cutting down the trees, but it the right of the property owner....[T]hey are allowed to develop their property.

[3T100-12 to 101-8]

Also, there is no testimony in the record to support a finding that sound planning principles require different or additional landscaping. The Special Hearing Officer finds that any such requirement would be unduly cost-generative, and that American Properties is not required to change the landscaping plan that was presented at the hearing. That said, the Special Haring Officer finds that, while not required, the plan could be improved if the Applicant were to work in good faith with the Township and Special Master to enhance landscaping in areas where, for example, it could be used to reduce headlight glare.

F. Stormwater

Background

This section requires an analysis of the complex relationships between state regulations dealing with freshwater wetlands, stormwater management, and residential site improvements.

Since 2004, State law has required that all major developments comply with rigorous stormwater management regulations. The DEP amended those regulations in 2020.⁵ Although the new regulations were in effective as of March 2, 2021, those regulations themselves provided that for certain applications filed before March 2, 2021, the old rules would still apply.⁶

On January 21, 2021, American Properties filed an application with DEP for a Freshwater Wetlands Permit. DEP requested additional information, and American Properties revised their application on March 1. On September 2, 2021, DEP issued the permit.

According to DEP regulations, Freshwater Wetlands Permits for a project of this nature cannot be issued unless the applicant has also complied with the requirements of DEP's stormwater management regulations.⁷ American Properties' Freshwater Wetlands Permit application included the information needed to satisfy stormwater management requirements. DEP's approval of the Freshwater Wetlands Permit was therefore an acknowledgement that American Properties had met the requirements of the stormwater management regulations.

Although the stormwater management regulations were adopted and are enforced by DEP, those same regulations were also incorporated by the Department of Community Affairs into the Residential Site Improvement Standards. As a result, an application that complies with the State

⁵ N.J.A.C. 7:8-1.6.

⁶ N.J.A.C. 7:8-1.6(b).

⁷ N.J.A.C. 7:8-1.6(c)(2).

stormwater management requirements also complies with the RSIS. RSIS requirements are enforced at the municipal level by the planning board.⁸

Municipalities are obligated to adopt their own stormwater management regulations. South Brunswick has done so.

With that as background, we now turn to the four issues to be decided relating to stormwater management. For the reasons that follow, the Special Hearing Officer has determined that the application complies with the relevant stormwater management requirements.

1. Whether stormwater management review and approval for the American Properties development, in connection with the NJDEP freshwater Wetlands General Permit and Transition Area Waiver, which includes stormwater management review, satisfies all Township stormwater related comments and requirements or whether the Township can regulate same pursuant to its own municipal ordinances. See CME March 11, 2021 Letter [SB-11] Comments D.10, 12-14, 18- 29, 35, 38, 39.

Special Hearing Officer's Decision

South Brunswick argues that American Properties has not met its stormwater management obligations because the Township professionals deemed the application “incomplete”; because an application that complies with the “old” stormwater regulations is deficient from planning and environmental standpoints; and because the “new” stormwater management regulations are incorporated into the RSIS, they should be dispositive. (SBb32-37). These arguments are not persuasive.

First, the October 21, 2016 Case Management Order that governs these proceedings granted the Township professionals the ability to review the applicant's submission, file responsive

⁸ “Whenever a municipality has enacted an ordinance which requires subdivision and/or site plane approval pursuant to N.J.S.A. 40:55D-37, then the planning board of such municipality shall ensure that the plans and plats for any residential development subject to review under such ordinance comply with the requirements of these rules before issuing a preliminary or final approval.” N.J.A.C. 5:21-1.7(a).

reports, and request additional information -- but any disputes relating to the submissions and reports were to have been submitted to the Special Master prior to the hearing, and “in no event shall the submission of additional information delay the hearing date.” (October 21, 2016 Court Order, ¶ F). In other words, the Township professionals did not have the authority to hold up the application by declaring it to be incomplete, and the mere fact that the requested information was not provided prior to the hearing does not mean that the actual requirements of the stormwater regulations were not satisfied. In fact, they were. Whatever technical deficiencies the Township professionals may have found with the plan, the DEP determined that it complied with the applicable stormwater management requirements. According to Mr. Parkhill, “the Department has determined that this project meets the requirements of the storm water management rule at NJAC 7:8.” (3T19:13 to 15).

Second, the Township has no authority to enforce its own stormwater management ordinance in a situation like this, where the application meets the DEP stormwater management requirements, and therefore also complies with RSIS. As noted in the October 21, 2016 Court Order, “compliance with Residential Site Improvement Standards...shall be dispositive as to all residential design elements governed by the RSIS.” (October 21, 2016 Court Order, ¶ B).

Third, the application “meets sound land use planning principles and satisfies applicable environmental regulations.” (October 21, 2016 Court Order, ¶ H). The “applicable” environmental regulations permitted American Properties to file an application that met requirements of the “old” regulations.

Finally, South Brunswick’s professionals provided no expert testimony that development under the “old” rules would provide inadequate stormwater management. Although several neighbors testified articulately about the current conditions of the neighborhood, and voiced

concerns about stormwater runoff, they testified as laymen. Expert testimony is required to answer the question of whether a particular stormwater management plan will be effective. See, e.g. Smart SMR of New York, Inc. v. Borough of Fair Lawn Bd. of Adjustment, 152 N.J. 309, 336 (1998) (requiring expert testimony for certain complex issues before a land use board).

Accordingly, American Properties has met its stormwater management requirements.

2. Whether American Properties must comply with the requirement to provide a 15' wide area with a maximum slope of 2% around the infiltration basin, despite the fact that RSIS and NJDEP regulations do not require same. See CME March 11, 2021 Letter [SB-11] Comment D.32.

Special Hearing Officer's Decision

The Township's requirements to provide a 15-foot area with a maximum slope of two percent around the infiltration basin are preempted by the stormwater safety requirements of the RSIS and the Best Management Practices manual. Because these requirements are not included in the RSIS, American Properties is not obligated to incorporate them into its design of the project.

3. Whether American Properties must comply with the requirement to submit test pits for each footprint. See CME March 11, 2021 Letter [SB-11] Comment D.66.

Special Hearing Officer's Decision

Again, to the extent that the Township's ordinances create requirements that conflict with the RSIS, it is the RSIS that governs. This entire subject area is governed by the RSIS, and American Properties must comply with those standards, not the Township's.

4. Whether American Properties is "grandfathered" and subject to the NJDEP Stormwater Management regulations and related provisions of the Township Ordinance that were in place prior to the March 2, 2021 effective date of the current rules or whether the new NJDEP Stormwater regulations and new Township ordinances apply to the development.

Special Hearing Officer's Decision

South Brunswick argues that American Properties must comply with the “new” standards because the “new” standards were incorporated into the RSIS on November 2, 2020, which was “over two months *before* the Applicant even filed the Application with the Township and made its initial NJDEP filing.” (SBb35). However, the “new” standards specifically state that major developments applying for approval under the Freshwater Wetlands Protection Act, “shall be subject to the stormwater management requirements in effect on March 1, 2021” – as long as a technically complete application was submitted to the Department prior to March 2, 2021. N.J.A.C. 7:8-1.6(b) and (c). In this case, it is clear that a technically complete application was submitted prior to March 2, 2021, because DEP approved the permit. It is irrelevant that the stormwater management provisions were incorporated into the RSIS at an earlier date. The point is that the regulations themselves allow an application like this to meet the old standards.

South Brunswick further argues that the application must comply with the “new” standards because DEP did not affirmatively declare the application to be complete prior to March 2, 2021. However, American Properties’ obligation was to submit a “technically complete application,”⁹ and again, it is clear that they did because DEP approved the permit. It is irrelevant that DEP did not issue a completeness letter prior to March 2, 2021.

Thus, because American Properties submitted a technically complete application to the DEP on March 1, 2021, their application is “grandfathered,” and is reviewable under the “old” standards.

⁹ N.J.A.C. 7:8-1.6(b)(2).

G. Miscellaneous Engineering Issues

1. Whether American Properties should be granted Preliminary and Final Major Subdivision and Site Plan approval as requested, or Preliminary only as suggested in the Bignell Review Letter [SB-13], Comment 13.C.

Special Hearing Officer's Decision

South Brunswick argues that American Properties should be granted preliminary major subdivision and site plan approval only – not preliminary and final approval together – since American Properties will require other governmental approvals, will have to revise its stormwater management plans, and because sound planning purposes require that only preliminary approvals be granted at this time. South Brunswick also points out that this Special Hearing Officer only granted preliminary approval to an applicant in a prior hearing, K. Hovnanian.

This application differs from the K. Hovnanian matter. K. Hovnanian had only applied for preliminary approval, so that is what was granted. Nevertheless, on appeal, Judge Cresitello held that the applicant should be afforded both preliminary and final approvals. Here, American Properties has applied for both preliminary and final approvals, noticed for both, and proceeded with no objection having been raised at the hearing about the type approvals being sought.

The Special Hearing Officer has previously determined that American Properties will not be required to meet new stormwater management requirements, and there was no testimony about why granting preliminary and final approval would violate sound planning principles. The fact that American Properties must obtain other governmental approvals is not unusual, and does not require a second hearing to ensure that those approvals have been obtained or that the conditions of this approval have been met.

Accordingly, American Properties will not be required to return for a second hearing to determine whether final site plan approval should be granted.

2. Whether American Properties can use treated post/rail wood fence with chain mesh around the basins in order to avoid unduly cost generative requirement of utilizing aluminum fencing as requested by the Township. See Bignell Review Letter [SB-13] Comment 13.N.

Special Hearing Officer's Decision

The March 10, 2021 Bignell planning memo recommends that “An attractive metal fence should be provided around the perimeter of all drainage basins.” (SB-13, Comment N). South Brunswick argues that “sound planning principles and the need to protect the public health, safety and welfare clearly dictates the use of the noted aluminum fencing around the detention basins....” (SBb39).

However, there is nothing in the record suggesting that a fence made out of something other than aluminum would violate sound planning or be detrimental to the public health, safety and welfare. Mr. Bignell testified that aluminum is preferable because it is longer lasting than wood (2T30-17 to 25 and 134-11 to 13). The record supports the fact that the Homeowners Association, which will be responsible for maintaining the fences, will have adequate reserves to replace the wood fences at the end of their useful life (2T179-4 to 6), and American Properties has offered to use treated wood to extend the life of the fence (APb37). That offer will be incorporated as a condition of approval.

Accordingly, American Properties is not required to use aluminum fencing material around the perimeter of the detention basins. They will be required to use lumber as a condition of approval.

3. Whether Road H and the culs-de-sac (sic) satisfy applicable RSIS standards. See Bignell Review Letter [SB-13], Comment 13.W.

Special Hearing Officer's Decision

The March 10, 2021 Bignell planning memo recommends that “Isolated cul-de-sacs like Road H should be discouraged. This road should be connected to Road E.” (SB-13, Comment W). South Brunswick argues that “sound planning principles also support connecting Road H to Road E in the development, thereby eliminating its proposed cul-de-sac ending...” (SBb39).

There are two cul-de-sacs in the development: Road H and Road G. They are on the south side of the development, separated from the rest of development by planned detention basins on Lot 37 and Lot 5. Eliminating these cul-de-sacs would require the development to be completely redesigned.

While the Bignell report says that isolated cul-de-sacs should be “discouraged,” there is no testimony in the record explaining why the cul-de-sacs violate sound planning, or why road H should be connected to Road E. Mr. Bignell testified that the site plan application was “not contrary to sound planning principles.” (2T160-13 to 14). The road layout complies with RSIS, which is dispositive. In addition, requiring American Properties to redesign the entire development would be unduly cost generative.

Accordingly, American Properties is not required to eliminate the cul-de-sacs, or to connect Road H to Road E.

4. Whether block curbing enclosing paved driveways for single-family homes is required per Township ordinances or sound planning principles. See Bignell Review Letter [SB-13], Comment 13.X.

Special Hearing Officer’s Decision

The March 10, 2021 Bignell planning memo recommends that “The paved driveways at the single-family homes should be enclosed with block curbing.” (SB-13, Comment X). South Brunswick argues that “sound planning principles also support...using block curbing-enclosed

driveways for the single-family homes proposed by the applicant in the development....” (SBb39).

While block curbing might be a nice amenity, there is no testimony in the record explaining why block curbing is important for sound planning. It is not required by RSIS and would be unduly cost-generative. American Properties is not required to install it.

5. Whether additional parking for maintenance vehicles, service trucks, snow plows, salt trucks, landscaper parking, etc. must be provided for the multi-family development, beyond what is required by the ordinance and RSIS. See Bignell Review Letter [SB-13], Comment 13.BB.

Special Hearing Officer’s Decision

The March 10, 2021 Bignell planning memo recommends that “The multi-family area should provide for the additional parking of maintenance vehicles, service trucks, snow plows, salt trucks, landscaper parking, etc. These should be realistically expected at this site and [are] not accounted for in RSIS calculations.” (SB-13, Comment BB). South Brunswick argues that “sound planning principles also support...providing additional parking spaces for the maintenance vehicles, service trucks, snow plows, salt trucks and landscaping trucks that will service multi-family units.” (SBb39).

While Mr. Bignell testified that snow removal could be “a burden on 11 spaces, potentially” (2T151-18 to 19), and advocated for additional parking, he did not say that sound planning principles required it. Here, the record shows that American Properties has exceeded the RSIS parking requirements: 911 parking spaces are required to meet the RSIS requirements, but the development will have 1,019 parking spaces. (1T35-3 to 7).

Accordingly, American Properties is not required to provide additional parking spaces beyond the 1,019 spaces in the site plan.

6. Whether ground floor storage for each unit based on ordinance/HUD standards is required. See Bignell Review Letter [SB-13], Comment 13.DD.

Special Hearing Officer's Decision

The March 10, 2021 Bignell planning memo recommends that “The plan should provide ground floor storage for each unit based on ordinance/HUD standards. This should be shown on the plan.” (SB-13, Comment DD). South Brunswick argues that “sound planning also supports additional storage for the units at the proposed development in accordance with the recommendations of the Township Planner as set forth in SB-13.” (SBb39 to 40).

The Special Hearing Officer agrees that it would be nice to have more storage space for the residential units. However, there is no evidence in the record that the storage space offered – which includes an outdoor storage room for each unit – violates any particular local ordinance, federal standard, or principle of sound planning.

Accordingly, American Properties is not required to provide additional ground floor storage for each multi-family unit beyond what is indicated in the site plan.

7. Whether a bus shelter is required and, if not required, should be installed pursuant to sound planning principles. See Bignell Review Letter [SB-13], Comment 13.GG”

Special Hearing Officer's Decision

The March 10, 2021 Bignell planning memo recommends that “A school bus shelter(s) should be provided in a safe, walkable location. Details should be provided.” (SB-13, Comment GG). South Brunswick argues that “The public health, safety and welfare of the residents that will live in the proposed development (specifically the children) justifies requiring the Applicant to install a bus shelter at the property, in accordance with the recommendations of the Township Planner as set forth in SB-13.” (SBb40).

American Properties has agreed both in testimony and in their brief to consult with the Board of Education and install an appropriately located bus shelter, if recommended by the Board.

In testimony, their representative, Mr. Kanter, said:

As far as the busing goes, Hank [Bignell] is right. We do work with the...school board, and they help us decide how many and where, all that stuff, and of course, absolutely, safety is the number one priority and making sure we have enough sidewalk, and the kids have to be completely safe.

So that does happen after that fact, once we have an approved site plan, so we know exactly where everything is set, and again, the Township could be part of the process.

[2T180-21 to 181-6]

In their brief, American Properties pledged: “AP will consult with the Board of Education (“BOE”) and will comply with the BOE’s recommendation as to whether a school bus shelter is appropriate within the Proposed Development and, if so, where.” (APb40).

Accordingly, American Properties will be required, as condition of approval, to consult with the Board of Education and comply with the Board’s recommendation as to whether one or more school bus shelters are appropriate within the development, and if so, construct the shelter(s) at location(s) recommended by the Board.

8. Whether American Properties is entitled to a de minimis exception for 25' curb radii at the clubhouse entrance. See CME Review Letter [SB-11], Comment A.8.

Special Hearing Officer’s Decision

American Properties has requested a de minimis exception to the RSIS requirements related to curb radii at two locations. South Brunswick objects.

The March 11, 2021 CME Engineering Report states, “the two (2) 5 ft. curb radii located at the intersection of the clubhouse access drive and Road A should be revised to 25 ft. in

accordance with RSIS requirements.” (SB-11, Comment A.8). South Brunswick argues that American Properties’ request for a de minimis exception from the RSIS requirement is procedurally and substantively deficient. In response, American Properties argues that the two curb radii were increased five feet to ten feet in response to the Township Engineer’s concerns; the Township Engineer testified that he was satisfied with the change, provided American Properties “can show turning paths for the proper designed vehicles that can make those turns”; and that the design satisfies the criteria for a de minimis exception from RSIS standards. (APb40 to 41).

The Special Hearing Officer agrees with American Properties. While the developer is required to comply with RSIS, the RSIS rules permit exceptions, provided those exceptions are de minimis. According to the regulations,

The municipal approving authority may grant by resolution of the planning board or zoning board of adjustment such de minimis exceptions from the requirements of the site improvement standards as may be reasonable and within the general purpose and intent of the standards if the literal enforcement of one or more provisions of the standards is impracticable or will exact undue hardship because of peculiar conditions pertaining to the development in question.

[N.J.A.C. 5:21-3.1(a)]

Reducing the minimum geometrics of street design, such as curb radii, is specifically recognized as being appropriate for a de minimis exception:

(f) Examples of de minimis exceptions include, but are not limited to, the following:

2. Reducing the minimum geometrics of street design, such as curb radii, horizontal and vertical curves, intersection angles, centerline radii, and others;

[N.J.A.C. 5:21-3.1(f)(2)]

The authority empowered to grant a de minimis exception at the municipal level is the

planning or zoning board – or in this case, the Special Hearing Officer. Any such request must meet four criteria:

1. It is consistent with the intent of the Site Improvement Act;
2. It is reasonable, limited, and not unduly burdensome;
3. It meets the needs of public health and safety; and
4. It takes into account existing infrastructure and possible surrounding future development.

[N.J.A.C. 5:21-3.1(g)]

According to the testimony, American Properties has already increased the turning radii at the clubhouse access drive from the five feet originally proposed to ten feet. This still falls short of the 25 feet required by RSIS, but critically, it meets the approval of the Township Engineer, Mr. Zielinski, provided the design allows proper turning maneuvers. When asked about the de minimis exception, Mr. Zielinski testified:

I have no problem with a de minimus (sic) exception if they can show turning paths for the proper designed vehicles that can make those turns. In other words, turning right, if you had the right driveway on the right, and you want to make a right turn out of there, can you negotiate that 10-foot radius without any problems.

And on the left, if you can turn in from the residential access street and make a right turn in by negotiating that 10-foot radius with no problems, then I don't see any issue with a de minimus (sic) exception.

[T60-19 to 61-5]

It is therefore clear that the de minimis exception requested here meets the requirements of the regulation. First, it is consistent with the intent of the RSIS, because “reducing the minimum geometrics of street design, such as curb radii,” is specifically recognized as an appropriate subject of a de minimis exception. Second, it is reasonable, limited, and not unduly burdensome because it is limited to two curbs and no others. Third, it meets the needs of public health and safety because it will only be granted if American Properties can demonstrate to the Township Engineer that the

design will allow proper turning maneuvers at the intersections in question. Fourth, it takes into account existing infrastructure and possible surrounding future development because the design is integral to the planned road network that is discrete to this development.

South Brunswick's arguments that the de minimis exception was not properly raised are without merit. The issue was raised to the Special Hearing Officer at an advertised public hearing. It was reviewed and discussed at length by experts on both sides. South Brunswick's professionals had ample opportunity to review, consider and comment on the issue, which they did.

Accordingly, the Special Hearing Officer grants a de minimis exception to permit two ten-foot curb radii at the intersection of the clubhouse access drive and Road A, provided that American Properties successfully demonstrates that the design will allow proper turning maneuvers at the intersections in question.

* * *

Separately, American Properties has requested that the Hearing Officer approve a second de minimis exception. This second exception relates to the speed limit in the townhouse portion of the development.

At the hearing, South Brunswick Township Engineer Kenneth Zielinski raised concerns about stopping distances at intersections throughout the townhouse portion of the development, where cars may be parked close to intersections. In response, American Properties agreed to install three- and four-way stop signs at the intersections and lower the speed limit from 25 miles per hour to 20 miles per hour. Lowering the speed limit requires a de minimis exception from RSIS.

There is no dispute between the parties – Mr. Zielinski testified that he “would be willing to recommend a de minimus exception and say 15 or 20 [mph]. It is not required, but I would think it

would be safer.” (3T88–14 to 18). Accordingly, the Special Hearing Officer grants a de minimis exception from RSIS to allow a 20 mile per hour speed limit in the townhouse portion of the development. The reduced speed limit is not required, but is nevertheless granted in the interest of improving safety.

9. Whether American Properties must remove the center island at the entrance at Schalks Crossing Road. See Raymond Olsen DPW Letter [SB-26] dated August 4, 2021, Roads, Comment 11.

Special Hearing Officer’s Decision

In a memo dated August 4, 2021, South Brunswick Director of Public Works Raymond T. Olsen wrote, “The center island shown in the main entrance off of Schalks Crossing Road must be removed to prevent curb and snow plow damage.” (SB-26, “Roads,” Comment 11). South Brunswick argues that maintaining the center island would be contrary to sound planning principles because it “makes it practically impossible, as proposed, to safely remove snow from the roadways and otherwise maintain the roadways,” and it “actually creates a dangerous condition that will threaten the health and safety of every member of the traveling public of the proposed development.” (SBb44). There is no testimony in the record to support the contention that the center island violates sound planning principles, much less that it would threaten health and safety. To the contrary, the access drives have been designed pursuant to RSIS requirements.

Additionally, the Special Hearing Officer agrees with American Properties, that Schalks Crossing Road is under the jurisdiction of Middlesex County and it is the County that will determine whether the island can be installed.

Accordingly, American Properties is not required to remove the Schalks Crossing Road center island, unless directed to do so by Middlesex County.

H. Miscellaneous Design Issues

1. Whether the width of the roadways where on-street parking is permitted must be a minimum of 30'. See Raymond Olsen DPW Letter [SB-26] dated August 4, 2021, Comment 16.

Special Hearing Officer's Decision

In his August 4, 2021 memo, Mr. Olsen states that “the width of the roadways must be a minimum of 30’ to allow for our trucks to safely plow the streets when cars are parked on them.” (SB-26, “Roads,” Comment 16). South Brunswick again argues that the widths of the roads are contrary to sound planning principles and create a dangerous condition that will threaten health and safety. Again, this would be a serious issue for consideration if there were any testimony to support this conclusion, but there is none. Instead, the testimony showed that the road widths were consistent with RSIS standards. See, e.g., 3T37-8 to 25 and 1T30-1 to 9.

Accordingly, American Properties is not required to widen the street widths from 24 and 28 feet, to 30 feet. The street widths as proposed are consistent with RSIS which is dispositive.

2. Whether the Township will pick up trash and recycling, whether trash and recycling must be collected curbside for all units, and whether weekly pick-ups are sufficient. See Paul Luceri Public Works email June 15, 2021, and Raymond Olsen DPW Letter [SB-26] dated August 4, 2021, Recycling, Comment 1.

Special Hearing Officer's Decision

The Olsen memo dated August 4, 2021 states: “All trash and recycling will be collected curbside for all units throughout. Once per week for both trash and recycling all year around.” (SB-26, “Recycling,” Comment 1) . South Brunswick argues that “there is no legal authority to impose upon the township the obligation to collect trash and recycling more than one time a week in an area other than curbside.” (SBb45). American Properties responds that “trash and recycling should be picked up in accordance with the proposed and agreed to locations throughout the

Proposed Development at least once per week each.” (APb43).

The record is sparse with regard to how often, and from what locations, trash and recycling must be collected. To the extent that this is a site plan issue, as opposed to an issue that arises under the general municipal police powers, the Special Hearing Officer finds that trash and recycling should be collected with the same regularity and pursuant to the same rules as other similarly situated developments in the municipality. If a governing body chooses to offer a public service, the service must be “available to all persons in like circumstances upon the same terms and conditions.” WHS Realty Co. v. Town of Morristown, 323 N.J.Super. 553, 563 (App. Div. 1999), quoting, Boulevard Apartments, Inc. v. Mayor of Lodi, 110 N.J.Super. 406, 411 (App. Div. 1970).

I. Miscellaneous Issues

1. Whether American Properties is required to submit the additional documentation requested by the Township in order to be deemed technically complete to proceed to hearings. See Bignell Letter dated February 22, 2021[SB-7]; Scott Cevera Letter dated February 23, 2021[SB-6]; Alaimo Letter dated February 24, 2021[SB-10]; CME Letter dated February 26, 2021 [SB-8]; Bignell Letter dated March 10, 2021 [SB-13];

Special Hearing Officer’s Decision

South Brunswick argues that American Properties failed to submit documents requested by Township professionals before the start of the hearing, and therefore the application should have been deemed incomplete. South Brunswick further argues that because those documents were not submitted, any decision other than a grant of preliminary approval would be premature. In response, American Properties points out that they complied with the requirements of the Court’s Case Management Order and that South Brunswick “did not object to the scheduling of hearing dates, or of completeness, aside from the general references of incompleteness in its consultants’

review letters.” (APb44).

For the following reasons, the Special Hearing Officer has determined that American Properties is not required to submit additional documents to the Township professionals, and that the information provided by American Properties prior to the hearing was sufficient for the application to have been deemed technically complete.

First, issues relating to the submission of additional information requested by Township professionals were to have been resolved prior to the start of the hearing. (See, October 21, 2016 Court Order, ¶ 2F). On several occasions prior to the start of the hearing, South Brunswick asked that the hearing be postponed, but their reasons had to do with who would be representing the Township, and with scheduling conflicts. They did not argue that the hearing should be postponed because the application was not complete.

Second, at the start of the hearing, the Special Hearing Officer asked whether the parties had any “prehearing concerns.” (1T15-20). Counsel for the Planning Board read into the record a general protest to the proceedings and reserved South Brunswick’s right to contest the earlier court rulings that led to the award of a builder’s remedy and the special hearing process, but there was no objection to the proceedings on the grounds that the application was incomplete. The Special Hearing Officer then asked a second time, “Are there any other prehearing concerns that anybody would like to raise now before we begin?” There were none. (1T18-5 to 8).

Finally, while South Brunswick has pointed in a general way to the documents their professionals would have like to have seen prior to the start of the hearing, South Brunswick has not pointed to any specific deficiency that would have prevented the Special Hearing Officer from being able to determine whether the site plan application was consistent with sound land use principles or environmental concerns. (See, October 21, 2016 Court Order, ¶ 2B, “The Special

Hearing Officers shall review each site plan application and shall grant preliminary and final site plan approval, with or without conditions, unless the Special Hearing Officer concludes that the site plan application is clearly contrary to sound land use planning principles or environmental concerns.”).

Accordingly, the Special Hearing Officer determines that the application was sufficiently complete at the start of the hearing for the Special Hearing Officer to adequately take testimony and render a decision on both preliminary and final site plan approval consistent with his charge.

2. Whether the Township will provide street sweeping for the roadways that are to be dedicated to the Township. See Mike Rakes Letter dated April 28, 2021, Street Sweeping, Comment a.

Special Hearing Officer’s Decision

This disputed issue asks “whether the Township will provide street sweeping for the roadways that are to be dedicated to the Township.” The Special Hearing Officer does not have the authority to make that determination. It is the governing body of the Township that decides whether to expend public funds to sweep the streets of the municipality. Street sweeping is not a site plan issue. However, if the governing body chooses to offer that public service, the service must be “available to all persons in like circumstances upon the same terms and conditions.” WHS Realty Co. v. Town of Morristown, 323 N.J.Super. 553, 563 (App. Div. 1999), quoting, Boulevard Apartments, Inc. v. Mayor of Lodi, 110 N.J.Super. 406, 411 (App. Div. 1970).

South Brunswick argues that “the design of the roadways and parking areas in portions of the proposed development make it practically impossible to sweep the streets,” and that “this is indicative of unsound planning and also raises public health, safety and welfare issues...” (SBb 47). No expert testified that the road and parking design was indicative of unsound planning. To

the contrary, the road and parking design complies with RSIS. Even Mr. Bignell, the Township Planner, agreed that the site plan application was “not contrary to sound planning principles.” (2T160-13 to 14).

Accordingly, American Properties is not obligated to change its plan based on the street sweeping concerns raised by Mark Rakes, the Township’s Road Department Supervisor. Absent an ordinance that does not violate Equal Protection, the Township is obligated to provide the same services to the public roadways in the development that it provides to the other public roadways in the municipality.

3. Whether the radius portion of curbing at all intersections may be concrete instead of Belgian block. See Olsen Letter dated August 4, 2021 [SB-26], Comment 12.

Special Hearing Officer’s Decision

American Properties’ site plan proposes Belgian block curbing at the intersections. Raymond Olsen, the Township Director of Public Works, required that “the radius portion of the curbing at all intersections must be concrete to prevent damage from snow plows.” (SB-26, “Roads,” Comment 12).

This issue was not discussed at the hearing. There is no testimony in the record suggesting that Belgian block curbing violates the principles of sound planning. And there is no ordinance requiring that concrete curbing be used on the radius portions of the roadways.

Accordingly, American Properties may install Belgian block curbing at the intersections, as proposed in their site plan.

CONCLUSION

In conclusion, the decisions rendered herein are incorporated and made part of the Special Hearing Officer's Proposed Resolution. Conditions imposed as a result of these decisions shall be considered as conditions of the Preliminary Major Site Plan and Preliminary Major Subdivision Approval.

SPECIAL HEARING OFFICER

s/ Steven P. Goodell
Steven P. Goodell, Esq.

EXHIBIT B



COFONE CONSULTING GROUP, LLC

CHRISTINE A. COFONE, PP, AICP
Principal

May 19, 2022

Honorable Michael V. Cresitello, Jr., J.S.C.
Superior Court of New Jersey
Middlesex County Courthouse
56 Paterson Street
P.O. Box 964
New Brunswick, NJ 08903-0964

**RE: I/M/O Township of South Brunswick,
Docket No. MID-L-4433-17**

**American Properties at South Brunswick, LLC v. Twp. of South Brunswick, et al.,
Docket No. MID-L-4580-16 / MID-L-4437-17**

Dear Judge Cresitello:

In my capacity as the South Brunswick Township (“Township”) Special Master, the purpose of this letter is to provide the Court with my opinion relative to:

- 1) Comments by American Properties at South Brunswick, LLC (“AP”) in a March 17, 2022 letter to the Court regarding the Special Hearing Officer’s Proposed Resolution and Report Resolving Disputed Issues in conjunction with the above-captioned litigation.
- 2) Comments in a March 17, 2022 letter to the Court by the Special Counsel to the Planning Board of the Township of South Brunswick (approved and adopted by the Special Counsel to the Township of South Brunswick).

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CHRISTINE A. COFONE, PP, AICP
Principal

COFONE CONSULTING GROUP, LLC

REQUESTS FROM AMERICAN PROPERTIES

I. The Township Shall Sign American Properties' Treatment Works Approval Upon Approving a Remedial Plan.

In my capacity as the Township Special Master, I support AP's request as detailed in the March 17, 2022 letter.

II. The SHO Resolution and/or SHO Report Should be Amended to Allow American Properties to Provide a 20-Foot-Wide Water Utility Easement to the Township in Compliance with Residential Site Improvement Standards.

In my capacity at the Township Special Master, I support AP's request as detailed in the March 17, 2022 letter.

III. Responses to the Board/Township Objection.

A. In Response to Objection Point I, Section A, Regarding SHO Report Section A3.

In my capacity at the Township Special Master, I concur with AP and the SHO that the Township is not entitled to any pro rata contribution for off-tract traffic improvements to County roads and State highways.

B. In Response to Objection Point I, Section B, and Regarding the SHO Report Section C.

In my capacity at the Township Special Master, I concur with AP that the SHO did not err in finding that AP complied with the applicable stormwater management standards, as the AP inclusionary development satisfies the provisions of N.J.A.C. 7:8-1.6(b)(2) and the "old" Stormwater Rules apply. I similarly agree that the Stormwater Rules, as incorporated through the RSIS, preempt any conflicting provisions in the Township's ordinance regarding stormwater management.



CHRISTINE A. COFONE, PP, AICP
Principal

COFONE CONSULTING GROUP, LLC

C. In Response to Objection Point I, Section C, the Costs Related to I&I Remediation Must Be Capped.

In my capacity at the Township Special Master, I concur with AP and the SHO relative to the I&I remediation costs cap.

D. In Response to Objection Point II, Regarding Affordable Housing and Miscellaneous Corrections Requested by the Township and Board.

In my capacity at the Township Special Master, I do not object to the inclusion of the language proposed by the Board/Township within Point II, Paragraph A, of the Objection and correcting the date of the Special Master's report to March 18, 2019.

REQUESTS FROM THE TOWNSHIP OF SOUTH BRUNSWICK PLANNING BOARD/TOWNSHIP OF SOUTH BRUNSWICK

Township and Board Objections

Point I: Civil and Sewer Engineering Objections

A. The Applicant Must be Required to Provide its Fair Share Contribution for Off-Tract Roadway Improvements

See response on Page 2, above.

B. The Applicant has not Complied with Applicable Stormwater Management Requirements

See response on Page 2, above.

C. A "Cap" Should Not Be Imposed Upon Sewer Inflow and Infiltration Costs

See response on Page 3, above.



CHRISTINE A. COFONE, PP, AICP
Principal

COFONE CONSULTING GROUP, LLC

Point II: Affordable Housing Planning And Miscellaneous Required Corrections to SHO Resolution

A. The UHAC Waiver Request as Made by Applicant and Supported by the Township Must Be Properly Referenced and Approved in the SHO Resolution

See response on Page 3, above.

B. References to the Correct Date of Special Master's Report

See response on Page 3, above.

As always, I would be happy to discuss this matter further if the Court desires.

Very truly yours,

Christine A. Nazzaro-Cofone, PP/AICP
South Brunswick Special Master

cc: MID-L-4433-17 distribution list



F. PULTE/AVALONBAY ORDER AND SHO RECOMMENDATION

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Pulte Homes of NJ, Limited Partnership

FILED

February 16, 2021

Hon. Michael V. Cresitello, Jr., J.S.C.

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

Petitioner.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION -MIDDLESEX COUNTY

DOCKET NO. MID- L-4433-17

Civil Action

Mount Laurel

(CONSOLIDATED WITH)

AVALONBAY COMMUNITIES, INC.

Plaintiff,

v.

TOWNSHIP OF SOUTH BRUNSWICK and
THE PLANNING BOARD OF THE
TOWNSHIP OF SOUTH BRUNSWICK,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION -MIDDLESEX COUNTY

DOCKET NO. MID- L-4435-17

PULTE HOMES OF NJ, LIMITED
PARTNERSHIP BUILDER'S REMEDY SITE
PLAN APPLICATION

Block 86, Lots 63, 65, 67, 68, 69, 70 & 71 (the
"Property")

THIS MATTER having been opened to the Court by Richard J. Hoff, Jr., Esq. of
Bisgaier Hoff, LLC, counsel for AvalonBay Communities, Inc ("AvalonBay") and Pulte Homes
of NJ, Limited Partnership ("Pulte") on notice to all parties of record; and

The Township of South Brunswick (“Township”) having instituted a Declaratory Judgment Action, entitled IMO the Application of the Township of South Brunswick, Dkt. No. MID-L-4433-17 (previously docketed as MID-L-3878-15) (“DJ Action”), in response to the Supreme Court’s decision In re Adoption of N.J.A.C. 5:96 and N.J.A.C. 5:97, 221 N.J. 1 (2015) (“Mount Laurel IV”) and requesting a judicial determination with regard to the Township’s Housing Element and Fair Share Plan (“HEFSP”); and the Court having appointed Christine A. Nazzaro-Cofone, P.P., A.I.C.P. as the Special Master in this matter (“Special Master”); and

The Court having entered an Order dated October 21, 2016 permitting the filing of builder’s remedy lawsuits against the Township and processing development application(s) in accordance with the Special Hearing Officer (“SHO”) process provided for in the Order dated October 21, 2016 pursuant to Cranford Development Associates, LLC, et als v. Township of Cranford, et als., 445 N.J. Super. 220 (App. Div.), cert. den., 227 N.J. 237 and 227 N.J. 266 (2016) as a means to prevent delay and interference with a builder processing its development application before municipal bodies who protest the entry of a builder’s remedy; and

The Court having considered and endorsed the continuation of the SHO process by Case Management Order dated May 10, 2019, and Conditional Order of Compliance dated November 27, 2019. Paragraph 1.f. of the Conditional Order provides that the potential or actual adoption of the ordinances shall not delay the review of development applications under the SHO process. Paragraph 7 of the Conditional Order further addresses the continued enforcement of the Court’s rulings, including those under the SHO process, “to ensure the effective, timely implementation of the Mount Laurel doctrine, or in the alternative, forms of relief requested by the parties” Moreover, paragraph 8 of the Conditional Order further provides that the “[Conditional] Order does not affect in any way the rights and remedies that any builder’s remedy plaintiff has under the prior Orders of this Court, including, but not limited to, the right to proceed under the SHO process for site plan approval...”; and

AvalonBay having filed a builder's remedy action on May 3, 2016, entitled AvalonBay Communities, Inc. v. Township of South Brunswick and Planning Board of the Township of South Brunswick, Docket No. MID-L-2635-16, having then been transferred to Mercer County as Docket No. MER-L-813-17 and then transferred back to Middlesex County and assigned Docket No. MID-L-4435-17, which was consolidated with the DJ Action in 2017. The Special Master, having concluded in September 2016 that the Property is available, approvable, developable, and suitable for a proposed inclusionary development; and

Pulte, successor in interest to AvalonBay, having submitted an application for Site Plan Approval for the Property pursuant to the SHO process set forth in the October 21, 2016 Case Management Order; and

The Court having appointed Richard Brigliadoro, Esq. as SHO to consider Pulte's development application for preliminary and final site plan approval pursuant to the SHO process, and provide the Court, the Township, and Pulte with his recommendation as to whether the application should be approved, denied or approved with conditions; and

Pulte having submitted its development application for preliminary and final site plan approval in accordance with the SHO process (the "Application"); and

The SHO having conducted the hearings on the Application at the Middlesex County Courthouse on December 19, 2019, February 6, 2020, February 25, 2020, and March 3, 2020 and virtually via Microsoft Teams on May 6, 2020, May 20, 2020, June 1, 2020 and June 9, 2020, and considered all evidence, stipulations, arguments, briefs, and proposed Resolutions; and

The SHO having memorialized his determinations in a proposed Resolution entitled, "Proposed Findings and Recommendations of the Special Hearing Officer that the Court Approve a Resolution Granting Preliminary and Final Site Plan Approval and Related Relief with Conditions to Pulte Homes of NJ, Limited Partnership for the Subject Project known as The Ramble at South Brunswick and Designated as Block 86, Lots 63, 65, 67, 69, 70 & 71 on the

South Brunswick Township Tax Map and Generally Located at 7 Major Road in the Township of South Brunswick,” dated November 20, 2020, together with appendices (hereinafter, “SHO Resolution,” which is attached hereto as **Exhibit A**) in accordance with N.J.S.A. 40:55D-10(g), which “set[s] forth such findings of fact and conclusions necessary to appropriately summarize the evidence presented, so as to enable the Court to enter judgment” as provided by Section 2(L) of the October 21, 2016 Case Management Order; and

The parties having submitted comments and objections regarding the SHO Resolution to the Court on or about December 4, 2020; and

The Special Master and SHO having responded to the parties comments and objections by letter dated January 19, 2021, which letter modified certain provisions of the SHO Resolution (the “SHO Resolution Modification,” which is attached hereto as **Exhibit B**); and

Based on the foregoing, on this 16th day of February, 2021,

IT IS HEREBY ORDERED AND ADJUDGED:

1. The Court hereby adopts and approves the findings and conclusions set forth in the SHO Resolution, as modified by the SHO Resolution Modification, and the cumulative findings of the foregoing shall constitute the Final Site Plan Approval for the Property.

2. Consistent with Section 2.H of the October 21, 2016 CMO “all other federal, state, and ancillary governmental permits and approvals that are required for the builder’s project and the satisfaction of these ancillary permit requirements shall be a condition of any order approving a builder’s application” and, as such, are hereby made conditions of the aforementioned Final Site Plan Approval for the Property.

3. The terms of the October 21, 2016 CMO remain in full force and effect, except as expressly modified by the Court’s November 27, 2019 Order of Conditional Judgment of Compliance and Repose, granting conditional approval of the Township’s Compliance Plan and immunity from further Builder’s Remedy claims, as may be amended by separate order relative

to final compliance, and any dispute between the Township and Pulte regarding either Pulte's satisfaction of conditions of the Final Site Plan Approval hereunder; the conformance of construction plans with that Final Site Plan Approval with conditions, conditionally approved hereunder, or conformance of construction plans to State UCC and sub-codes and regulations, shall be referred to the Special Master in the first instance, in the manner provided within Section 2.F. of the October 21, 2016 CMO with respect to site plans: "The Special Master shall serve as nonbinding arbiter of any disputes relating to submissions and reports on the Builder's Site plans", and in that role, the Special Master shall determine the final recreation elements required for the Property consistent with the SHO Resolution Modification.

4. Pulte shall comply with all requirements of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. ("MLUL") regarding post approval procedures and requirements, including but not limited to the submission of all reasonable and regular performance and maintenance bonds, or equivalent surety, authorized by the MLUL, and subject to provisions of the MLUL regarding the calculation and furnishing of performance guarantees pursuant to N.J.S.A. 40:55D-53 to -53.6, and Pulte shall be responsible for payment of reasonable and regular permitting, inspection and escrow fees as may be assessed consistent with regulations of the UCC of the New Jersey Department of Community Affairs ("DCA") regarding construction permitting, N.J.A.C. 5:23-1 to -12A.6, and DCA guidelines and practices regarding permitting and inspections.

5. Pulte shall pay any and all outstanding escrow fees (if any) no later than thirty (30) days of the date of this Order.

6. Subject to the terms hereof, and pursuant to Section 2.L. of the October 21, 2016 CMO, the instant order shall be considered a conditional final site plan approval for purposes of the issuance of construction code and subcode permitting.

7. The posting of this Order on eCourts shall constitute service upon all counsel of record.

8. This Order shall be rendered final and notice thereof shall be published at the time of the entry of final judgment in the consolidated case of IMO the Application of the Township of South Brunswick, Docket No. MID-L-4433-17, and pursuant to N.J. Ct. R. 4:69-6(b)(3), in the official newspaper of the municipality or a newspaper of general circulation in the municipality, and shall be filed in the office of the municipal clerk and be available for inspection by the public.

9. Pulte shall provide copies hereof to the Special Master and Special Hearing Officer within three (3) days of the entry of this order.

/s/ Michael V. Cresitello, Jr.
HON. MICHAEL V. CRESITELLO, JR., J.S.C.

 X Opposed

 Unopposed

Granted based upon the totality of the record developed during the underlying hearings conducted in this matter as memorialized by the Special Hearing Officer in a Resolution entitled "Proposed Findings and Recommendations of the Special Hearing Officer that the Court Approve a Resolution Granting Preliminary and Final Site Plan Approval and Related Relief with Conditions" dated November 20, 2020, as modified by the Report of the Special Master dated January 19, 2021. Same are relied upon by the Court and incorporated herein by reference in further support of the entry of this Order.

<p>IN THE MATTER OF THE APPLICATION OF THE TOWNSHIP OF SOUTH BRUNSWICK, COUNTY OF MIDDLESEX,</p>	<p>CONSOLIDATED ACTIONS SUPERIOR COURT OF NEW JERSEY LAW DIVISION – MIDDLESEX COUNTY DOCKET NO. MID-L-4433-17 (formerly MID-L-3878-15)</p>
<p>AVALONBAY COMMUNITIES, INC., Plaintiff, vs. TOWNSHIP OF SOUTH BRUNSWICK and the PLANNING BOARD OF THE TOWNSHIP OF SOUTH BRUNSWICK, Defendants.</p>	<p>CIVIL ACTION SUPERIOR COURT OF NEW JERSEY LAW DIVISION – MIDDLESEX COUNTY DOCKET NO. MID-L-4435-17 (formerly MID-L-2635-16)</p>
<p>PULTE HOMES OF NJ, LIMITED PARTNERSHIP BUILDER’S REMEDY SITE PLAN APPLICATION Block 86, Lots 63, 65, 67, 68, 69, 70 & 71 (the “Property”)</p>	

PROPOSED FINDINGS AND RECOMMENDATIONS OF THE SPECIAL HEARING OFFICER THAT THE COURT APPROVE A RESOLUTION GRANTING PRELIMINARY AND FINAL SITE PLAN APPROVAL AND RELATED RELIEF WITH CONDITIONS TO PULTE HOMES OF NJ, LIMITED PARTNERSHIP FOR THE SUBJECT PROJECT KNOWN AS THE RAMBLE AT SOUTH BRUNSWICK AND DESIGNATED AS BLOCK 86, LOTS 63, 65, 67, 68, 69, 70 & 71 ON THE SOUTH BRUNSWICK TOWNSHIP TAX MAP AND GENERALLY LOCATED AT 7 MAJOR ROAD IN THE TOWNSHIP OF SOUTH BRUNSWICK

SPECIAL HEARING OFFICER: Richard Brigliadoro, Esq.
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RESOLUTION

WHEREAS, on July 1, 2015, the Township of South Brunswick (“Township”) filed a Declaratory Judgment Action seeking a Judgment of Compliance and Repose approving its Affordable Housing Plan, in addition to other relief titled 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-0816-17 by Court Order of April 20, 2017, and transferred back to Middlesex County by Court Order of July 26, 2017 and subsequently assigned Docket No. MID-L-4433-17 (“DJ Action”); and

WHEREAS, 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 May 3, 2016 titled AvalonBay Communities, Inc. v. Township of South Brunswick, et al., originally assigned Docket No. MID- L-2635-16, transferred to Mercer County under Docket No. MER-L-813-17 by Court Order of April 20, 2017, and subsequently assigned Docket No. MID-L-4435-17 when transferred back to Middlesex County (the “Builder’s Remedy Action”); and

WHEREAS, Pulte Homes of NJ, Limited Partnership (“Applicant” or “Pulte”) has obtained the contractual rights to develop the property that is the subject of the Builder’s Remedy Action from AvalonBay Communities, Inc.; and

WHEREAS, the Honorable Douglas K. Wolfson, J.S.C. entered a Case Management Order dated October 21, 2016 (“CMO”) wherein the Court ordered that the builder’s site plan application would be heard by a Special Hearing Officer in place of the South Brunswick Township Planning Board. The appointment of the Special Hearing Officer in each case would be for the purpose of reviewing and making recommendations to the Court as to each of the site plan proposals of the builders in accordance with the procedures set forth in Cranford Development Associates, LLC, et. als. v. The Township of Cranford, et. als., 445 N.J. Super. 220 (App. Div. 2016) certif. denied, (2016 WL 533528 September 12, 2016); and

WHEREAS, the CMO expressly provides the following in Section 2:

A. Ordered that the hearing would be conducted on public notice regarding the Builder's site plan application for the purpose of the Special Hearing Officer rendering a recommendation to the Court as to "whether the Court should enter an Order and Judgment approving, denying or approving with conditions each builder's site plan application."

B. The Builder's site plan application shall be deemed a fully conforming "as of right" application in accordance with proposed zoning regulations the builder shall submit with its site plan submission, which shall be deemed to be the standards applicable to the Builder's proposed site plan. The Builders are encouraged to incorporate existing Township standards for similar types of housing as is reasonably practicable. The Special Master may make such recommendations as to the proposed zoning regulations as she deems appropriate for the protection of the public health, safety and welfare and in furtherance of sound land use planning principles. The Special Hearing Officers shall review each site plan application and shall grant preliminary and final site plan approval with or without conditions, unless the Special Hearing Officer concludes that the site plan application is clearly contrary to sound land use planning principles or environmental concerns. Compliance with Residential Site Improvement Standards ("RSIS") shall be dispositive as to all residential design elements governed by the RSIS.

H. The Special Hearing Officers shall conduct the proceedings in accord with the requirements of the Municipal Land Use Law, N.J.S.A. 40:55D-10. Each Builder shall present such expert testimony as it deems necessary to demonstrate that the Builder's proposal meets sound land use planning principles and satisfies applicable environmental regulations. The Builder shall present its testimony and evidence in support of its site plan, which may be subjected to cross-examination. Following completion of the Builder's testimony and evidence, the Township may present its response and testimony regarding the Builder's site plan, which also may be subjected to cross-examination. The public and all interested parties shall be allowed to comment on and/or present evidence and testimony either for or against the Builder's site plan upon the conclusion of the Township's presentation. The Special Master shall participate in all hearings before the Special Hearing Officer and shall provide such planning review and testimony as may be deemed necessary by the Special Hearing Officer. Each Builder shall identify all other Federal, State and ancillary governmental permits and approvals that are required for the Builder's project, and the

satisfaction of these ancillary permit requirements shall be a condition of any order approving a Builder's application.

J. All hearings conducted by the Special Hearing Officers shall be in the Superior Court of New Jersey in New Brunswick during regular court hours, at a courtroom designated by the Court. The Builder shall secure a transcript of each hearing on an expedited basis, to be paid for by the Builder, and shall distribute copies of the hearing transcripts to the Township, the Special Hearing Officer and the Special Master.

K. All costs for the Special Hearing Officers, and any expert retained on behalf of the Special Hearing Officer, shall be split between the Builder and the Township for each application being reviewed by the Special Hearing Officer. All costs associated with the Special Master shall be borne by the Township.

L. Upon conclusion of the hearing, the Special Hearing Officer shall provide the Court, the Township and the Builder with its recommendation as to whether the Builder's site plan should be approved, denied, or approved with conditions in the form of a Resolution. Any comments or objections to the Special Hearing Officer's recommendations set forth in the Resolution shall be filed with the Court no later than ten (10) days from the date of the recommendation. The Special Hearing Officer shall set forth such findings of fact and conclusions necessary to appropriately summarize the evidence presented, so as to enable the Court to enter judgment. The Court's Order as to each site plan shall be considered a preliminary and final site plan approval for purposes of filing an application for a building permit.

WHEREAS, the Honorable Michael V. Cresitello, Jr., J.S.C. by Court Order on July 3, 2019 appointed Richard Brigliadoro, Esq. as a Special Hearing Officer ("SHO") for the purpose of reviewing and making recommendations to the Court as to matters to which the Special Hearing Officer is assigned; and

WHEREAS, pursuant to a Court Order entered by the Honorable Michael V. Cresitello, Jr., J.S.C. on July 23, 2019, the subject application was assigned to Richard Brigliadoro, Esq. as the SHO; and

WHEREAS, Hearings were conducted in this matter by the Court-Appointed SHO with the assistance of the Court-Appointed Special Master, Christine (Nazzaro-Cofone) Herbert P.P. ("Special

Master”), at the Middlesex County Courthouse on December 19, 2019, February 6, 2020, February 25, 2020, and March 3, 2020 and virtually via Microsoft Teams on May 6, 2020, May 20, 2020, June 1, 2020, and June 9, 2020 due to the COVID-19 pandemic and the restrictions placed on public gatherings and the closures of public buildings including the Middlesex County Courthouse;¹ and

WHEREAS, during the public hearing process, Pulte was represented by Bisgaier Hoff, LLC, Robert A. Kasuba, Esq., and Danielle Novack Kinback, Esq. appearing; and

WHEREAS, South Brunswick Township (“Township”) was represented by Donald J. Sears, Esq. and the South Brunswick Township Planning Board (“Planning Board”) was represented by Vogel, Chait, Collins and Schneider, P.C., Thomas J. Molica, Jr., Esq. appearing; and

WHEREAS, there were no objections from the Township or the Planning Board regarding notice of the public hearing process and the SHO determined that notice was proper and in conformance with the requirements of the Municipal Land Use Law (“MLUL”) and the CMO issued by Judge Wolfson; and

WHEREAS, throughout the entirety of the public hearing process, no members of the public appeared and identified themselves on the record, nor did any representative of Fair Share Housing Center (“FSHC”) appear and identify themselves on the record as participating in the public hearing process. FSHC in addition to not attending the public hearing process, did not provide any comments, written or oral regarding the application and no member of the public attended the hearings and no member of the public submitted any comments, written or oral regarding the application before the SHO; and

WHEREAS, Pulte presented the following expert witnesses to testify in support of the application: (1) Jeromie P. Lange, P.E., P.P., C.M.E., C.F.M., as its Civil Engineer and Professional Planner; (2) Clare McCaffrey, AIA, as its Architect; and (3) S. Maurice Rached, P.E., P.T.O.E., as its Traffic Engineer; and

WHEREAS, the Township and Planning Board presented the following expert witnesses to testify regarding the application: (1) Kenneth Zielinski, P.E., P.P., C.M.E., as their Civil Engineer; (2) Bryan Bidlack, Director of Planning, P.P., AICP, as one of their Planners; (3) Mary Beth Lonergan, P.P., AICP,

¹ The June 1, 2020 hearing was limited to carrying the application to June 9, 2020 for notice purposes. The transcripts are referred to as follows: December 19, 2019 hearing is 1T; February 6, 2020 hearing is 2T; February 25, 2020 hearing is 3T; March 3, 2020 hearing is 4T; May 6, 2020 hearing is 5T; May 20, 2020 hearing is 6T; June 1, 2020 hearing is 7T and the June 9, 2020 hearing is 8T.

as one of their Planners; (4) Emily Goldman, P.P., AICP, as one of their Planners; (5) Henry Bignell, P.P., as one of their Planners; (6) Wayne D. Simpson, P.E., BCEE, as their Engineer on sewer and water utility issues; and (7) Joseph A. Charmello, as the Township Traffic Safety Coordinator; and

WHEREAS, during the course of the public hearing process, Pulte introduced into evidence Exhibits identified on Exhibit A annexed hereto and incorporated herein as if by reference set forth herein at length; and

WHEREAS, during the course of the public hearing process, the Township introduced into evidence Exhibits identified on Exhibit B annexed hereto and incorporated herein set forth herein at length; and

WHEREAS, after the conclusion of the hearing process, Pulte, the Township and the Planning Board entered into a Statement of Open Issues and Stipulations dated June 26, 2020 which is annexed hereto as Exhibit C and is incorporated herein by reference as if set forth herein at length.

NOW, THEREFORE, the SHO makes the following findings of fact, based on evidence presented throughout the public hearing process, at which time a record was made.

THE DECEMBER 19, 2019 HEARING

TESTIMONY OF PULTE ENGINEER AND PLANNER, JEROMIE LANGE

1. The first witness to testify on behalf of the Applicant was Jeromie Lange, P.E., P.P. Mr. Lange was qualified as a licensed Professional Engineer and Planner in the State of New Jersey (1T.40:22-24, 1T.41:1-5).
2. Mr. Lange testified that the site is designated as Block 86, Lot 63, 65, 67, 68, 69, 70 and 71 with a postal address of 7 Major Road, South Brunswick, New Jersey. The site is approximately 26.55 acres in land area and is located in the Age-Restricted Residential Community Zone ("ARRC Zone). (1T.41:18-24, 1T.42:1-3).
3. Mr. Lange provided an overview and breakdown of the 152 residential units proposed for this development project. Forty-four (44) of the units are traditional townhome units as well as 108 multi-family units which were characterized as a stacked townhome product. The stacked townhome product is a three-story product with multi-floor living areas. (1T.42:4-17).

4. Mr. Lange also represented that the Applicant is proposing an inclusionary development with a 20% set-aside for affordable housing units resulting in 31 affordable housing units to be constructed on-site. (1T.42:18-21).

5. Mr. Lange testified that the project is a fully conforming "as of right" application pursuant to the Court Order of Judge Wolfson. Mr. Lange further testified that the legal standard to be applied to this application is that the project is not clearly contrary to sound land use planning due to environmental or other substantial planning concerns. He also testified that the application conforms to the standard required by the Court. (1T.43:1-15).

6. Mr. Lange provided an executive summary of why this application conforms to the required standard. Mr. Lange testified that the site is well suited for multi-family development because it is in a transitional area between commercial and residential uses. The underlying zoning is multi-family residential. The only difference between the proposed project and the underlying zoning is that the underlying zoning is an Age-Restricted Zone and this project is not Age-Restricted. Mr. Lange represented that this is an inclusionary housing project and a substantial amount of affordable housing units will be produced on-site. The proposed density is six (6) units per acre which is well below the underlying zoning density of eight (8) units per acre. (1T. 44:5-24).

7. Mr. Lange further testified that there are substantial ecologically constrained open space areas both on the site and off the site and this project is proposed in between those areas. He represented that the overall development is appropriately buffered for a multi-family development and will be consistent with sound planning. He also represented that the proposed development will not result in any environmental concerns. Pulte has obtained a transitional waiver and a de minimis modification to the waiver for this specific development which was approved by the NJDEP on November 21, 2019. (1T.45:1-24, 1T.46:1-4).

8. Further, Mr. Lange testified that there are no flood hazard areas or riparian zones within the portion of the site to be developed. The entire area of limited disturbance is not affected by either a flood hazard area or a riparian zone. That verification was received from the NJDEP on December 6, 2019.

Also, there are remnants of former mining activities on the site which is estimated to have taken place over several decades. (1T.46:5-17).

9. Mr. Lange stated there is a de minimis visual impact from outside the site largely because the site is well below the view sheds from the public. The existing steep slopes have been leveraged to buffer the project. (1T.46:24, 1T.47:1-6).

10. Mr. Lange testified a Traffic Expert, Maurice Rached, will provide testimony that the traffic impact would be appropriate, safe and efficient.

11. Mr. Lange represented that sanitary sewer and domestic water demands can be met. Further, he testified that a fully compliant stormwater management system has been designed to conform to the requirements of the RSIS. (1T.47:12-18).

12. Pulte is also proposing to add several amenities to the site that would qualify as recreation to meet the needs of the recreation component based upon discussions with the Township's Professionals and the Special Master. (1T.47:19-24, 1T.48:1-4).

13. Mr. Lange reviewed Exhibit P-24 titled "Regional Map Exhibit" and he explained that there are four (4) parks within 2 miles of the site which parks were identified as the Wood Lot Park, the Beachwood Park, Veterans Park and the Reichler Park. He characterized the parks as having a combination of active and passive recreation opportunities. (1T.51:8-13).

14. Mr. Lange reviewed Exhibit P-25 titled "Overall Aerial Exhibit". Mr. Lange represented that the proposed development on the site is in the westerly portion of the site. The easterly portion of the site is environmentally constrained and would be left as open space. He also highlighted the fact that a portion of the site was utilized as a sand and gravel mine based on historical aerial photographs. He estimated that the mining activities seem to have occurred from the 1960s to the 1990s. Also, he represented that the steep slopes occur mostly in the southwestern portion of the site near the property line and then the site flattens out. Mr. Lange also represented that there is approximately 70 feet of fall from Major Road down to the proposed stormwater management wet pond. The freshwater wetlands to the north and east comprise approximately 5.6 acres of the total site. (1T.51:20-22, 1T.53:8-20, 1T.54:3-6).

15. Mr. Lange reviewed Exhibit P-30 which he identified as being an excerpt from the Township Zoning Map. Mr. Lange added an orange shading to the subject site identifying the site as being located in the ARRC Zone. (1T.55:15-21).

16. Mr. Lange reviewed prior development applications. He testified that Baker Development received site plan approval for 170-units with a 20% set-aside that was an age-restricted development. There were four (4) buildings proposed in regard to that project which approval was granted in 2008. (1T.13:8-15, 1T.59:1-14).

17. Mr. Lange stated that Avalon Bay also proposed development of 212 rental units which were not age-restricted. Pulte has taken over the project from Avalon Bay and is proposing an entirely different product type than what was previously proposed. (1T.60:1-4).

18. Mr. Lange reviewed Exhibits P-25 titled "Overall Aerial Exhibit", P-26 titled "Aerial Exhibit" and P-27 a "Color Rendering of the Site Proposal" during the hearing. Mr. Lange testified that the townhome units are located in the southerly portion of the site in Buildings 10-18. The townhome units are also located on either side of Road B. The stacked townhome units constitute the remainder of the units and are located along Road A and Road C in the northerly and easterly portions of the project. Mr. Lange reiterated that Pulte is proposing the on-site construction of 31 affordable housing units which constitutes 20% of the overall project count. (1T.61:18-24, 1T.62:1-15).

19. Mr. Lange testified that the building heights are affected by the average grade proposed around the structures. The buildings range in height from 39 feet to 42 feet. The multi-family dwellings are stacked townhomes which range in height from 43 feet to 46 feet. In regard to the townhomes on the southerly end of the project, these townhomes are garage-under and are two (2) stories tall. On the north side, the same units are three (3) stories tall. Mr. Lange represented that the number of stories is designed to accommodate the steep slopes and topography of the site. Also, townhomes on the north side of Road B have walkout basements. The town-homes are thus two (2) stories on Road B and then present as three (3) stories in the rear of those units. (1T.62:16-24, 1T.63:1-20).

20. Mr. Lange highlighted unique characteristics of the land that impacted the design of the project from an engineering standpoint. He stated the site has narrow frontage and other irregularities

regarding the overall property including, but not limited to, the topography as well as having 70 feet of fall from Major Road down to the wetlands which are located in the easterly portion of the project. The depth of the seasonal high water table is another consideration particularly down in the lower portion of the project. Other design factors include, but are not limited to, the existence of freshwater wetlands on the site and the associated transition areas. (1T.64:14-24, 1T.65:1-13).

21. Mr. Lange provided testimony in regard to the rear corridor of townhome units along the southerly property line. He stated:

“if you are out in the back of these buildings, you are going to have that retaining wall. So, you will be looking up and over it and look clean over that contractor’s yard. You will not be able to see that from the first floor or the backyard area. The second floor you are going to have some of the view. . . we have agreed at the Township’s request to put in a solid row of 6 to 8-foot evergreen type shrubs. . . that will further supplement the visual separation particularly of that second-floor level.” (1T.67:18-24, 1T.68:1-13).

22. Mr. Lange reviewed Exhibit P-28 titled “Major Road Intersection Exhibit” and P-29 identified as a True Scale Profile Reflecting the Vertical Profile From Major Road. (1T.69:7-24, 1T.70:1-15).

23. Mr. Lange testified in regard to access to the site off of Major Road. He stated a right turn into the site and a left turn into the site are permitted. However, egress would be limited to a right turn out only. A left turn out of the development is prohibited. Mr. Lange also represented that Major Road has a 35 miles per hour (“mph”) speed limit and that approaching the site from Route 1 there is an advisory curve sign for a 25 mph speed limit. The developer is, thus, proposing a similar advisory sign with a 25 mph speed limit coming from the opposite direction if you are proceeding northbound coming from south of the site. The developer is also proposing a 16-foot, 6-inch right-of-way dedication that would contain the new road bed. The radius would meet a 35-mph design standard. (1T.71:9-24, 1T.72:1-24, 1T.73:1-6).

24. Mr. Lange reviewed traffic circulation within the site and reviewed Exhibits P-26 and P-27. Mr. Lange testified that the developer is proposing forty-four (44) conventional townhomes and pursuant to the RSIS the townhomes are rated at 5.9 trips per dwelling unit. There are 78 multi-family units which are considered under the RSIS to be mid-rise apartments. The mid-rise apartments under RSIS

represent 5.5 trips per dwelling unit. Thus, Mr. Lange testified that the Average Daily Trips (ADT) results in a total of 689 trips. (1T.75:1-15).

25. Mr. Lange next reviewed the various street classifications as recognized by the RSIS. He stated that Roads A, B and C would be considered multi-family cul-de-sacs. Mr. Lange explained how he reached that conclusion. Mr. Lange testified as follows: (1) it is serving a multi-family development; (2) there is single means of ingress and egress; and (3) the ADT is less than 1,000 trips. (1T.75:20-24, 1T.76:1-4).

26. Mr. Lange testified that all of the other sections of the roadway would be considered multi-family courts. This classification is the result of the following: (1) the roadway serves multi-family dwellings; (2) there is single means of ingress and egress; and (3) the length of the roadway is less than 300 feet. (1T.76:5-10).

27. Mr. Lange testified that the internal roadways would be designed to achieve a 25-mph design speed which conforms to road classifications under the RSIS. Furthermore, Roads A, B and C form what Mr. Lange characterized as being a P-Loop. He stated that Roads A, B and C all meet the RSIS horizontal geometry requirements. The roads also meet the requirements of the State Uniform Fire Code. They have 24-foot width which fully conforms with the RSIS. Mr. Lange stated that a 24-foot width road has a traffic calming effect. Mr. Lange further testified that a 24-foot cartway also improves stormwater management by having less impervious surface. (1T.76:11-24, 1T.77:1-20).

28. Mr. Lange also stated that the only intersection that did not previously meet a 25-mph design speed, is the intersection of the multi-family court between Buildings 8 and 9 on Road A. It was designed for a 15 mph sight distance. However, Building 9 is being shifted to the south, Pulte is clearing a portion of what was going to be a wooded area to the west of Building 9 which results in a sight distance that gets "pretty close" to 25 mph. All other intersections meet the 25mph design speed. (1T.78:22-24, 1T.79:1-24).

29. Mr. Lange testified that sidewalks will be 4-foot wide in the area of the roadway and where a sidewalk is adjacent to parking stalls at 6 feet wide to account for vehicular overhang. (1T.81:5-15).

30. Mr. Lange reviewed Exhibit P-34 titled "Fire Truck Circulation Exhibit" dated December 12, 2019. Mr. Lange stated that Exhibit P-34 depicts a typical New Jersey ladder fire truck and demonstrates that the truck is able to access all points of this residential development. (1T.81:23-24, 1T.82:1-15).

31. Mr. Lange testified in regard to Exhibit P-32 titled "Dimension Plan Exhibit" dated December 12, 2019. However, P-32 does not reflect the modified layout that was testified to by Mr. Lange. Mr. Lange provided numerous examples of how the design of the project took advantage of the topography of the site. The design team leveraged Pulte's product line by looking at garage under and walk out products relative to walking down the slopes. The project was designed such that the residential units are actually on a relatively flat area and contains steeper portion of the road where there are not units and just vehicular access in and out of the development. (1T.83:21-24, 1T.84:7-18).

32. Mr. Lange reiterated that this is a low-density project with a density of 5.74 dwelling units per acre or 5.75 dwelling units per acre after the right-of-way dedication. Thus, the proposed density is well below 8 units per acre permitted under the Township Zoning Ordinance and also below COAH's presumptive density of 6 units per acre. (1T.85-7:16).

33. Mr. Lange testified that the developer utilized standards set forth in the Mahwah case². Mr. Lange testified that those standards were found to be appropriate standards for an inclusionary development and Pulte meets all of those standards set forth in the Mahwah case. (1T.85:17-24, 1T.86:1-10).

34. Mr. Lange addressed on-site parking. Mr. Lange represented that the requirement under the RSIS is for 330 parking spaces. Mr. Lange, however, took a very conservative approach to his parking calculation and made an assumption that there would be a maximum number of bedrooms in each dwelling unit. As a result, the Applicant was originally proposing 416 parking spaces. However, due to changes to the site to accommodate recreation and some other factors, the developer will be providing 409 parking spaces which continues to greatly exceed the 330 total parking stalls required. (1T.89:3-23).

² Urban League v. Mahwah, 207 N.J. Super. 169 (Law Div. 1984) Mr. Lange testified for example, with respect to a building set back to a Collector Street, Pulte proposes a 20.6 foot setback where a typical minimum setback would be 20 feet for this type of inclusionary development. Pulte also proposes a building setback to a paved area of 10 feet and a building to building separation of 25 feet where a typical dimension would be 20 feet. Pulte also proposes a perimeter tract setback of 35 feet.

35. Mr. Lange addressed visitor parking. He testified that pursuant to the RSIS, a half parking stall per unit is the standard to calculate visitor parking. Visitor parking has to occur either on the street or in a common parking lot. Mr. Lange calculated the number of visitor parking spaces to be 76. In this development, there are 128 surface parking stalls. However, as a result of the reduction in on-site parking, there would be 121 total stalls which continues to exceed the required number of visitor parking spaces. (1T.90:4-17).

36. Mr. Lange addressed parking for the affordable housing units. He stated that 30 of the 31 affordable housing units have surface parking. When the surface parking for the affordable housing units is examined in combination with the visitor requirement for non-affordable units, there is a requirement for 121 parking stalls. Pulte conforms to that requirement. (1T.90:18-24, 1T.91:1-5).

37. Mr. Lange also testified that the townhome driveways are 20 feet long and 18 feet wide. Thus, the townhome driveways functionally result in 4 parking stalls with 2 parking spaces in the driveway and 2 parking spaces in the garage. However, pursuant to the RSIS Pulte would only get credit for 3 parking spaces and not 4. The parking numbers that have been provided by Mr. Lange are based on 3 and not 4 parking stalls. (1T.92:1-10).

38. One affordable housing unit has a garage and the other 30 affordable units have surface parking. (1T.92:17-20).

39. Mr. Lange testified that Pulte is proposing a total of 6 handicapped parking stalls out of the proposed 121 parking stalls. The location of the handicapped parking stalls is as follows: 1) two (2) handicapped parking spaces are located to the west of Building 1; 2) two (2) handicapped spaces are located northwest of Building No. 4; and 3) two (2) handicapped spaces are located south of Building No. 3. Furthermore, two (2) of the six (6) stalls are van accessible and they would be located near Building No. 1. (1T.93:24, 1T.94:1-14).

40. Mr. Lange reviewed Exhibit P-21 titled "Sign Detail" dated December 12, 2019. The developer proposes a Pulte Homes logo located on a masonry column or pillar. Hanging off that in a cantilever fashion is an additional sign identifying the development by name "The Ramble at South Brunswick". That sign is a 60-inch by 36-inch by 1.7-inch cedar panel sign with aluminum letters. The

sign will be located approximately 8 feet setback from the new right-of-way line on Major Road. The sign will be no more than 10 feet tall and no more than 24 feet long. The sign is also clear of the line of sight distance at the intersection of Major Road and Road A. (1T.95:1-24, 1T.96:1-18).

41. Mr. Lange reviewed Exhibit P-35 titled "Steep Slope Exhibit" dated December 12, 2019. Mr. Lange testified that steep slopes are slopes 20% or greater. The steep slopes are located in the south and westerly portions of the site. Mr. Lange stated that the garage under units in the Road B area are in a 20% slope range. Buildings 9 and 10 and a portion of Road A after the Boulevard section north of the intersection with Road B also contains a 20% steep slope area. The final area of steep slopes is in the easterly portion of the developed area off the end of one of the stacked townhome buildings and encroaching slightly into the wet pond area. (1T.97:12-24, 1T.98:1-21).

42. Mr. Lange represented that pursuant to the RSIS, you are allowed to add 2% above the maximum road grade which is 12% for a new total grade of 14%. In this instance, the steepest portion of Road A is just over 13% which is located on the westerly portion of the site between the intersection with Road B and Building No. 9. (1T.99:20-24, 1T.100:1-7).

43. Mr. Lange also testified in regard to the view corridor relative to this development. He stated that from Major Road the only building that would be visible is Building No. 18. He stated you would be able to see the second story of that building. The rest of the development would not be visible from Major Road because of the topography of the site. (1T.101:1-24, 1T.102:1-7).

44. Mr. Lange reviewed the purposes of the South Brunswick Township Steep Slope Ordinance No. 62-202. He stated the following purposes are contained within the Ordinance: (1) to limit the soil loss and erosion; (2) to prevent excessive stormwater runoff; (3) degradation of service of water quality; and (4) to maintain the natural topography and drainage patterns. Mr. Lange further represented that the steep slopes in the southerly and westerly portions of the site do not represent natural topography and are manmade as a result of the previous sand and mining operation on the site. Mr. Lange also stipulated that Pulte would meet all requirements to obtain a certified soil erosion and sediment control plan. Mr. Lange further represented that Pulte is employing a number of retaining walls to permanently

retain the steep slopes and to create flatter useable yard areas for the future residents of this community. (1T.102:8-24, 1T.103:1-19).

45. Mr. Lange testified that the Applicant has designed a stormwater management system that is fully compliant with the RSIS and will limit excessive stormwater runoff. The system will mitigate the degradation of surface water and limit the increased flooding potential. (1T.103:20-24, 1T.104:1-4).

46. The design layout and the proposed grading leveraged the steep slopes to hide the development from the public view. The design will incorporate buffering from the surrounding land uses; in particular, the contractor's yard to the south. In addition, a landscaping plan has been designed to permanently stabilize and maintain the environmental integrity of the landscape. (1T.104:5-15).

47. Mr. Lange also addressed the use of retaining walls on the site. He stated that the retaining walls are generally in the 10 foot to 15 foot in height range. The highest retaining wall is in the southerly corner of the wet pond at the intersection of two (2) retaining walls. That retaining wall is approximately 26 feet high in that location. All retaining walls will have a fence located on it. He further indicated that there would be a variety of fence types on top of the wall. For example, he stated that a split rail type of fence is proposed, but on other key walls a metal jerith-type fence will be used. He further indicated that the developer is desirous of providing robust fencing on the top of walls. (1T.105:2-24).

48. Mr. Lange also testified in regard to the structural integrity of the retaining walls. He stated the walls "can be designed to be stable structurally for bearing capacity, overturning, sliding, all of the typical standards. And we would, of course, stipulate to submit all those designs as part of any approval." (1T.107:15-23).

GEOTECH AND STORMWATER MANAGEMENT

49. Mr. Lange stated that the geotech studies revealed the site contains a sandy loam with some gravel horizons and all of that is over firm clay or clay loam. Further, Pulte is proposing three (3) types of stormwater facilities on the site. Mr. Lange then referred to Exhibit P-37 titled "Stormwater Facility Exhibit" and dated December 12, 2019 to identify the three (3) types of stormwater facilities. First, a stormwater basin which is a wet pond. It is a permanent body of water and the water surface will fluctuate with rainfall events to help attenuate the water and provide for water quality. Second, Pulte is proposing

twelve (12) recharge trenches which are located around the townhomes along Road B and then a few over in the multi-family buildings south of the wet pond. Third, Mr. Lange testified that with respect to the three (3) multi-family courts located along Road A, Pulte is proposing porous pavement. Mr. Lange also stipulated that Pulte would perform additional test pits as a condition of any approval to verify that all recharge trenches are in suitable soils. (1T.109:7-20, 1T.110:19-24, 1T.111:1-22, 1T.113:4-8).

THE WET POND

50. Mr. Lange represented that there will be a wet pond located on-site which is considered a Class 4 Dam under the New Jersey Dam Safety Standards. He also stated that approval of a Class 4 Dam is acquired as a Permit-By-Rule. Mr. Lange testified that Pulte is proposing gemini spray aerators. He stated that aerators are used in wet ponds to keep the water turned over and oxygenated in order to keep the water in the wet pond in good health. He stated ultimately the water will be discharged to the wetlands, so it is important to ensure that oxygen levels are appropriate. He also testified that the spray aerators will help cool the water. Mr. Lange testified that an increase in water temperature in the wetlands and in particular in streams can have an adverse effect on the ecology. Mr. Lange explained how the water would heat up. He stated that runoff from asphalt and rooftops gets hot, the water picks up the heat energy and inflows into the stormwater system which would increase the water temperature. As a result, the aerators are designed to protect against this situation. (1T.114:1-24, 1T.115:1-17).

51. Mr. Lange testified that in accordance with the NJDEP Guidance Manual (Best Management Practices Manual), it is recommended that there be a 20-acre drainage area to a wet pond. In this instance, Pulte does not have a 20-acre drainage area to a wet pond but has an approximate 10-acre area to a wet pond. Mr. Lange stated that even though it is less than 20 acres, there is more than adequate impervious surface to keep the wet pond wet throughout the year even in drought conditions. (1T.118:7-24).

52. Mr. Lange also stipulated that the developer would prepare a water budget. He explained that a water budget is a review of 30 years of actual rainfall data in order to demonstrate that the pond will have enough water in it throughout the entire 30-year period. He further testified that he is confident that the pond will have enough water in it throughout the 30-year period. In fact, he stated the actual wet portion

is oversized. More specifically, the DEP requires a minimum ratio between the normal water volume in the wet pond and the one (1) year storm volume to be 3 to 1. In this case, the Applicant is at 5.38 to 1. Mr. Lange explained that this means that the water service in the pond could drop by over 2.8 feet and the Applicant would still be in compliance with the State's standards from a water quality standpoint. (1T.119:7-19).

53. Mr. Lange testified in regard to the RSIS. He stated that the RSIS requires Pulte to do more than just meet the existing conditions. Pulte is required to actually make reductions. As a result, under the scenario, Pulte is not only meeting existing conditions in terms of runoff rate, but also reducing the flow by more than 50% in a 2-year storm event, more than 25% in a 10-year storm event and more than 20% in a 100-year storm event. (1T.127:3-16).

54. Mr. Lange testified that freshwater wetlands exist on the site and steep slopes also exist on the site. The developer has received a transitional waiver from the NJDEP with regard to the wetlands. In terms of the steep slopes, the developer has a Soil Erosion and Sediment Control Plan Certification pending. Mr. Lange represented that the developer will meet the criteria. (1T.130:15-24, 1T.131:1-10).

55. Mr. Lange testified that Pulte is proposing twelve (12) underground recharge trenches. The roof runoff from all buildings will not flow directly into the wet pond. They are being disconnected by having to first go into one of the trenches. If the storm event is large enough where it is out pacing the ability of the soil to infiltrate, it would then overflow and then go into the wet pond. Thus, it is characterized as a disconnected flow. (1T.131:21-24, 1T.132:1-7).

56. The pavement in the multi-family courts has also been disconnected with the porous pavement which would function in a similar way. If its overwhelmed, it would proceed directly through the stormwater system to the wet pond. Thus it is considered disconnected flow. (1T.132:8-18).

57. Mr. Lange represented that the combination of recharge trenches and porous pavement definitely retard the water fairly significantly. (1T.133:21-24).

58. In regard to inlets, Mr. Lange testified that the inlets are all connected by an on-site storm sewer system. Further, the system has been sized to handle a 25-year storm event which is required by the RSIS. (1T.136:17-24, 1T.137:1-5).

59. Mr. Lange testified that Pulte is requesting a de minimis exception from the RSIS relative to the velocity in the storm sewers using the design flow. Mr. Lange referred to Road A and indicated that there are numerous inlets spaced relatively close together. He stated this was designed because the Applicant wants to collect water before it has the opportunity to cause any erosion. However, the drainage area to these individual inlets could be relatively small and there is just not enough road to achieve the 2 feet per second velocity even though the Applicant has the slope and that's evidenced by the fact there is a separate requirement in the RSIS that indicates when the pipe is flowing full or half full, you must meet at least a 3% velocity based on the slope. Mr. Lange testified that the developer does comply with that throughout the entire system. Therefore, the developer is proposing smaller drainage areas. By having smaller drainage areas, the site stability is improved. It limits the potential for local ponding from intense rainfall events and keeps the roads from flooding locally. It also helps to reduce the amount of fill that has to be brought onto the site. While fill could be brought in, it would be cost-generative to add additional fill which Mr. Lange characterized as being an undue hardship upon Pulte. (1T.137:6-24, 1T.138:1-24, 1T.139:1-9).

60. Mr. Lange reviewed the criteria for granting a de minimis exception from the RSIS pursuant to N.J.A.C. 5:21-3.1 subsection g: (1) it is consistent with the intent of the Site Improvement Act; (2) it is reasonable, limited and not unduly burdensome; (3) it meets the needs of public health and safety; and (4) it takes into account existing infrastructure and possible surrounding future development. (1T.139:10-24, 1T.140:1).

61. Mr. Lange then reviewed the proposed improvements with the criteria for granting a de minimis exception. Mr. Lange testified that Pulte is entitled to a de minimis exception from the RSIS requirements. He stated that 1) the proposed design is a better design in that it is inherently more stable; 2) it has less risk of local flooding in an intense rainfall event; and 3) it is an efficient and a better design than the alternative which would be to have fewer inlets with the purpose being to get more flow into each pipe section. (1T.140:2-16).

WATER INFRASTRUCTURE

62. Mr. Lange testified that there are existing water utilities on Major Road to which Pulte is proposing to connect. He further represented that the water system has an available firm capacity of approximately 1.8 million gallons per day. The proposed project will utilize approximately 30,850 gallons per day, which translates to 0.093 gallons per day and is under the 1.8 million gallons per day of water which is available. (1T.142:17-24, 1T.143:1-5).

63. Mr. Lange testified that the developer is proposing two points of connection on Major Road. The reason being is if one section of the water main were to go out of service, there would be a secondary main. The Township Engineer recommends that the developer provide an isolation valve between the two points of connection and Mr. Lange represented that the developer would agree to that recommendation. (1T.143:6-18).

64. Mr. Lange testified that the two water mains that come in off of Major Road essentially circulate and loop around the site between Roads A, B and C. The Township Engineer has requested that the water mains be extended in a couple of areas which were identified as Road A and B. Mr. Lange stated that the developer would agree to the Township Engineer's recommendations. (1T.144:1-10).

65. Mr. Lange also stipulated that the developer would comply with the Township Engineer's request to install fire hydrants on all dead end mains. Mr. Lange stated that Pulte will also loop the mains around Building No. 4 and Road C and Building No. 7 and 8 as requested by the Township Engineer. (1T.144:4-10).

66. Mr. Lange represented that the developer did perform a hydrant flow test in 2017 and the flow rate was 3,637 gallons per minute at the minimum required 20 psi. Mr. Lange confirmed that the flow rate is more than adequate for fire protection. (1T.144:11-19).

SANITARY SEWER SYSTEM

67. Mr. Lange provided an overview of the proposed sanitary sewer system. He stated Pulte is proposing an 8-inch PVC gravity sewer system. On-site sewers will have a slope from 1 to 5 percent. The sewers will lead to an on-site sanitary sewer pump station located to the north of Building #1. There will also be a force main leading from that pump station out to Major Road. Based on the recommendation of the Township Engineer, Mr. Lange stated that Pulte would construct a new manhole before the sewer connection to Major Road such that the force main will go into the new manhole. (1T145:1-24, 1T46:1-3).

68. Mr. Lange testified that the proposed flow is approximately 40,425 gallons per day which translates to 0.04 million gallons per day. Mr. Lange represented that the system has a capacity of 0.937 million gallons per day and compared to the flow projected at 0.04 million gallons per day, the system has more than adequate capacity. (1T.146:4-10).

69. Mr. Lange further stipulated that the sanitary sewer pump station would meet all relevant NJDEP criteria. Furthermore, the subject site is located within the Middlesex County Utility Authority sewer service area and that the Middlesex County Utility Authority Treatment Plant has a capacity of 147 million gallons per day. (1T.146:15-17, 1T.147:17-24, 1T.148:1-10, 1T.149:1-8).

70. In his testimony, Mr. Lange referenced a Discharge Monitoring Report (DMR) that the NJDEP publishes on their website through October 2019 which reflects an average yield of 103.25 million gallons per day. The peak monthly demand was 124.38 million gallons per day. Therefore based on average flow Pulte at 0.0405 million gallons per day (MGD) is well under the 43.75 million gallons per day capacity. Therefore Mr. Lange concluded that the treatment plant has more than sufficient capacity to accommodate this project. (1T.148:7-24, 1T.149:1-8).

71. Mr. Lange testified in regard to the imposition of a sewer ban pursuant to N.J.A.C. 7:14A-22.17. He testified that one of the reasons for a sewer ban is if the downstream sewage facilities do not have adequate conveyance capacity as defined in N.J.A.C. 7:14A-1.2. He further identified an exception to the sewer ban. Mr. Lange testified that an exception exists when the discharge or overflow is the result of extreme and unusual precipitation which has been properly documented. (1T.151:10-24, 1T.152:1-24, 1T.153:1-4).

72. Mr. Lange testified in regard to six incidents regarding sewer overflow discharges as follows:

A. On May 27, 2018, South Brunswick notified the NJDEP of a discharge of approximately 1,000 gallons. South Brunswick attributed the discharge to 3 inches of torrential rain that resulted in downstream pump station #10 wet well flooding backing up the system. All pumping equipment was functioning at full capacity as designed. This event was memorialized in a letter to the NJDEP dated June 1, 2018 and is set forth as Exhibit P-43, (1T.158:21-24, 1T.159:1-9).

B. The next event was reported on August 1, 2016. The incident involved a 30 inch trunk line in Washington Place in North Brunswick. The South Brunswick report indicates that the discharge was due to high flows caused by 6 inches of rain which fell in a very short period of time. Mr. Lange referenced Exhibit P-42 which is a document dated August 1, 2016 that describes the event reported initially on July 30 to the NJDEP which again confirms that the discharge was due to 6 inches of rain which fell in a very short period time. (1T.161:8-23).

C. The next event was in May of 2014. South Brunswick reported that the cause of that discharge was heavy rainfalls in the area which added to the inflow into the sewer system on April 30 and May 1, 2014. (1T.162-5-11).

D. Another event involved pump station number 10 in Washington Place in North Brunswick during Hurricane Irene. This incident involved a discharge reported on September 20, 2011. (1T.162:12-17).

E. In March of 2011 there was an additional report based on flooding. The underlying cause was the amount of rainfall. The Township report indicated the discharge was the result of nearly 4 inches of rain over March 6 and March 7. Thus this discharge is again attributed to an unusual precipitation event. (1T.162:18-24, 1T.163:1-2).

F. The sixth event was reported on March 17, 2010. The report indicates the cause of this discharge was rainfall events on March 12 to March 14, 2010 which events caused major flooding conditions. (1T.163:3-8).

73. Mr. Lange testified there is no sewer ban in South Brunswick. South Brunswick has not put out any notice of the Capacity Assurance Program. The discharges that have occurred by South Brunswick's own omission are very clearly identified as extreme and unusual precipitation events because otherwise if they weren't, or if the NJDEP disagreed with the interpretation, there would have been a sewer ban in place and there is no sewer ban in place. (1T.164:11-24).

74. Mr. Lange testified that South Brunswick provided a sanitary sewer system capacity and flow study in 2017. At that time, South Brunswick installed three flow meters on the Town Center Interceptor. The Town Center Interceptor is relevant to this project because the project ultimately flows through two of the three interceptor lines. Those lines are identified as TC1 and TC3. The Town Interceptor is one of three interceptor lines that ultimately leads to Pump Station #10 which is where many of the overflows occurred. In regard to TC1 a meter was installed in a manhole off of Major Road. The line contains a 12 inch diameter pipe which is the same size pipe that Pulte is proposing to connect to although the connection will be farther upstream. (1T.165:12-19, 1T.166:1-24).

75. Mr. Lange testified that the report indicates that the capacity of Pump Station #10 is exceeded. The study reports the firm capacity of Pump Station #10 is to be 9.55 MGD. In addition, future development of 0.8 million gallons per day is included which includes development that is not online or may not come out of the builders remedy process. Thus the subtotal is 10.17 million gallons per day which exceeds the 9.55 million gallons per day at firm capacity. The report further states that South Brunswick has a contractual obligation to preserve an additional 1.75 million gallons per day of capacity to the pump station for future connections in Cranberry Township which brings the total to 11.9 million gallons per day. (1T.173:9-15, 1T.174:9-24, 1T.175:1-12).

76. Mr. Lange concluded that "one of the two can't be right. Either there should be a sewer ban in place or there is capacity." (1T.175:13-20).

77. Mr. Lange also testified that there is an inflow and infiltration issue in the system that has needed maintenance for some time which the report identifies. Mr. Lange further testified that South Brunswick previously provided a breakdown of a pro rata share that new connections would be required to contribute which was calculated to be \$16,000 for this project. Mr. Lange stated the proposed pro rata

contribution was reasonable. He further testified that the project will generate a substantial sewer connection fee in the approximate amount of \$1,000,000. He therefore concluded that based upon a pro rata share of the connection fee and the sewer connection fees, this site will generate fees sufficient to enact an inflow and infiltration (I&I) Rehabilitation Program to address any concerns that South Brunswick has over I&I in the system. (1T.177:1-24, 1T.178:1-3).

78. Mr. Lange therefore concluded that if South Brunswick would execute a TWA application such an application would be approved by the NJDEP. (1T.178:16-23).

LIGHTING

79. Mr. Lange reviewed Exhibit P-39 titled Lighting Plan Exhibit. Mr. Lange stated that it is dated July 3, 2019 but it was created in December 2019. P-39 depicts the existing layout of the currently proposed grading plan with a proposed lighting plan on it. The developer has added lighting at the southerly end of the three multi-family courts in the multi-family section which will provide a minimum of 0.2 foot candles in the entire roadway area. The adjacent parking areas will provide a minimum of at least 0.1 foot candles which occurs in front of the garages. Mr. Lange stated in his opinion there is adequate lighting for safety and security in the court areas. (1T.182:11-24, 1T.183:1-24).

80. The developer is proposing LED lighting through the community. The lighting is dark sky compliant. Furthermore, the developer is providing an average of 2 foot candles with a minimum of 0.5 foot candles regarding off street parking areas A and B. On off street parking area B the average is 1.6 foot candles and the minimum is 0.5 foot candles. All off street parking areas are in compliance. The LED lights will be dark sky compliant. They will be at a color temperature of 3,000. The 3,000 is a warmer color and is very pleasant. The type 3 distributions have shields, the type 4 distributions are proposed with and without shields. Further, the highest foot candle rating at the property line is less than the maximum of 0.5 foot candles allowed. Pulte is proposing approximately 0.4 foot candles at the property line or less. The standard that Pulte is meeting is the IESNA³ recommended 0.2 foot candle minimum for basis security in the garage courts. (1T.183:4-24, 1T.184:1-5, 1T.185:5-24, 1T.186:1-24, 1T.187:8-14).

³ IESNA-Illuminating Engineering Society of North America.

LANDSCAPING

81. Mr. Lange referred to Exhibit P-27 titled Landscaping Plan. Mr. Lange provided an overview of the proposed landscaping plan. Pulte proposes to plant 79 shade trees at 2 ½ to 3 inches in caliper, 27 Evergreen trees at a planting height of 6 to 7 foot minimum height, 21 ornamental trees at 2 to 2 ½ inches in caliper, 409 shrubs and 41 ornamental grasses. In addition, the site has been designed such that approximately 60% of species on the site are native. (1T.188:22-24, 1T.189:1-13).

82. Pulte is also proposing a number of additional trees many of which are located up at Major Road. Pulte is adding 19 shade trees and 28 Evergreen trees which brings the deficiency down in terms of tree replacement ordinance from 393 trees to 346 trees. (1T.190:13-21).

83. Mr. Lange stated the developer is adding shrubs on the top of the southwest retaining wall. The shrubs will be planted at a height of 6 to 8 feet. The shrubs will be Evergreen shrubs. The purpose is to provide screening for the second floor of the town home units from the contractor's yard. (1T.191:5-23).

RECREATION AREAS

84. Mr. Lange reviewed Exhibit P-38 and compared and contrasted it to Exhibit P-32. He stated that P32 is the existing plan and P-38 is the modified plan. Mr. Lange identified on P-38 the location of an outdoor play area which is located northwest of Building 9. Mr. Lange stated that there will be a sloped area that could be used as a seating area to watch the activities below. The rest of the area will be relatively flat. Mr. Lange offered different suggestions as to what could take place there including, but not limited to, a picnic area, a secondary tot lot or a multi-use lawn area for any type of sports activity. (1T.193:1-24, 1T.194:1).

85. Mr. Lange also identified on the Plans a second recreational area which is depicted on the Plans as a tot lot area with benches. This recreational area is located in the vicinity of the pump station and adjacent to Building 1. Mr. Lange also testified that the creation of a tot lot on the site was the reason why the developer lost seven (7) parking spaces thus reducing the number of surface parking spaces from 128 to 121 parking spaces. Mr. Lange further represented that the developer is willing to work with South

Brunswick's professionals in regard to any suggestions for the use of the two proposed recreational areas. (1T.194:18-25, 1T.195:1-24).

86. Mr. Lange also testified that Pulte is proposing that the maintenance drive be provided with a surface to act as a pedestrian walkway with benches that would overlook the storm water basin (wet pond). In addition, Pulte is also proposing a gazebo that would overlook the storm water basin (wet pond). (1T.195:23-24, 1T.196:1-24).

REFUSE AND RECYCLING FOR COAH UNITS

87. Mr. Lange testified that refuse and recycling for the non-COAH units and one of the COAH units would exist in the garage. All those units have garages so refuse and recycling would be stored in the garage, rolled out and picked up by a private hauler. With the exception of one COAH unit which has a garage all other COAH do not have a garage. Pulte is proposing to have four (4) locations which would be enclosed for refuse and recycling. The private hauler will then remove the refuse and recycling from each of the four (4) locations. The location of each refuse and recycling enclosure is as follows: 1) at the end of the parking area between Buildings 8 and 9; 2) at the end of the parking area between Buildings 7 and 6; 3) at the end of the parking area between Buildings 5 and 4; and 4) in front of Building 2. (1T.198:1-24, 1T.199:1-7).

PARKING FOR COAH UNITS

88. Mr. Lange testified that in regard to Buildings 8 and 9 each building has four (4) COAH units. Pulte is proposing one (1) COAH stall in front of each of the COAH units. The parking stalls will be signed to confirm parking for a particular unit number so that the parking stalls are not used by the general public. (1T.199:16-24, 1T.200:1).

APPROVALS RECEIVED OR REQUIRED IN CONNECTION WITH THIS APPLICATION FOR DEVELOPMENT

89. Mr. Lange confirmed that with one de minimis exception regarding storm water, the Plan as presented is fully compliant with RSIS. Mr. Lange testified that the developer has obtained or will be required to obtain the following approvals:

- (1) Fresh water Letter of Interpretation (LOI) issued by the NJDEP May 17, 2005.

- (2) Fresh water Wetlands Averaging Plan Transition Area Waiver issued by the NJDEP for the Avalon project on June 21, 2017. Since Pulte has taken over the project, Pulte submitted an application for a de minimis modification which was granted by the NJDEP on November 21, 2019.
- (3) The NJDEP has verified that there are no flood hazards or Riparian Zones present within the developed area. However, this verification does not cover Lot 65 which is in the wetland open space area. Pulte does not propose disturbance on that lot. The NJDEP issued its determination on December 6, 2019.
- (4) Site Plan Approval before the Middlesex County Planning Board is pending.
- (5) Pulte requires approval from the Middlesex County Utility Authority.
- (6) Pulte requires NJDEP Treatment Works Approval.
- (7) Pulte requires Township of South Brunswick Water Division Approval.
- (8) Pulte requires NJDEP Bureau of Safe Drinking Water Extension Permit.
- (9) Pulte requires Freehold Soil Conservation District Approval for the Soil Erosion and Sediment Control Plan (Certification).
- (10) Pulte requires authorization under the NJDEP's General Permit for the discharge of stormwater from construction activity.
- (11) Pulte requires approval from the South Brunswick Utilities Department and Sewer Division for conveyance. (1T.202:1-9, 1T.203:1-24, 1T.204:1-22).

STANDARD OF REVIEW IN THIS CASE FOR A BUILDER'S REMEDY

90. Mr. Lange testified that the Standard of Review that applies to this application is that the application is not clearly contrary to sound planning due to environmental or other substantial planning concerns. The proposed development of the site is a permitted use pursuant to a Court Order. Mr. Lange also highlighted the fact that but for the removal of the age-restriction, this project would be a permitted use in the underlying AARC Zone. In fact, Mr. Lange testified that the proposed density at 5.74 units per acre on gross and 5.75 units per acre on net is well below the 8 unit per acre density permitted in the AARC Zone. The project also includes a 20% affordable housing set-aside. The project is an all age-inclusionary housing project. A title search revealed that there are no title encumbrances that would preclude development of the site. The site is located in Suburban Planning area PA-2. Planning Area 2 includes goals to provide for the State's future development by promoting growth in centers and other compact forms of growth and development designed to protect the character of existing stable communities; to protect

natural resources; to reduce areas of sprawl; to reverse the current trends that further sprawl and to revitalize cities and towns. (1T.205:16-24, 1T.206:1-24, 1T.207:1-5).

91. Mr. Lange provided further testimony that the proposed use is a transitional use located between the commercial uses immediately along the Route 1 corridor and the mixed uses that surround it. Furthermore, Pulte is protecting natural resources because Pulte is not entering or disturbing the freshwater wetlands. Furthermore, Mr. Lange represented that site buffering is appropriate in terms of leveraging the existing topographic conditions and the existing wetlands conditions on the site which will buffer the site substantially from surrounding uses. In addition, Pulte is providing retaining walls, fencing and landscaping to additionally buffer the site. Also, the site will have a very de minimis visual impact as viewed from Major Road which he characterized as being the only "view shed." There are no flood hazard areas or Riparian Zones within the limited disturbance. The Developer will comply with all NJDEP requirements. (1T.207:21-24, 1T.208:1-24, 1T.209:1-9).

92. Mr. Lange testified that the Major Road access as designed will be safe and efficient. The horizontal and vertical road geometry of Major Road has been significantly changed by Pulte. Pulte is proposing eliminating left turns out of the site. The boulevard nature of the entrance provides safe and efficient access. There is adequate sewer capacity available, and potable water is available for the site. Steep slopes have been addressed. The proposed stormwater management system significantly exceeds in many ways the requirements of the RSIS. Furthermore, all outside agency approvals will be obtained. (1T.209:5-24, 1T.210:1-9, 1T.212:1-24, 1T.213:1-9).

93. Mr. Lange testified that even though Pulte is proposing a retaining wall at a maximum height of 26 feet, structural calculations for the retaining wall would be a condition of final approval. (1T.227:14-24, 1T.228:1-5, 1T.229:13-17).

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94. Mr. Lange testified that Pulte modified the position of the monument sign on the front with two additional concessions. The sign would not exceed 6 feet in height and the sign face would not exceed 32 square feet in area. Thus, with the proposed amendments the sign would be consistent with South Brunswick's Ordinance. (2T.8:5-13).

95. Mr. Lange corrected his prior testimony regarding sewage capacity regarding the Middlesex County Utilities Authority Treatment Plant. He testified that there are two (2) outfalls, a minor outfall and their main outfall. Mr. Lange stated that he neglected to add the minor outfall to the calculation. Mr. Lange testified that the total flow to that plant through October 2019 using a twelve (12) consecutive month average flow pursuant to NJDEP rules is 115.382 million gallons a day. Mr. Lange previously testified to 103.25 million gallons per day. As a result, there is an additional 12.129 million gallons per day bringing that total to 115.382 million gallons per day. Mr. Lange stated that this is compared to the 147 million gallons per day of permitted capacity that the plan has. Therefore, he concluded there was still a very significant amount of capacity available. (2T.8:14-25, 2T.9:1-10).

96. Mr. Lange referenced Exhibit P-68 which was identified as containing a series of six (6) photographs. Each photograph has a number and also contains the name of the community, and the municipality in which it is located and the wall height. (2T.10:21-25, 2T.11:1-4).

97. Photo number 1 depicts a tiered wall located at Kensington Square at Randolph which is located in Randolph, New Jersey. The maximum wall height is 26 feet. The wall is a tiered wall with one wall section 19 feet and the second wall section at 7 feet in height⁴. (2T.11:5-25, 2T.12:1-10).

98. Photo number 4 is located in a community called Creekside at Hunterdon in Raritan Township, New Jersey. This photograph also depicts a tiered wall, each wall is approximately 8 feet in height for a total wall height of 16 feet. The walls surround a wet pond. (2T.12:11-17).

99. Photo number 5 depicts the K. Hovnanian Four Seasons at Great Notch site located in Woodland Park, New Jersey. The maximum wall height here is approximately 36 feet and is made up of two (2) 18-foot tiers. (2T.12:18-24).

100. Photo number 6 is the White Rock Road Hilltop Development in Verona, New Jersey. This photograph depicts a maximum wall height of approximately 18 feet. This wall is also a tiered wall at 12 feet and 6 feet. The upper tier is 6 feet. (2T.13:1-5).

101. Mr. Lange referenced Exhibit P-38 and reviewed highlighted changes to the plan. Mr. Lange referenced the areas of refuse and recycling enclosures, as well as the proposed open space/recreation

⁴ Photos 2 and 3 depict different angles of the same wall and surrounding area.

area. He testified that the play area in the northwest portion of the site immediately to the right or south of Road A could be expanded to the southwest. These changes would result in an increase in the open space/recreation area by approximately 40% or more. (2T.14:1-24, 2T.15:1-7).

102. Mr. Lange also testified that Pulte agreed to install a hard surface such as a multi-use hard surface. Mr. Lange stated it could be used for skating or for street hockey or other types of sports as well. It would also include some mix of the hard surface as well as some grass or lawn area where residents may be able to play soccer, throw a baseball or football. In addition, benches or picnic tables could also be installed. (2T.15:15-25; 2T.15:19-25, 2T.16:1-10)

103. Mr. Lange represented that the proposed wall facing the wet pond would not be a tiered wall but would be 26 feet in height. He further testified that wall manufacturers have instruction manuals that detail how a contractor is supposed to construct the walls. In addition, he stated that engineering plans and the calculations are detailed and reviewed and approved by the municipality. He concluded that if the walls are constructed correctly, there is very little in the way of maintenance. (2T.17:1-24, 2T.18:6-8, 2T.19:16-19).

104. Mr. Lange calculated the square footage of each proposed open space/recreational area. Recreational area number 1 which is located in the northwest corner of the project just northwest of Building 9 and southeast of Road A is approximately 6,300 square feet in area. Area 2 which consists of the walking path, gazebo and benches that are located along the wet pond behind Building numbers 1 and 2 in the northeast portion of the project area is approximately 4,900 square feet in area. Area 3 which most prominently has the tot lot proposed on it is approximately 9,600 square feet in area. Area number 4 which is an expansion of Area number 1 is approximately 4,900 square feet in area. The total acreage of the site is approximately 26.5 acres. (2T.23:21-25, 2T.24:1-15).

105. Mr. Lange estimated the elevation change on Road A between Major Road and Buildings 8 and 9 to be approximately 60 feet. The linear distance would be about 700 feet and the average slope would be about 8-1/2 %. Mr. Lange also stated that the RSIS allows up to a 14% slope. (2T.42:6-9, 2T.43:1-21).

106. In regard to Road B Mr. Lange testified that the 7-foot elevation change is over a significant distance. The roadway is pretty flat the way it is designed. However, Pulte also has to consider what is underneath the road such as the hydraulic grade line in the storm sewer system as things that need to be considered relative to the slope of the road. (2T.48:1-17).

107. Mr. Lange stated that Pulte is accommodating underground storm water systems, whether it is a porous pavement in between the stacked townhomes to the south of Road A or similarly underground recharge trenches along Road B. Pulte has to consider the seasonal high ground water table versus the surface elevation in order to make sure there is a large enough window to accommodate those design elements. (2T.50:3-13).

108. Mr. Lange testified as to the roadway reconfiguration. He stated there are two curves going on here. There is a horizontal curve where Major Road bends as you are coming away from Route 1. It is bending to the right or to the south horizontally but then there is also a vertical curve as you are coming from Route 1. Mr. Lange characterized the road configuration as a "broken-back curve." In order to address the situation, Mr. Lange testified that horizontally Pulte is rounding the curve out, so it is one continuous radius and then vertically Pulte is doing the same thing which involves lowering a high point in the road in order to smooth it out along the road profile. (2T.53:1-24).

109. In regard to the request for a left turn lane on behalf of South Brunswick, Mr. Lange responded that creating a dedicated left-hand turn lane into the Development for Major Road would result in a trade-off with road geometry versus the left turn bay. Mr. Lange stated it was their opinion that it would be better to have the southbound movement on Major Road stay on a more radial geometry than to shift it to accommodate the left turn bay because the left turn movements are relatively minor compared to the overall volume. Mr. Lange also testified that in relation to the Burger King driveway as drivers are approaching Route 1 and stuck in traffic they will give courtesy gaps which is essentially how the Burger King driveway is operated. (2T.55:5-22).

110. Mr. Lange also stated that in regard to internal roadways Pulte can achieve a 25 mile per hour design speed, but Pulte is going to post it at 15 miles per hour. The only exception being the

intersection of the court between Buildings 8 and 9 and Road A. There it will be a little better than 20 miles per hour, but the Applicant cannot get to 25 miles per hour. (2T.59:2-5).

111. In response to a question about Pulte providing a truck circulation plan documenting that Monmouth Junction Volunteer Fire Company's Truck 201 can maneuver all areas of the Development, Mr. Lange stated that Pulte submitted Exhibit P-34 in response to that request. Exhibit P-34 depicts a 47-foot fire engine which is a ladder type fire truck. It's Pulte's understanding that this is representative of Truck 201 Monmouth Junction Volunteer Fire Company's Fire Truck 201. However, if that understanding is incorrect, Pulte would model a different vehicle to accommodate fire truck circulation. (2T.61:12-25, 2T.62:1-25).

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FIRE TRUCK CIRCULATION

112. Mr. Lange reviewed Exhibit P-34 which was identified as a fire truck circulation exhibit and he confirmed that he utilized a template for a U.S. Aerial 100-foot Pierce fire truck to demonstrate fire truck circulation. (3T.6:15-23).

113. Mr. Lange explained that Pulte is proposing a curb-to-curb turning radius of 36.990 feet which represents the area of the fire truck being able to completely turn around. He clarified the statement by indicating that it represents a 37-foot-wide area within which the fire truck would turn around. Mr. Lange further admitted that if Monmouth Junction Fire Truck 201 were larger than the 100-foot Pierce truck, it would change the modeling and would have a different wheel path. (3T.7:5-25, 3T.8:14-23).

114. Mr. Lange testified that the South Brunswick fire truck has a wheelbase of 20.42 feet and the Exhibit has a wheelbase of 19.75 feet. He further stated that the South Brunswick truck is shorter in length, but has a longer wheelbase. Mr. Lange further stated that in his opinion the South Brunswick truck would not have to jump the curb to make any turns, but he would verify that conclusion. He also testified that if he needed to make the curb radii a little bigger he would be able to do that. (3T.9:13-25, 3T.10:1-20).

SIDEWALKS

115. Mr. Lange testified that in order to accommodate a request of South Brunswick, Pulte is providing a sidewalk along the property frontage on Major Road and that Pulte will also extend the sidewalk along Road A on one side of the road. Mr. Lange also stated that in the vicinity of stations 8+00 to 10+00 where there is double-loaded parking, Pulte provides sidewalk, but the sidewalk has been shifted so that it is at the head of the parking stalls. There is no sidewalk on the northeasterly side because there is not a point of origin or a destination. Anyone parking on the northeasterly side would be walking perpendicular to the roadway and not along the roadway. (3T.11:11-25, 3T.12:1-10).

116. Mr. Lange testified that he disagrees that the RSIS requires sidewalks on both sides of the street. He confirmed that Pulte is providing a substantial number of sidewalks where Pulte believes people are going to walk. He stated there is not a requirement to just arbitrarily place sidewalks on both sides of the roadway. (3T.14:1-9).

117. Mr. Lange continued his testimony with an analysis of RSIS sections regarding the requirement for sidewalks in the development. Mr. Lange testified as follows:

The section on sidewalks is at N.J.A.C. 5:21-4.5 Subsection A states: "Sidewalks and/or graded areas shall be required, depending on road classification and intensity of development in accordance with the requirements set forth in Table 4.3," which is in N.J.A.C. 5:21-4.2. When you refer to that table, you'll see for multifamily access cul-de-sacs and multifamily courts there are not sidewalk requirements. And that doesn't mean that there are not sidewalks required, it just means that there is an understanding or recognition in the RSIS that these are not traditional streets where they're conveying thru traffic, that this part of a multi-development neighborhood, and that the sidewalk layout then needs to respect the actual layout as opposed to an arbitrary requirement of having sidewalks on both sides of the roadway.

And as I just explained, in this case, literally putting sidewalks on both sides of the roadway would actually create a less safe condition, because we would then have the sidewalks crossing all these driveways along Buildings 1, 2 and 3. The sidewalk would be traversing the driveways.

Instead, the sidewalks are appropriately placed essentially behind or to the east and south of those buildings respectively to service the front doors. (3T.15:21-25, 3T.16:1-23).

118. Mr. Lange further clarified his testimony when he stated "It's not the sidewalks and pedestrian circulation are not mandated or not required, it's just that its understood that in a multifamily

development, that's of this nature, that as point of ingress and egress, they're not thru streets, they're really closer to parking lots, that the sidewalks should follow actual pedestrian routes." (3T.17:3-11).

119. Mr. Lange further elaborated on his earlier statement that a de minimis waiver under the RSIS is not required regarding sidewalks. In response to a hypothetical question posed by Mr. Kasuba, that if a de minimis waiver were required would it be appropriate to grant such a de minimis exception under the circumstances. Mr. Lange testified as follows:

"In that hypothetical case, yes. As I testified, it's safer for the sidewalks to be located where its servicing the doors to the units, which, in these particular types of units, the architect will obviously provide a lot more detail, but the-the doors do not face the roadway, rather they faced what might otherwise be the rear of the unit, those are actually the front doors and that is where the sidewalk is located. To locate it, literally, along the roadway would cause the sidewalk to cross every single driveway for those units, which I think is a less safe alternative due to the obvious vehicular and pedestrian conflicts. So, I think it is safer to segregate the pedestrian and from a logical standpoint, to do that so the sidewalks relate to the pedestrian doors as opposed to the vehicular garages." (3T.53:13-25, 3T.54:1-20).

FREEHOLD SOIL CONSERVATION/WET POND

120. Mr. Lange testified that Pulte received a comment letter from Freehold Soil Conservation District dated October 4, 2019 and identified as Exhibit P-71. (3T.19:8-13, 3T.20:1-18).

121. Mr. Lange reviewed Exhibit P-37 which he confirmed depicts underground recharge trenches. Mr. Lange stated that the only thing you would see is the access which would be manhole access. He further testified that the entire system is subsurface. Mr. Lange further confirmed that rainwater would be piped in from the roofs of the buildings to the recharge trench. (3T.23:19-25, 3T.24:1-19).

WATER BUDGET

122. Mr. Lange testified that Pulte will prepare a water budget analysis to ensure that the wet pond will stay wet. He stated that the data is over a period of 30 years. He further represented that the objective is to model or simulate what the water level in the pond would be throughout a 30-year period. The objective is to make sure that Pulte does not go below the minimum for water quality which is 3 times the water quality storm volume. Mr. Lange further testified that the permanent pool volume is well in excess of the minimum required. Mr. Lange confirmed that he is confident that the proposal will work

without any change. However, he stated that if there were any issues, Pulte would simply dig a deeper hole at that time. Mr. Lange further represented that the pond would not infiltrate into the groundwater. He stated there was an outlet structure identified on Exhibit P-37 that would discharge in a slow gradual manner consistent with stormwater rules during storm events into the adjacent wetland area. Mr. Lange confirmed that a wet pond is well suited for this type of area which is adjacent to a wetland area. (3T.25:10-25, 3T.26:1-25, 3T.27:12-22).

SANITARY SEWER SYSTEM

123. In regard to a sanitary sewer system, N.J.A.C. 7:14A-1.2 provides a definition of adequate conveyance capacity. The development has to have adequate conveyance capacity in peak dry weather as well as 80 percent (80%) of capacity during peak wet weather. There could be no overflows or discharges of the system itself. Mr. Lange represented that in South Brunswick there were approximately 50-60 documented incidents of sanitary sewer overflow reports but only six (6) such overflows were relevant to this application. 3T28:2-25

124. Mr. Lange confirmed in his prior testimony in regard to N.J.A.C. 7:14A-22.17 which provides the standard for when a sewer ban must be imposed. A sewer ban shall be imposed if there is no adequate conveyance capacity, but if the overflow was a one-time event because of some extreme weather conditions, the municipality or the operator would be exempt from a ban. (3T.29:1-12).

125. Mr. Lange testified in regard to N.J.A.C. 7:14A-22.1(b) which provides that the NJDEP may take whatever action that it deems necessary to assure compliance including, but not limited to, ceasing the issuance of Treatment Works Approval permits and/or the imposition of a sewer connection ban. (3T.30:2-10).

126. Pursuant to N.J.A.C. 7:14A-22.16(d) the Township as the owner and operator of a sanitary sewer system is required to do a capacity analysis report and come up with a capacity assurance plan. The Township performed the capacity analysis in October 2018 which was prepared by the Alaimo Group. 3T31:14-22

127. Mr. Lange concluded that if the Township determined it had capacity problems it should implement a sewer ban, which it did not do. Further, because the NJDEP has not issued a sewer ban, Mr.

Lange concluded there must be capacity in the system. Mr. Lange also commented that the Township has not instituted a sewer ban and the Township has not found that they should block flow. (3T.32:11-25).

128. Mr. Lange reviewed South Brunswick Township Ordinance 2018-28. He stated that the Ordinance is related to off-tract improvements. The municipality would receive substantial sewer connection fees and it would seem appropriate to him that if the system is not actually ready for a connection, then the point of connection fees is to pay for costs that were expended in order to have infrastructure ready. The connection fees could be used to correct off-site issues identified by the Township.

129. Mr. Lange further represented that in his opinion there is sufficient sewer capacity for the project as proposed. (3T.52:6-25, 3T.53:1-12).

130. Mr. Lange testified that the architectural plans contain options relative to the number of bedrooms in the unit. The actual bedroom count won't be selected until each unit is sold. However, in providing for an increased number of bedrooms, the sewer gallonage was increased from 37,500 gallons per day to 40,425 gallons per day. (3T.45:1-22).

MISCELLANEOUS

131. Mr. Lange represented that Maurice Rached will testify in regard to traffic matters. However, in response to a question about a queue of a maximum of 443 feet being in conflict with a queue along Major Road over 600 feet past the intersection, Mr. Lange stated that the 443-foot number is the worst average queue. It does not mean that it is the worst queue ever during any particular point in the day. (3T.42:10-25, 3T.43:1-15).

132. Mr. Lange testified in regard to bedroom distributions. In July 2019, the proposal included eight (8) one-bedroom units, 92 two-bedroom units, 52 three-bedroom units and zero (0) four-bedroom units. However, in January 2020, the proposal is for six (6) one-bedroom units, 57 two-bedroom units, 45 three-bedroom units and 44 four-bedroom units. Mr. Lange explained that the bedroom count has not actually changed. However, there are options though in the architectural plans and that the actual bedroom count won't be selected until each unit is sold. Thus, somewhere between the first set of numbers and the second set of numbers will be the actual bedroom count. (3T.44:6-25, 3T.45:1-12).

133. Mr. Lange represented that there will be no four-bedroom affordable units. Pulte has also agreed to provide 13 percent (13%) of affordable units as very low-income units which would translate to four (4) units. Pulte also agreed to meet the very low-income requirements regarding unit pricing and income limits. Mr. Lange represented that Pulte would also comply with COAH and UHAC standards.⁵ (3T.45:13-16, 3T.48:11-22).

134. Counsel for Pulte identified certain stipulations that would be acceptable as conditions of an approval including, but not limited to, a phasing provision with the numbers identified, a Deed restriction regarding 2.9 and 12.8 in terms of the administrative agent. Mr. Kasuba stipulated that the developer would use the municipal administrative agent or hire out a third-party as a condition of approval to have a qualified person administer the units and make sure that the unit pricing is code compliant. 12.12 homeowner association fees will be consistent with COAH and UHAC standards. (3T.49:19-25, 3T.50:1-15).

ARCHITECTURAL/AFFORDABLE UNITS

135. Claire McCaffrey testified that she is an in-house architect for Pulte Homes. She stated that she has 20 years of experience in architecture and was licensed in New Jersey in 2019. Ms. McCaffrey was accepted as an expert witness in the field of architecture. (3T.59:6-25, 3T.60:1-21, 3T.61:9-12, 3T.63:22-25).

136. Ms. McCaffrey reviewed various product types that are typically used by Pulte Homes including, but not limited to, Exhibit P-45 which was identified as a condo building with a stacked product similar to the 1½ over 1½ that Pulte is proposing on this site; P-46 is a photo of an as built of the Ashton which is a 2-story townhouse being proposed for use here; and P-47 is a photo of the as built 3-story townhouse the Isleton and Ironwood. Ms. McCaffrey stated that the photos depict multifamily inclusionary sites with affordable housing units incorporated. (3T.62:3-25, 3T.63:1-2, 3T.64:1-24).

137. Ms. McCaffrey described Exhibit P-48 which she identified as an exhibit that illustrates the COAH unit locations. She testified that a blue dot represents a one-bedroom COAH unit and there are six (6) one-bedroom COAH units. The yellow dots represent two-bedroom COAH units and there are three (3) units per building for a total of 18 units. The purple dot represents a single three-bedroom COAH unit.

⁵ UHA-Uniform Housing Affordability Controls.

Ms. McCaffrey clarified her earlier testimony and stated there are seven (7) three-bedroom COAH units in total. (3T.66:6-25).

138. Ms. McCaffrey clarified the number of COAH units. She stated there are six (6) one-bedroom COAH units, 18 two-bedroom COAH units and seven (7) three-bedroom COAH units. (3T.67:4-12).

139. Ms. McCaffrey reviewed Exhibit P-49 which she characterized as a colored rendering of a Pulte stacked product. She represented that the end units are 26-foot-wide units with two (2) units per building and the inside units are 22 feet wide. She stated the end units are always the wider units. Ms. McCaffrey also represented that Exhibit P-50 depicts the side and rear proposed elevations for the stacked townhomes. Exhibit P-51 depicts a 22-foot-wide typical interior unit which demonstrates the unit layout. Further, Exhibit P-52 depicts the 26-foot-wide end unit. It is identified as the Murray Hill and the Greenwich. P-52 shows the layouts for the proposed lower units and upper units. (3T.68:3-25, 3T.69:1-22).

140. Ms. McCaffrey reviewed Exhibit P-53 which she testified depicts black and white elevations of the COAH units. She stated they fit into the same 22-foot-wide unit. The COAH units are interspersed within buildings with the market rate units. The COAH units on the end are 26-foot-wide and the COAH units in the interior are 22 feet wide. (3T.70:10-17).

141. Ms. McCaffrey reviewed the size of master bedrooms in COAH units by reviewing Exhibit P-66. She stated that the square footage of the master bedrooms in the COAH units' range in size from 120 to 158 square feet. More specifically, in a one-bedroom unit the master bedroom is 120 square feet, a two-bedroom unit master bedroom will be between 138 and 158 square feet and in a three-bedroom unit the master bedroom will be 125 square feet. (3T.71:9-23).

142. Exhibit P-67 outlines the one-bedroom units and clarifies their square footages. The front unit is approximately 601 square feet and the rear unit is approximately 615 square feet. The COAH units are designed to comply with the applicable New Jersey Accessibility Standards. (3T.72:11-20).

143. Ms. McCaffrey testified that the two-bedroom units vary in size from 910 to 1,040 square feet and the three-bedroom units are approximately 1,226 square feet in size. (3T.73:4-12).

144. Ms. McCaffrey reviewed Exhibit P-55 which exhibit depicts the material schemes and color packages inclusive of brick and stone options, different siding colors and roofing and shutter accent colors. Ms. McCaffrey also confirmed that the COAH units are integrated with market-rate units in the same building and the exterior architecture is identical. The COAH units would also have a covered entry. (3T.74:13-22, 3T.75:13-22).

145. Ms. McCaffrey explained the layout of the 3-story townhouses the Isleton and Ironwood. She stated that they are both identical with the exception of the kitchen being located on the second floor. The 3-story townhouses, the Isleton and Ironwood, are approximately 2,350 square feet in area and they have a 2-car garage. Furthermore, she reviewed Exhibit P-56 which is a black and white elevation of the proposed 3-story townhouses showing the front, the side and rear elevations. Due to grading, it is 3-stories from the front garage and side and 2-stories from the rear. (3T.76:4-25, 3T.77:1-6, 21-25, 3T.78:11-19).

146. Ms. McCaffrey testified in regard to Exhibits P-60 and P-61 which depict 2-story townhouse plans. She stated it is 2-stories from the front street-side approach and is 3-stories from the rear. She stated this is due to the topography. She stated the garage parking actually enters on the mid-level. The proposed square footage of these units is 1,860 square feet. The units identified on P-60 are three-bedroom units. (3T.79:7-24, 3T.80:1-7).

147. Next, Ms. McCaffrey reviewed Exhibit P-59 which represents the entirety of the site and the type of unit and bedroom count matrices. This Exhibit provides the unit types and number of bedrooms. This Exhibit provides a range of 152 units with 349 bedrooms, but if every unit elected to have the fourth bedroom, the number of bedrooms would be increased to 431 bedrooms. (3T.81:12-25).

148. Ms. McCaffrey reviewed Exhibit P-48 which depicts six (6) one-bedroom COAH units which are identified by blue dots, 18 two-bedroom units identified by yellow dots and seven (7) three-bedroom units across the site. Ms. McCaffrey again reiterated that the COAH units would be integrated with the market unit. (3T.87:4-17).

149. Ms. McCaffrey in discussing the facades of the Isleton and Ironwood townhouses, stated that the buildings are stepped, the roof line is stepped. The facades are augmented with multiple features: banding, change of materials, different window trims on different facades, gable ends and dormers. These

are architectural features that she stated will be utilized so that the facade does not look flat. (3T.90:19-25, 3T.91:1-10).

150. The Special Master in reviewing Exhibit P-47 stated it looks as if that is one long monolithic elevation. But the Special Master stated she understood the testimony of the witness, Ms. McCaffrey, that there are bumps and articulation in that building. The Special Master was also concerned about an off-set on the exterior of the buildings. Ms. McCaffrey indicated the off-set is 1 or 2 feet and she would confirm the amount of the off-set. The Special Master stated it would be helpful to gain perspective if Pulte was able to provide the extent of the off-set whether it be a break in the materials or color. The Special Master further indicated she would not want to see one long monolithic structure. Ms. McCaffrey stated that she would be able to confirm the amount of the off-set. (3T.124:17-25, 3T.125:1-25, 3T.126:1-7).

151. Ms. McCaffrey also stated that it is the Applicant's intent that the public will not be able to identify what is a COAH unit as opposed to what is a market-rate unit. (3T.127:14-24).

TRAFFIC

152. Maurice Rached is a licensed Professional Engineer in the State of New Jersey since 1993. Mr. Rached has a national certification as a Professional Traffic Operations Engineer and was thus qualified as a Traffic Engineer. Mr. Rached prepared a traffic study and explained how a traffic study is prepared. Mr. Rached performed an assessment of existing conditions which would be before construction and then an assessment of proposed conditions which would be after the anticipated trips are added. He stated a comparison of the two is then done. The comparison is based on delay. Mr. Rached testified that the results reflect the seconds of delay per approach. He stated Pulte then performs a safety analysis like distance, parking circulation and the like. (3T.130:11-25, 3T.131:1-21, 3T.132:12-25, 3T.133:1-18).

153. In this matter Mr. Rached testified that traffic counts were conducted on Thursday, December 5th and Saturday, December 7th (2019). The counts were taken between 7:00 a.m. and 9:00 a.m. at the intersection of Route 1 and Major Road, Sand Hills Road. Counts were taken at the same intersection in the evening peak hours between the hours of 4:00 p.m. and 6:00 p.m. (3T.133:19-25, 3T.134:1-2).

154. On Saturday, December 7 traffic counts were taken between 11:00 a.m. and 2:00 p.m. A trip generation analysis was prepared for this development of 152 units which was compared to a trip generation analysis for the previously approved 169 age-restricted units development. (3T.134:2-8).

155. Mr. Rached testified to the results as confirmed in Table 2 of his report. During the a.m. peak, Mr. Rached testified that there will be 16 incoming trips and 55 outgoing trips for a total of 71 trips. The p.m. peak is expected to generate 54 incoming trips and 32 outgoing trips. He further explained that 54 trips one-way is equivalent to one (1) trip every minute. (3T.134:8-23).

156. Mr. Rached next testified in regard to a comparison of the proposed development with the previously approved age-restricted development. He stated that the increase in a.m. peak for incoming traffic would be 2 trips and 27 trips for outgoing traffic. In regard to the p.m. peak, Mr. Rached found that the increase in incoming trips is 25 and the increase in outgoing trips is 8. 3T135:1-7

157. Mr. Rached further explained that there are three (3) scenarios of traffic that are analyzed, existing, no build, and full-build. The no build and the full build provides the difference in the 2022 volume of traffic without this development and with this development. (3T.135:8-21).

158. Mr. Rached next testified that he examined traffic at the proposed development and its relation to the intersection of Route 1 and Sand Hills Road, Major Road and in particular the p.m. peak traffic. Mr. Rached found that the overall delay for the entire intersection is 47 seconds per vehicle. He confirmed that is on average. That is the average of eastbound, westbound, northbound and southbound traffic. Some movements would be greater than 47 seconds and some would be less than 47 seconds. Nevertheless, 47 seconds average per vehicle of delay is what the analysis demonstrates. (3T.135:22-25, 3T.136:1-8).

159. Mr. Rached examined the data for the build condition. He stated after adding the trips that this development is expected to generate, the delay will be 48.1 seconds. Thus, there was an increase of 1.1 seconds of delay. He further stated that when a delay is less than 1 second it is considered to be insignificant. When the delay is 1 or 2 seconds, he stated he considers it to be insignificant. Furthermore, when the delay is less than a second sometimes the modeling software has a hard time providing an exact accurate split-second result. (3T.136:8-20).

160. Mr. Rached stated for example looking at a Saturday the no build is 39.9 seconds of delay and the full build is 42.7 seconds of delay. An increase of 2.8 seconds of delay per vehicle on average throughout the intersection. In the a.m. peak the delay actually decreases from 70.3 to 69.7 seconds. Mr. Rached said that when delays are a fraction of a second, the model is not that accurate and sometimes there are improvements that happen to other approaches when certain approaches carry more traffic. (3T.136:21-25, 3T.137:1-6).

161. Mr. Rached further testified that if a thru movement is being increased that is going to cause the signal to give more green time to that approach and, as a consequence, the right turn and the left turn movement may benefit from the increase. The resulting capacity analysis may show a fraction of a second improvement. To summarize, Mr. Rached testified that on average the delay is about 1 second. On Saturday, the delay is 2.8 seconds which Mr. Rached considers to be statistically and realistically insignificant. (3T.137:7-20).

162. Mr. Rached discussed the previously approved development. The p.m. peak which is under the no build would result in an increase in the delay from 47 seconds to 47.8 seconds. On Saturday there would be an increase from 39.9 seconds to 41 seconds resulting in an increase of 1.1 seconds of delay. Mr. Rached characterized the increase in delay as being insignificant. (3T.137:15-25, 3T.138:1-4).

163. Mr. Rached testified that if one were to look at all the traffic being generated by the previously approved development one would find that it is less than 1 percent (1%) of the traffic that currently uses the intersection. To be more precise .59 percent (.59%). Performing the same analysis for this project, the number is a 1.3 percent (1.3%) increase in traffic at the intersection which Mr. Rached characterized as being insignificant. (3T.138:3-13).

164. Mr. Rached next addressed queuing. Mr. Rached testified that the queuing of cars is an issue which he has seen personally. He also stated that queuing is addressed in his report. He further represented that if anyone has traveled that intersection during the peak hour they have experienced queuing at the intersection. Mr. Rached testified that the queuing that has been calculated in the study is for Major Road which is the roadway fronting the development. In the westbound direction it would be approximately 538 feet. In examining the previously approved development, queuing was 535 feet which means that the

proposed development is 3 feet longer which is a fraction of a vehicle in terms of increased queuing. (3T.138:14-25).

165. Mr. Rached testified that the increase in queuing between what was previously approved and this development is insignificant. The average person would not be able to perceive the distance between a queue of 535 feet and 538 feet. (3T.139:1-7).

166. Mr. Rached testified that Pulte is improving the sight distance to improve safety. Pulte is addressing the situation by improving the geometry of the road to improve the existing sight distance deficiency. Pulte is also eliminating left turns out of the development. Pulte is reducing traffic conflicts at the driveway. (3T.139:8-19).

167. Mr. Rached testified that Pulte examined the number of on-site parking spaces. In accordance with RSIS standards the development as proposed requires 354 parking spaces and Pulte is proposing 416 parking spaces. Thus, the number of on-site parking spaces exceeds RSIS requirements. (3T.140:1-8).

168. Mr. Rached stated that he has personal familiarity with the intersection having been there many times before. He stated he examined the queuing, the operation of the intersection and, in his opinion, the additional traffic from this development would be insignificant. He also reached this conclusion based on the data and the analysis of the data. (3T.141:9-16).

169. Mr. Rached concluded that as a Traffic Engineer he is comfortable that the impact from the development is not significant and he is comfortable that the improvements that are being proposed for Major Road will improve the safety of this access which, parenthetically, was not proposed as part of a previously proposed development. The previously approved development proposed only a part-time left turn restriction whereas this application is proposing a full-time left turn out restriction. Mr. Rached concluded that what is being currently proposed is safer than what was previously approved. (3T.141:1-8).

170. Mr. Rached testified there is a prohibition on making a left turn when exiting the site, however, left turns coming into the site from Major Road are permitted. Mr. Rached testified that the proposed improvements to the site geometry and the access point would create a safe access to and from

the site and will also improve the geometry of the road for the existing travelers on Major Road. He characterized the improvements as representing an improvement to the existing conditions. (3T.143:9-20).

171. Mr. Rached testified that even with a reduction of the number of on-site parking spaces from 416 to 409 the amount of on-site parking would still comply with the Ordinance and would still comply with the RSIS. (3T.144:5-15).

172. Mr. Rached testified that although some of the delays are a fraction of a second here or there as an overall intersection delay, there are some movements that will be increased by several seconds. For example, the westbound approach on Major Road will increase by approximately 15 or more seconds. However, that is already failing and already has very severe delays. Mr. Rached testified that if you analyze this in context, the increase is insignificant. For example, he stated that if you are waiting 3 minutes and you add 10 seconds that would not be a significant increase above the 3 minutes. However, if somebody is waiting 5 seconds of delay and you add to that 10 seconds that would be a significant increase. Therefore, he stated that when you put the figures in context of how the intersection operates, the increase is not significant at all. (3T.144:16-25, 3T.145:1-15).

173. In regard to the impact for traffic generated from the South Brunswick Center site, Mr. Rached testified that the additional traffic from that development on Major Road is somewhere in the vicinity of 40 trips an hour. When Mr. Rached did the analysis he found that the 40 trips are going to increase delay by maybe a second or so but the incremental increase that this development will experience will still be the same. He also confirmed that the analysis on South Brunswick Center would be included in a supplemental written report to be provided in the future. (3T.145:16-25, 3T.146:1-12)

THE MARCH 3, 2020 HEARING

174. Mr. Rached, P.E. continued his testimony before the Special Hearing Officer. Mr. Rached reviewed Exhibit P-28 which depicts a section of the driveway servicing the site and Major Road. Exhibit P-28 demonstrates that right turns and left turns into the development are allowed while left turns out of the development are prohibited at all times. (4T.9:17-25, 4T.10:1-2)

175. Mr. Rached testified that the safe speed is deemed to be 25 MPH. Mr. Rached testified that Major Road has a tight vertical and horizontal geometry. He stated that this means that sight distance

may be limited because of the vertical and horizontal geometry of the road. Mr. Rached clarified his testimony by stating Pulte is improving the geometry of the road. There are two horizontal curves which are being combined which is better for the motorists to negotiate that area of the roadway. An added benefit is that sight distance at the intersection is being improved. (4T.10:9-15, 4T.11:5-13).

176. Mr. Rached testified that the existing sight distance at the intersection is 270 feet. Mr. Rached further explained that when a motorist is leaving the site, the motorist needs to see to the right and to the left long enough and far enough to be able to make an intelligent decision to enter the traffic stream. He stated the formula is $7 \frac{1}{2}$ seconds times the speed limit in feet per second. That formula provides the intersection sight distance. In this instance, the requirement is 290 feet and the existing sight distance is 270 feet. Mr. Rached stated there is a deficiency. Mr. Rached testified that Pulte is going to realign the road. Once Pulte realigns the road the sight distance for the intersection would be increased to 315 feet. (4T.11:14-25, 4T.12:1-14).

177. Mr. Rached testified that vehicles traveling along Major Road and making a left turn into the development need a sight distance of 285 feet. The existing sight distance is 260 feet for a vehicle making a left turn into the development. However, based on the proposed new alignment, site distance would be increased to 285 feet for vehicles making a left turn into the development thereby complying with applicable standards. (4T.12:18-25, 4T.13:1-9).

178. Mr. Rached testified that stopping sight distance is different from intersection sight distance. Mr. Rached testified that Pulte is also increasing the stopping sight distance on Major Road by 10 feet from 275 to 285 feet. Mr. Rached testified that in his opinion, the proposed intersection is safe and efficient. (4T.13:10-25).

179. Mr. Rached introduced into evidence Exhibit P-79 which was identified as a Fire Truck Circulation Plan bearing an original date of December 12, 2019 with a revision date of February 28, 2020. Mr. Rached testified that Exhibit P-79 serves a dual purpose in that it addressed both fire truck circulation as well as roadway classification and sight distance issues along the roadways. Mr. Rached discussed roadway classification as it relates to proposed Roadways A, B, and C and whether or not they should be classified as residential access roads. Mr. Rached referred to RSIS Table 4.2. More specifically, he read

from the regulation as follows: “streets serving multi-family developments with a single means of ingress and egress shall be classified as a multi-family access cul-de-sac.” Mr. Rached concluded that Roadway A is a single means of ingress and egress to the proposed development. Further, this is a multi-family development. As a result, Mr. Rached concluded that based on the language in the RSIS the internal roads should be classified as a multi-family access cul-de-sac. (4T.14:11-25, 4T.15:1-25, 4T.16:1-11).

180. Mr. Rached further testified in support of his conclusion that the roads within the development should be characterized or classified as a multi-family access cul-de-sac by once again referring to Table 4.2 which provides as follows “multi-family access cul-de-sac should carry a volume of 0 to 1,000 daily traffic trips.” In this instance, Mr. Rached testified there will be 689 daily traffic trips which is well within the maximum of 1,000 trips. He, therefore, concluded that whether you look at the road classification from a definitional standpoint or from a functionality standpoint, the roadways are properly characterized as multi-family access cul-de-sacs. (4T.16:14-25).

181. Mr. Rached in reviewing Exhibit P-79 pointed out areas of the site that provide a 90-degree parking arrangement. As a result, Mr. Rached concluded that from a common sense perspective and from a functional perspective the roadway functions and looks like a multi-family residential access cul-de-sac and not another designation. (4T.17:1-15).

182. Mr. Rached reviewed Exhibit P-79 relative to the analysis of fire trucks circulation. He represented that the information contained thereon is consistent with the information received regarding the dimensions of the fire truck from Monmouth Junction Firehouse. Further, upon his review of all the turning movements, he concluded the site is designed to accommodate the fire truck that will be used in an emergency situation. (4T.17:16-25, 4T.18:1-18).

183. Mr. Rached reviewed a report dated July 2019, revised December 12, 2019 and marked into evidence as Exhibit P-72. Mr. Rached also testified that he drafted a supplemental report dated February 6, 2020 which is identified as Exhibit P-78. Mr. Rached testified that the July 2019, December 12, 2019 and February 6, 2020 reports were the only three reports that Mr. Rached drafted. (4T.22:3-25, 4T.23:1-14).

184. Mr. Rached testified that queuing is an issue at the Major Road and Rt. 1 intersection. He testified that he personally went out to that intersection on December 5, 2019 in the p.m. peak for approximately 1 hour between 4:30 p.m. and 5:30 p.m. He made a notation of the location of the end of the queue every 5 minutes. He further elaborated that in his notes it has the time 4:30 p.m. site driveway which means that the queue is all the way up to the site driveway. This would translate to a distance of approximately 538 feet from the intersection. (4T.24:8-23).

185. Mr. Rached also testified in regard to 5-minute intervals commencing at 4:40 p.m. up to and including 5:25 p.m. He testified that at 4:40 p.m. the queue is to the cemetery; at 4:45 p.m. the queue is to the Burger King drive (the queue got shorter) ; at 4:50 the queue is to the site driveway; at 5:00 p.m. the queue is to the end of the cemetery (the queue got shorter); at 5:05 p.m. to the Burger King drive; and at 5:15 p.m. to the beginning of the cemetery; at 5:20 p.m. it went to the site drive; and at 5:25 p.m. it went to the Burger King drive. (4T.25:1-15).

186. Mr. Rached admitted that the p.m. peak for the queue length was 578 feet which is approximately 40 feet beyond the entrance to the project. (4T.25:20-25, 4T.26:1-6).

187. Mr. Rached reviewed his chart regarding the a.m. peak and found that the queue length was 688 feet. He testified that one reason could be that around 8:30 a.m. he observed a number of school buses that appeared to be empty. Mr. Rached believed they were coming back to their area of parking. He stated that the queue wasn't a problem during the rest of the time but only specifically at 8:30 a.m. (4T.26:7-23).

188. Mr. Rached clarified his testimony that he did not mean to suggest that it doesn't matter how much traffic this development puts on the road because the road is already delayed. He stated that the impact is insignificant. By impact, Mr. Rached testified that he is referring to the difference in the queue as well as referencing the number of vehicles with respect to the existing number of vehicles. (4T.30:21-25, 4T.31:1-10).

189. Mr. Rached explained what the 95th percentile queue length means. He stated at 95 percent of the time the queue length will be shorter, 5 percent of the time the queue length may be longer.

He stated this is a measure that is used in the industry to measure and assess queue length. (4T.31:13-25, 4T.32:1-5).

190. Mr. Rached testified that an age restricted community was approved with 169 dwelling units on-site (Page 3 of February 26 report). He further represented that trip generation from an age restricted development is less than that from a regular market rate development. Mr. Rached provided an example of the difference in traffic from an age restricted and a non-age restricted development. He stated that in the a.m. peak the age restricted development will generate 12 incoming trips while the 152 market rate units will generate 16 incoming trips. Mr. Rached referred to his December 12, 2019 report, Page 6. (4T.40:7-25; 4T.41:1-22)

191. Mr. Rached testified that the westbound through traffic is the direction that people would travel from Road A access to Major Road towards Route 1. As the site is designed that is the only way you can go when leaving the site. Mr. Rached admitted that westbound through traffic is failing across the board. Mr. Rached explained why there was a statistical difference with a 40.5 second delay under the no build scenario for a westbound left movement, but under the build scenario the movement is decreased to 40.4 percent. Mr. Rached explained the software makes it better because there are 3 movements. There is a right turn movement, a through movement and a left turn movement. He stated when the traffic increases on the through movement it forces the signal to extend the green to the maximum more often, which gives more opportunities to people making a left turn. (4T.44:3-25, 4T.45:1-25, 4T.46:2-17).

192. Mr. Rached testified in regard to queue lengths for the intersection of Major Road with the site driveway under the building analysis. Mr. Rached referred to Exhibit P-79. The report indicates that for motorists waiting to leave the Pulte development to turn onto Major Road the queue length is less than one vehicle. (4T.52:7-22).

193. Mr. Rached explained that if one were to look at the a.m. peak hour leaving the development there would be 59 trips leaving which represents on average one trip per minute. He stated it is not unusual to think that in one minute you will have an opportunity to leave the site and you will not accumulate a queue. He further stated that from a common sense perspective having 55 trips leaving the a.m. peak makes sense that you would have a queue of only one vehicle. (4T.53:6-15).

194. Further, Mr. Rached confirmed that motorists exiting the site must make a right turn and go to the intersection of Major Road and Route 1. A left hand turn out of the site is proposed to be prohibited. (4T.54:3-11).

195. Mr. Rached confirmed that with the exception of the Route 1, Major Road – Sand Hills Road intersection he did not study the impact that the Pulte development would have on any other intersections in the area. He explained his answer by stating any intersection that has more than 100 trips would qualify. Mr. Rached stated it is called “100 trips in non-conflicting approaches” and if this analysis is done, no other intersections would qualify. Furthermore, Mr. Rached confirmed it is a national standard. It is an ITE standard and the NJDOT adopted it. Therefore, no other intersection qualified for study. Furthermore, the DOT utilizes a “scope of study analysis” and in using that criteria no other intersection qualified to be studied. (4T.59:2-25, 4T.60:1-13).

196. Mr. Rached testified in regard to Exhibit P-72 and more specifically Page 6 of that report. Mr. Rached confirmed that in calculating the trips to be generated from the site, he used the ITE Manual. More specifically, he used the 10th Edition which is the most recent edition. He did not consider the number of bedrooms when projecting the number of trips. He stated that the ITE surveys actual built developments and thus, the number of bedrooms is already built in. Therefore, he represented that if the ITE indicates that the rate is 5.6 per day, that figure already includes a general mix of bedrooms already factored in. (4T.62:23-25, 4T.63:1-25, 4T.64:1-3).

197. Mr. Rached testified that he did not perform a “journey to work” model for this development and he explained why. He stated “trip generation is very low. When you have one car per minute, we consider this not even warranting a traffic study for off-site intersection. Doing a gravity model and a journey to work model would be a waste of time because the change would be insignificant.” Furthermore, he testified that when he examined the existing traffic pattern, it was very consistent with journey to work. (4T.76:6-19).

198. Mr. Rached further testified that there are three ways to perform a traffic study. (1) follow the NJTPA Journey to Work model; (2) prepare your own gravity model; or (3) analyze the existing pattern. He stated that “[u]sually for small studies like this, you do the existing pattern.” However,

in this instance it went beyond that by looking at the journey to work model which revealed everything was consistent in the end. (4T.76:20-25, 4T.77:1-5).

199. Mr. Rached stated that the reasons to support the roadway classification as a multi-family access cul-de-sac is that first it serves as a multi-family development because it is less than 1,000 trips; and second based on functionality, it doesn't look like a residential access road. So based on those two factors Mr. Rached concluded the proper classification is a multi-family access cul-de-sac. Mr. Rached testified that the sight distance to the intersection is 270 feet currently, but 290 feet is required and then after the improvements are made the sight distance would be increased to 315 feet. (4T.80:19-25, 4T.81:1-25, 4T.82:1-5).

200. Mr. Rached represented that the available sight distance upon leaving this site after the improvements are constructed would be 315 feet. The stopping sight distance will improve from 275 feet to 285 feet and the required stopping sight distance is 250 feet and that would be for a 35 miles per hour speed limit. (4T.84:8-25).

201. Mr. Rached reviewed Exhibit P-72, page 17 of his report. He testified that intersection and stopping sight distances for a posted speed of 35 miles per hour are 335 feet and 250 feet respectively for a full movement ingress and right out only driveway. Mr. Rached stated the 335 feet figure is too conservative and the required sight distance for exiting is 290 feet not 335 feet. The required sight distance for leaving the site is 290 feet and for the left turn it is 285 feet. (4T.85:4-23).

202. Mr. Rached clarified his testimony that the 335-foot sight distance would be for a speed of 35 miles per hour and the 285 feet and 290 feet sight distance is for a speed of 25 miles per hour. Mr. Rached testified that because of the curvature of the road, the sign before the curve states 25 miles per hour. There is also another sign on the side that says "curve ahead". The signs reflect an advisory speed which is not a legal speed limit. (4T.86:1-25).

203. Mr. Rached testified that the site access drive where it intersects with Major Road is the best location for an access drive. He confirmed that Pulte examined a variety of locations and designs and found the proposed access drive to be the best location. (4T.107:14-24).

204. Mr. Rached testified in regard to queuing from the Route 1 intersection and its impact on the access drive. Mr. Rached responded that during one peak hour in the morning there were two times when the queuing reached or exceeded the driveway location. There were more times when the queuing did not reach the driveway. As a result, he testified that if the queuing did not reach the driveway then exiting and entering the driveway would be easy. However, if the queuing is at the driveway or beyond the driveway then exiting and entering would still occur by virtue of a courtesy gap. Mr. Rached further testified that in order to facilitate the courtesy gap process Pulte is proposing "do not block the box striping" which helps guide drivers to leave that area vacant to facilitate the availability of a courtesy gap. (4T.108:7-25, 4T.109:1-2).

205. Mr. Rached testified that it is his understanding that the proposed use is considered to be a permitted use and that when a use is permitted, off-site traffic conditions do not become relevant to an application. (4T.109:14-21).

206. Mr. Rached reviewed Exhibit P-25 and explained that direct access to Route 1 would result in Road A being continued and that access to Route 1 would lay somewhere between the existing Burger King and the existing car wash. However, Pulte does not own or have control over that additional land. Also, that proposed roadway is not the subject of this application. (4T.110:1-20).

207. Mr. Rached explained the permitting process for a direct connection to Route 1. Mr. Rached testified that there was a meeting with New Jersey Department of Transportation officials approximately two to three weeks before the hearing on March 3, 2020. Mr. Rached stated that the NJDOT said no to a private access. However, he also indicated that they left the door open to public access. Mr. Rached further elaborated that there is a Deed restriction as far as accessing Route 1 for that property and the Deed specifically states, "this property will not have any access except a cross easement access with the car wash property next to it". (4T.110:21-25, 4T.111:1-22).

208. Mr. Rached testified that the NJDOT would likely be more receptive if a municipal road were proposed. He stated that the applicant before the NJDOT would have to be South Brunswick Township. As a result, he concluded that Pulte would not be able to accomplish direct access to Route 1 on its own. (4T.112:1-22).

209. Mr. Rached was asked if the traffic generated from another project, South Brunswick Center, onto Major Road increases from 34 percent to approximately 54 percent as determined by Judge Feinberg in her decision as a special hearing officer, and would that change Mr. Rached's analysis or any of the conclusions that he reached in this matter. Mr. Rached said it would likely change the analysis with respect to how the numbers would be calculated regarding delay and level of service, but the conclusion would still be same. The impact of Pulte would be close to negligible. Furthermore, Mr. Rached testified it is a trip per minute or a trip every two minutes which does not constitute a heavy traffic demand. (4T.121:22-25, 4T.122:1-22).

210. Mr. Rached testified that based on his experience speaking with NJDOT that the NJDOT would not grant the access permit for direct access to Route 1 if it was a private road, but that the chances of approval would be greater if it was a public road. (4T.124:1-7).

THE TOWNSHIP OF SOUTH BRUNSWICK AND THE SOUTH BRUNSWICK PLANNING BOARD COMMENCES ITS CASE

TESTIMONY OF THE PLANNING BOARD ENGINEER

211. The first witness to testify on behalf of South Brunswick Township was Kenneth Zielinsky. Mr. Zielinsky placed his qualifications on the record as a professional engineer, and a New Jersey Planner with a certified municipal engineering certificate. Mr. Zielinsky represented that he is also the Planning Board Engineer. He has been the Planning Board engineer for South Brunswick for approximately 22 years. He also testified that he has been reviewing traffic impact studies on behalf of the Planning Board in South Brunswick for over 20 years. He has stated that he reviewed probably 400 to 500 traffic impact studies. Mr. Zielinsky's credentials as an expert in the field of civil engineering were accepted. (4T.130:11-25, 4T.131:1-25, 4T.132:1-20)

212. Mr. Zielinsky testified that the level of service is no longer valid because motorists have to rely on courtesy gaps which he explained as being when traffic is stopped and then it starts to move, a vehicle will let a car into the stream of traffic. (4T.137:7-17).

213. Mr. Zielinsky testified in regard to intersections where there would be queues of traffic. He stated the main one starts at the stop bar at the Major Road approach to South Route 1. The stacked traffic will back up along Major Road to the east around the curve and wind up approximately 100 feet or

so east of the proposed access road intersection. Therefore, his main concern is about stacked traffic and how it effects left hand turn traffic going into the site. (4T.138:13-24).

214. Mr. Zielinsky testified that in the past there have been problems with cars attempting to make a left turn into Burger King which causes traffic to back up towards the Route 1 intersection. (4T.139:3-9).

215. Mr. Zielinsky's concern is that the same problem will result at the proposed site driveway. He stated that traffic will back up from Route 1 past the intersection around the curve when a car is waiting to make a left hand turn and there is no opening in the stream of traffic. Mr. Zielinsky theorized that there will be no opening in the traffic because the vehicles are in a delay of about 3 minutes waiting to get to that location. Therefore, he concluded that traffic is not going to move. He does not anticipate vehicles leaving a courtesy gap. As a result, he contends there will be cars stacked up and the left-hand turning car will have to sit and wait for an opening. (4T.139:14-25, 4T.140:1-16).

216. Mr. Zielinsky commented on the use of Pulte providing "do not block the box striping". Mr. Zielinsky stated, it will help but it won't alleviate the problem. He further stated people will ignore that and they will block the intersection even if there is a "do not block the box". Therefore, it is an improvement but not a complete solution. (4T.141:17-25).

217. Mr. Zielinsky testified that upon reviewing the February 27, 2020 supplemental report, each individual item may not be a big problem unto itself but it's a combination of factors such as queuing and the delays which in his opinion result in a problematic road, a problematic intersection with a major state highway and an unsatisfactory location of an access driveway based on the traffic factors such as queuing and also the geometry of the roadway at that point. He further testified it is very close to the intersection and it has poor geometry and "I would suggest that the road is unsatisfactory to use for both the site suitability purpose and traffic engineering safety purpose." (4T.145:9-23).

218. Mr. Zielinsky reiterated measures that Pulte could implement to try and ameliorate the identified problems. Mr. Zielinsky agreed that a "do not block the box" pavement striping would be appropriate. He also stated that a left hand turn slot would also be beneficial. He elaborated on the request for a left hand turn slot stating that a dedicated left hand turn lane for Major Road eastbound traffic would

assist vehicles trying to make a left hand turn into the site. He also testified that the ultimate improvement would be providing an alternative access to Route 1 through the tract of land south of the car wash. (4T.147:12-25, 4T.148:1-6).

219. Mr. Zielinsky also testified that he advocates that the Township require intersection sight distances based on the statutory speed limit. Thus, all requirements should be based on a design speed of 35 miles per hour. He stated he is willing to lower the design speed from 40 miles per hour to 35 miles per hour based on the existing topography and topographical constraints. (4T.150:8-24, 4T.151:1-6).

220. Mr. Zielinsky testified in regard to the stop bar at the exit drive onto Major Road west. He stated the sight distance required is 335 feet for drivers making a right hand turn. The Plan is labeled 290 feet line of sight which demonstrates a shortage of approximately 35 feet. He further testified that if a motorist is trying to pull out into a line of traffic the motorist has to judge how fast oncoming traffic is coming before the motorist makes a decision whether or not there is sufficient room to allow the motorist to safely pull into the stream of traffic. He further stated that a motorist may have 7 or 8 seconds to pull out, but if the motorist can't see the entire distance the motorist would have no way of knowing whether the motorist has 7 or 8 seconds. Therefore, this would create an element of doubt in the mind of the motorist. Mr. Zielinsky further testified that if a motorist can't see far enough, the motorist has to edge out into the roadway to see down the road before he can pull out into the stream of traffic which is also problematic. (4T.151:15-25, 4T.152:6-25, 4T.153:1-11).

221. Mr. Zielinsky stated that he had issues with the actual design of the road improvement. He stated Pulte is combining two kinds of back to back existing horizontal curves into one smooth curve which is an improvement, but it doesn't comply with the Circulation Master Plan for South Brunswick which requires a curb to curb 40 foot cartway width. Thus each side of the center line would have a 20 foot halfway cart width. Mr. Zielinsky further stated from the curb to the existing edge of pavement on the other side is approximately 40 feet, but it is not equal on each side where 28 feet exists opposite the site driveway and 12 feet exists on the site frontage. (4T.153:6-25, 4T.154:1-3).

222. Mr. Zielinsky testified that from the center double yellow stripe on the center line there is 28-foot of pavement to the existing edge of pavement which gives Pulte a shoulder about 250 feet in length,

but the area right across the frontage on their side of Major Road only has a 12- foot travel lane with no shoulder. Thus, this area needs to be widened another 8 feet to meet the requirements of the Master Plan to provide an 8-foot shoulder. Mr. Zielinsky represented that achieving the 40 foot would be feasible with an increased right of way dedication. (4T.154:4-22).

223. Mr. Zielinsky also recommends the installation of a left turn slot to provide access into the site access way. (4T.155:15-25, 4T.156:1-13).

224. Mr. Zielinsky offered his comments in regard to road classification. He stated that in is opinion the roadway does not look like a cul-de-sac. He stated that the main elements for a cul-de-sac are not present here. Mr. Zielinsky does not view the proposed road classification as a multi-family cul-de-sac. He testified that the only reason it is being classified as a cul-de-sac by Pulte is because it has one means of ingress and egress. He stated that the RSIS has a note under the road classification that states, “if while your only means of ingress and egress is a divided roadway that allows for an emergency access if one of the sides is blocked, then this does not count as part of a cul-de-sac.” Therefore, Mr. Zielinsky stated that there is a divided roadway here that is not considered part of the cul-de-sac. As for the rest of the development, he characterized the roadway network as being a loop road. Therefore, he concluded that the roadway classification should be considered a residential access. (4T.158:1-20).

225. Mr. Zielinsky also addressed the issue of Pulte providing additional sidewalks. He stated the area north of Road A should have a sidewalk along that side of the road and the RSIS would require you to put it at the head of the parking spaces. Mr. Zielinsky stated that South Brunswick would not recommend that an exception from the RSIS be granted. Mr. Zielinsky also stated that the applicant needs sidewalk along the side of the road which passes in front of three story condos at the northeast corner of the site identified as Buildings 1, 2 and 3 which have no sidewalks in front of them. Mr. Zielinsky stated this would require a deviation from the RSIS. Mr. Zielinsky stated it is South Brunswick’s position that no de minimis exceptions be granted and that sidewalks be placed where indicated. (4T.164:15-25, 1T.64:1-25, 4T.165:1-17).

226. Mr. Zielinsky concluded his testimony by stating that due to the geometry, queuing and delays, this proposal does not provide for safe ingress and egress to the site. (4T.175:3-16).

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227. Mr. Zielinsky continued his testimony before the Special Hearing Officer. Mr. Zielinsky questioned Pulte's classification of the roadway system as a cul-de-sac. He stated the internal roadway system should be classified as residential access and that pursuant to the RSIS pedestrian sidewalks would be required along both sides of the street. (5T.10:5-16, 5T.14:19-25, 5T.15:1-5).

228. Mr. Zielinsky stated that Pulte is looking for de minimis exceptions from the RSIS for sidewalks in several locations. He identified the area of parking spaces regarding Buildings 6, 7 and 8 and between the buildings relative to Buildings 1 through 9 and the street. Mr. Zielinsky opposes the granting of de minimis exceptions because the RSIS is to be fully complied with pursuant to the Court Order. (5T.15:14-17).

229. Mr. Zielinsky specifically identified areas of the site where parking spaces should be added. Mr. Zielinsky recommends that sidewalks be added in areas essentially northeast of Buildings 6, 7 and 8 and to the north or northeast of the tot lot. Mr. Zielinsky also recommends the use of sidewalks in the areas of the multifamily courts off of Road A. Mr. Zielinsky further recommends the use of sidewalks regarding the two (2) buildings in the northeast corner of the site directly adjacent to the stormwater management basin. He also recommends the use of sidewalks for a multifamily building on the southeast side of the site. Mr. Zielinsky also recommends the use of sidewalks in the area of the off-street parking lot. (5T.19:11-25, 5T.20:1-25).

230. Mr. Zielinsky does not recommend that a de minimis exception for sidewalks be granted in this instance. He contends that the reason why he is opposed to granting a de minimis exception is for public safety reasons. However, Mr. Zielinsky did agree that a de minimis exception would be appropriate for no sidewalk along the north side of entrance Road A because there is nothing over there and thus no reason for pedestrians to walk over there. Mr. Zielinsky conversely testified that other areas of the site could provide high density pedestrian traffic and thus sidewalks would be required including, but not limited to, access to garbage and recycling that would require sidewalks for pedestrian safety. (5T.21:1-4, 5T.21:19-25; 5T.22:1-25, 5T.23:1-6).

231. Mr. Zielinsky also testified that although there was no clear cut RSIS requirement for how close a visitor parking space has to be to a building, in this instance, he contends there is a distance of approximately 500 feet from the visitor parking area in the southeast corner of the site to a building in the northwest corner of the site. (5T.24:15-23).

232. Mr. Zielinsky testified that the Stormwater Maintenance Agreement appears to be an open issue. Mr. Zielinsky stated that all developments in South Brunswick Township execute a Stormwater Maintenance Agreement with both the Township of South Brunswick as well as the County. The purpose of the Agreement is that if the basin is not being properly maintained, the municipality has the right of entry to maintain the basin. (5T.25:1-15).

233. Mr. Zielinsky testified that even though the Township does not exercise jurisdiction over a Remedial Action Work Plan (RAWP) to cleanup any type of contamination on the site, South Brunswick would like to be kept informed of the status of the matter. Mr. Zielinsky stated the New Jersey Department of Environmental Protection grants power to sign off on site remediation to a Licensed Site Remediation Professional (LSRP). He, therefore, recommends that all site remediation work and the proper letters from the LSRP be issued prior to the issuance of any Certificate of Occupancy. (5T.26:7-25, 5T.27:1-15).

234. Mr. Zielinsky referred to Exhibit P-69 identified as the Maser Letter dated January 27, 2020. Mr. Zielinsky referred to page 9 of the Township's review letter comment D-18. Mr. Zielinsky stated that stormwater basins are to be setback 100 feet from the dwelling unit. In this instance the front of the building is approximately 23 feet from the retaining wall. Mr. Zielinsky's concern is that if the aerators become nonfunctional, the result could be stagnant water conditions, algae, odors, mosquitos and things of that nature which would be very undesirable for people living so close to the basin. (5T.35:14-25, 5T.36:1-16).

235. Mr. Zielinsky referred to the Township's Report page 9, comment D-19 and identified as Exhibit SB-7. The Township Ordinance requires an access way to be 15 feet wide around the entire bank surrounding the basin. In this instance, it appears to Mr. Zielinsky to be about 10 feet wide. Further, he stated the 10-foot-wide access way does not go all the way around the basin. He testified that in his opinion the reason for the 15-foot-wide access way is to accommodate the size of some of the equipment for

Township emergency vehicles or maintenance vehicles in the event they are called upon for maintenance of the basin or in an emergency situation. (5T.38:1-25, 5T.39:1-8).

236. Mr. Zielinsky referred to Exhibit SB-7 page 9, comment D-21. Mr. Zielinsky stated the Ordinance requires that any type of stormwater management basin have a ramp going down from the top of the access around the basin down to the bottom with a maximum slope of 1:4 which is a 25 percent (25%) maximum slope. Mr. Zielinsky confirmed that the slope should be stabilized with paver blocks. For maintenance purposes, Mr. Zielinsky testified that the basin would have to be drained and equipment would need to get down to the bottom of the basin to fix the basin or make repairs. In this instance, Mr. Zielinsky does not know how equipment could get down into the basin for maintenance. He did, however, indicate that maintenance for the wet ponds is not very often probably once every ten (10) years. Nevertheless, he stated that access is needed. (5T.40:15-25, 5T.41:1-14).

237. Mr. Zielinsky continued his testimony with Exhibit SB-7 pages 9 and 10 and comment D-23. The Ordinance requires a basin to be setback 50 feet from the adjoining property line on which there is a residential use. Mr. Zielinsky testified that Lot 66 in Tax Block 86 is an adjoining lot and the basin is setback approximately 10 feet from the property line to the retaining wall at the southern edge of the basin. The Township does not want to have detention basins right up against an adjoining property. (5T.41:15-25, 5T.42:1-13).

238. Mr. Zielinsky testified in regard to Exhibit SB-7, the Township's November 14, 2019 review report and more specifically Section E Landscape and Lighting, E-1. The comment requires vehicular roadways and residential parking lots be provided with a minimum 0.5 foot-candle lighting intensity. Mr. Zielinsky stated there are three (3) multi-family courts that do not have the 0.5 foot-candles needed to satisfy the Township Ordinance. He also stated the RSIS does not have any standards for lighting. Mr. Zielinsky stated that 0.5 foot-candles are necessary to have proper illumination for maneuvering the vehicle and also for security reasons. (5T.43:1-25, 5T.44:1-11).

239. Next, Mr. Zielinsky reviewed Exhibit SB-7 page 13, E-2. Mr. Zielinsky stated that there is a requirement of a minimum of 1 foot-candle intensity along the entire length of all sidewalks. In this instance, most of the sidewalks are 0.5 foot-candles and in other instances, 0.2 foot-candles. Mr. Zielinsky

stated that a minimum of 1 foot-candle is necessary for pedestrian safety. Mr. Zielinsky recommended that the developer add more light fixtures to increase the light intensity. Thus, the recommendation is that Pulte install more light fixtures which are not as strong as far as light intensity goes. This will promote a more even distribution of light along the sidewalks without creating a problem with glare. (5T.44:12-25, 5T.45:1-21).

240. Mr. Zielinsky admitted that he does not have the legal expertise to say what type of improvement would be cost-generative under the Fair Housing Act. He also admitted that he did not know what uses are permitted in the ARRC Zone nor did he know what density is permissible in the ARRC Zone. (5T.52:3-25, 5T.53:1-16).

241. Mr. Zielinsky also testified in regard to the previous application that access to the site was basically in the same location as is proposed in this application. He also stated that his office brought up the same issues related to the geometry of the road and traffic along Major Road. He further believed that as part of that approval, the Applicant was going to restrict left turns out of the site, but only during the peak hours and not on a continuous basis. (5T.54:13-21).

242. Mr. Kasuba introduced a Resolution dated April 2, 2008 entitled "First Amended Resolution of South Brunswick Planning Board" which was marked for identification as Exhibit P-87. Mr. Kasuba directed Mr. Zielinsky's attention to page 4, paragraph 7 of the Resolution. The Resolution states: "There is one access point to the site from Major Road." In a discussion with the Board, the Applicant agreed that there will be restrictions of No Left Turn in and No Left Turn out from 7:00 a.m. to 9:00 a.m. Mr. Zielinsky agreed with the time restrictions on left turns. (5T.57:6-25, 5T.58:1-6).

243. Mr. Zielinsky agreed that when the Baker application was approved there were slopes existing on the site and that the historical use of the site was a mining operation for sand aggregate. He also stated that the mining operations would have altered the slopes of the site. (5T.58:13-19).

244. Mr. Zielinsky addressed traffic issues. He stated his major concerns are the vehicle queuing and the long traffic delays as well as the need for "an awful lot of courtesy gaps" going on at both the driveway and exacerbating the conditions at the ramps from Route 1. Mr. Zielinsky further testified

that he does not believe there will be safe ingress to and egress from the site because of the reliance on courtesy gaps. (5T.61:13-24).

245. Mr. Zielinsky also testified about the difficulty of vehicles making a left hand turn into the site when no one is giving the driver a courtesy gap. In that event, he stated there will be a queue back from Route 1 for vehicles traveling eastbound on Major Road which can be a safety issue because they will back up into the signalized intersection. Mr. Zielinsky discussed the need for a left-hand turn lane on Major Road. (5T.62:1-8).

246. Mr. Zielinsky confirmed that to gain direct access to Route 1 the NJDOT would have to issue either an access permit, a highway access permit or an intersection permit. He further added that it is his understanding that the adjoining property is subject to an access restriction based upon the fact that they would allow only one (1) access driveway on that property and not a second one. He further stated that it is his belief that the NJDOT would not allow a second access driveway. There would actually have to be an intersection permit for a municipally owned road. (5T.67:11-25, 5T.68:1-2).

247. Mr. Zielinsky also testified that for an intersection permit, the municipality would have to own the road and be the Applicant before the NJDOT. (5T.68:17-25).

248. Mr. Zielinsky testified that "Don't Block the Box" striping in front of the proposed access point on Major Road is appropriate. He also testified that the purpose of such striping is to encourage vehicles to leave a courtesy gap for vehicles entering and exiting the site. He also admitted that based on a 25 MPH advisory speed sign the Applicant would have sufficient sight distance. (5T.70:4-17; 5T.71:1-21).

249. Mr. Zielinsky testified that he does not believe sight distance should be measured from an advisory speed. In this instance, the statutory speed is 35 MPH. Mr. Zielinsky testified he is familiar with the Manual on Uniform Traffic Control Devices (MUTCD) (the 2009 edition). He also testified he did not use MUTCD for advisory signs. Rather he used AASHTO charts for sight distances based on the speed limit. He further testified that the RSIS requires sight distances based on the speed limit and that the RSIS does not mention warning signs. Thus, he used the 35 MPH speed limit to come up with the required sight distance. (5T.71:12-25, 5T.72:1-11, 5T.73:6-20).

250. Mr. Zielinsky testified that he had no knowledge of whether or not the MUTCD permits the sight distance to be based upon advisory speeds. (5T.73:18-20)

251. Mr. Zielinsky admitted that if the speed limit was reduced to 25 MPH there would be sufficient sight distance for the Pulte development. (5T.77:6-9).

252. Mr. Zielinsky testified that an 8-foot shoulder could not be installed and maintain the existing redesigned road curvature. It was his opinion that the 8-foot shoulder would crossover onto private property. Mr. Zielinsky stated that he is proposing that the shoulder be located along the Pulte property frontage. Mr. Zielinsky testified that South Brunswick is trying to achieve conformance with the Township's Circulation Master Plan which classifies Major Road to have two (2) 12-foot travel lanes and two (2) 8-foot shoulders for a total cartway width of 40 feet. Mr. Zielinsky stated that what Pulte is proposing does not conform to the Township's Circulation Master Plan. (5T.80:18-25, 5T.81:1-23).

253. Mr. Zielinsky was asked if in his opinion would it be sufficient if the dedicated left turn lane was able to stack two (2) cars. Mr. Zielinsky stated that "There would need to be some sort of a taper because you are shifting lanes, so you need a proper lane transition based on the speed limit." He also stated it would be difficult for him to offer an opinion without having the benefit of any concept sketches depicting the left turn lane. (5T.82:2-25, 5T.83:1-4).

254. Mr. Zielinsky testified that if Pulte were to propose a left turn lane at this time, he could not form an opinion as to whether or not access to the development would be safe and efficient without reviewing the design. (5T.85:20-25, 5T.86:1-3).

255. Mr. Zielinsky testified that Baker homes was not required to have a dedicated left turn lane because they restricted a left turn in/left turn out between the hours of 7:00 a.m. and 9:00 a.m. (5T.89:19-25, 5T.90:1-2).

256. Mr. Zielinsky admitted that the Pulte development satisfies the definition of a multifamily development under the RSIS, but he disagreed with the roadway classification as a multifamily cul-de-sac. He reached these conclusions because he said there is a divided entrance roadway up to the first cross-street which is not considered a cul-de-sac. Further, Road B which is identified as a loop road has one or two

ways to get in and out which again is not a cul-de-sac. Mr. Zielinsky did, however, admit that a residential access road can go up to 2,500 trips. (5T.92:15-25, 5T.93:1-8).

257. Mr. Zielinsky was asked to review Exhibit P-89 which was a PDF of the New Jersey Administrative Code Section 5:21 commonly known as the RSIS. More specifically, page 43 Note 1 provides: "Streets serving multifamily developments with a single means of ingress and egress shall be classified as multifamily access cul-de-sacs." (5T.94:1-15)

258. Mr. Zielinsky stated that he does not consider the divided entrance part of a cul-de-sac. Road A, B and C contains a loop and is not a cul-de-sac. He also stated the stem should not be considered part of a cul-de-sac because it is a divided entrance. As a result, he does not believe that it is a cul-de-sac strictly and rather it should be a residential access high density classification. (5T.95:18-25, 5T.96:1-17).

259. Mr. Zielinsky admitted that the maximum average daily traffic for a multifamily access cul-de-sac is 1,000 trips and the Pulte development has a proposed average daily traffic of 1,000 trips or less. (5T.97:16-22).

260. Mr. Zielinsky reviewed Table 4.3 of the RSIS and confirmed that neither Note E nor Note N explicitly state that sidewalks are required. (5T.101:10-14).

261. Mr. Zielinsky admitted that in Buildings 1 through 9 the front entrance to the units are on the other side of where the garage and driveways are located. Thus, the front entrance to the units is on the opposite side of the building from the courts where the cars are parked. Mr. Zielinsky also admitted that there are sidewalks for access to the front door of the dwellings. (5T.102:22-25, 5T.103:1-3).

262. Mr. Zielinsky asked "If sidewalk on both sides of this court are required, do you believe a de minimis exception would be appropriate in this location?" Mr. Zielinsky answered "Well, first, I believe probably RSIS, the way I interpret it, that the sidewalks are required and asked for. I have seen these types of multifamily courts both ways. I have seen them without sidewalk and I have seen them with. And I believe that in this case, they could be justified. I mean a de minimis exception could be justified." (5T.107:1-25, 5T.108:1-4).

263. Mr. Zielinsky also admitted that a de minimis exception could be justified regarding multifamily court sidewalks. However, in regard to Roads A, B and C and in particular Building 3 where

there are garage and driveway combinations or parking space combinations and no sidewalk, Mr. Zielinsky would like to see sidewalks because he characterized these areas as being actual roadways and not parking area access aisles. (5T.113:9-25).

264. Mr. Kasuba addressed the issue of the visitor parking area and its proximity to some of the townhouse buildings. Mr. Kasuba referred to Section 4.16A of the RSIS which provides in relevant part “Off-street parking lots shall be oriented to and within a reasonable walking distance of the buildings they are designed to serve.” (5T.115:4-9).

265. Mr. Kasuba then stated that the standard is a reasonable walking distance and asked Mr. Zielinsky whether or not he is aware of any objective standard in the RSIS that quantifies what is considered to be a reasonable walking distance to the buildings they are designed to serve. Mr. Zielinsky responded that he was not aware of any objective standard. (5T.115:18-25, 5T.116:1-10).

266. Mr. Zielinsky estimated that if a person was parked in the visitor parking area, that person would have to walk a distance of approximately 600 feet or so to reach Buildings 16 and 17. (5T.117:1-4).

267. Mr. Zielinsky stated that upon review of the proposed water system on the Maser site plan, he did not see anything that was in violation of the RSIS. Moreover, he admitted that he has no reason to believe that the Maser site plan regarding sanitary sewage system is unsafe. In addition, in reviewing the potable water system, he also found that the Maser site plan was not unsafe. (5T.124:19-25, 5T.125:1-25).

268. In regard to the proposed setback of the detention basin which is approximately 22.3 feet away from dwelling units, Mr. Zielinsky indicated his concern was for public health and safety if the basin is not properly maintained. However, he stated there was no requirement in the RSIS providing a standard for the distance that a basin must be separated from a building. (5T.127:8-25, 5T.128:1-25, 5T.129:1-16).

269. Mr. Zielinsky testified that the RSIS references the NJDEP Stormwater Regulations which requires a 10-foot access along the top of the dam. Nevertheless, Mr. Zielinsky admitted that the access around the full perimeter of the basin is not an RSIS requirement. Furthermore, the RSIS does not require a paving block to be installed for access to a basin. (5T.130:9-25, 5T.131:1-18).

270. The RSIS does not regulate the maintenance of basins but residential developments are required to comply with the Best Management Practice Manual. Thus, South Brunswick is requesting

something more than what is required in the Best Management Practice Manual. (5T.131:19-25, 5T.132:1-6).

271. Mr. Kasuba read into the record from N.J.A.C. 5:21-7.8D.6.viii, which is on page 139 of the Exhibit. It reads as follows: "In new stormwater management basins, maximum interior slopes for earthen dams, embankments or berms shall not exceed three horizontal to one vertical." Mr. Zielinsky stated he is not aware of any requirement of the RSIS for an access ramp to the bottom of the basin. He further admitted that the Maser plan complies with the maximum slope of three (3) horizontal to one (1) vertical which is in conformance with the RSIS. (5T.132:7-25, 5T.133:1-25, 5T.134:1-11).

272. Mr. Kasuba attempted to clarify lighting. He stated there is going to be additional light to be proposed to be installed at the end of the driveway court areas that would bring that standard up to 0.5 foot-candles for those designated parking stalls. For the private garage entrances and the driveways, there is not going to be additional lighting to bring those areas up to 0.5 minimum foot-candles. What was proposed for those areas is the IESNA recommended 0.25 foot-candles would be effectively two (2) different standards within those driveway court areas. (5T.137:20-25, 5T.138:1-11).

273. The next witness to testify on behalf of the Township was Joseph Charmello, Traffic Safety Coordinator for South Brunswick Township.

**TESTIMONY OF THE SOUTH BRUNSWICK TOWNSHIP TRAFFIC SAFETY
COORDINATOR, JOSEPH CHARMELLO**

274. Mr. Charmello testified he is the Traffic Safety Coordinator for South Brunswick Township assigned to the Police Department under the Traffic Safety Bureau. He stated he has been in this position for the past four (4) years. Prior to that he served as a police officer in South Brunswick for 27 years starting in 1987. He retired as a Captain where he oversaw the Traffic Safety Bureau. He stated that he reviews site plans, work zones, grants, and he deals with crossing guards. He testified essentially that the Police Department civilianized some of the officers' responsibilities. Mr. Charmello also discussed the certifications he received and the training courses that he attended. He also stated that he reviews site plans, but not from an engineering perspective, but from a practical perspective. (5T.168:9-25, 5T.169:11-25, 5T.170:1-25, 5T.171:1-25, 5T.172:1-25, 5T.173:1-25, 5T.174:1-18).

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275. Mr. Charmello continued his testimony before the Special Hearing Officer. (6.T5:23-25).

276. Mr. Charmello admitted that he has not designed road improvements, nor is he a licensed civil engineer, nor is he a licensed traffic engineer. He stated his experience in calculating sight distance and figuring out sight triangles is based upon in the field conditions. He further admitted that he does not have any education regarding calculating what the appropriate road geometry would be for designing roads. Mr. Charmello admitted that he has never been qualified as an expert in traffic engineering in any court proceeding. (6T.6:10-25, 6T.7:1-19).

277. Mr. Charmello testified that he has practical experience performing traffic counts with respect to the volume of traffic or checking on enforcement levels. He stated this is based upon actual field conditions. Mr. Charmello further confirmed that there is no study or report that he has prepared relating to this matter that complies with the Institute of Transportation Engineers. (6T.8:1-25, 6T.9:1-3).

278. Mr. Charmello was offered by South Brunswick Township as an expert in traffic safety. (6T.11:4-11).

279. Mr. Kasuba placed on the record his objections to the testimony of Mr. Charmello. However, he agreed to permit Mr. Charmello to testify as long as his objection is preserved for the record. (6T.9:4-25, 6T.10:1-4).

280. The Special Hearing Officer allowed Mr. Charmello to testify as an expert based upon his experience as a long-term police officer in the South Brunswick Township Traffic Safety Bureau and his position as a civilian Traffic Safety Coordinator for the Township of South Brunswick. Mr. Charmello was not permitted to testify as an expert in regard to any engineering matters. Mr. Charmello was permitted to testify pursuant to New Jersey Rule of Evidence 702 and pursuant to the Municipal Land Use Law under N.J.S.A. 40:55D-10E. (6T.13:19-25, 6T.14:1-25, 6T.15:1-6).

281. Mr. Charmello reviewed Exhibit SB-2 which is a Memo from Mr. Bidlack dated November 15, 2019. Mr. Charmello confirmed that on page 6 of that Memo under Subparagraph M. Mr. Charmello provided the information to Mr. Bidlack to include in the Memo. (6T.16:2-15).

282. Mr. Charmello reviewed Exhibit SB-26 which was identified as a Google Earth color photograph of the intersection of Route 1 with Sand Hills Road and Major Road. Mr. Charmello testified that there have been a number of traffic accidents in that area as a result of conflicts from cars trying to navigate the jug handle to cross Sand Hills Road in order to make the U-turn to proceed south on Route 1. He intimated that the conflict would be from traffic either proceeding from Major Road or from Sand Hills Road. (6T.18:21-25, 6T.19:1-2).

283. Mr. Charmello explained the contributing factors for traffic conflicts in this area. He testified that the jug handle is not as large as newer jug handles. He also represented that Route 1 is an old road and the intersections that were constructed at that time were designed when there was a lot less traffic. He stated the jug handles have not been made larger. He also testified that the Henderson Road jug handle has a little more room for a queue which enables cars to safely make the left hand turn to cross the highway. He further testified that this intersection is very close to Route 1 so that if traffic queues back up beyond the jug handle, the cars need to either get waived in or what they will try to do is make their own way whether its block the intersection while the light is red, obstruct traffic and try to insert themselves into traffic to make their own opening. He stated that this is where the accidents occur. Mr. Charmello also testified that on occasion traffic backs up onto Route 1 from this ramp. (6T.19:3-25, 6T.20:1-20).

284. Mr. Charmello addressed traffic in the southerly direction on Route 1 and approaching the Sand Hills Road jug handle. Mr. Charmello testified that motorists commence to make a right turn out of the exit ramp and then make an illegal left turn. He stated it is his understanding that a motorist would make that maneuver because the queue from Route 1 is backed up past the opening for the cars to come off of Route 1 and the motorist does not want to wait for a gap, so they try to go around and make their own gap by making a U-turn. He stated it also happens on the other side of the road. Vehicles come out of the northbound ramp and go up to the cemetery or into the Burger King and try to make the U-turn to try to go across the highway to avoid the traffic queues. (6T.22:1-25, 6T.23:1-6).

285. Mr. Charmello testified that it is his expectation that with the approval of the Pulte project, there would be more cars on the road resulting in a longer queue and more traffic delays. (6T.23:10-18).

286. Mr. Charmello reviewed Exhibit SB-19A which is a photograph depicting a queue of traffic on Major Road coming from Route 1. Mr. Charmello estimated that the queue is approximately 500 feet from the intersection. Mr. Charmello admitted that he did not take the photograph nor was he present at the time the photograph was taken. Mr. Sears confirmed that Exhibit SB-19A was taken on Wednesday, January 24, 2018 at 4:45 p.m. Mr. Charmello represented that would be a peak time for traffic. He also testified that he has seen traffic queues extend beyond that point on many occasions. Mr. Charmello also represented that under conditions such as indicated in SB-19A it could be difficult to exit the development. (6T.23:19-25, 6T.24:1-5, 6T.27:20-25, 6T.28:1-3).

287. Mr. Charmello reviewed Exhibit SB-19B. Mr. Sears confirmed that the photograph was taken on Friday, June 7, 2019 at 4:40 p.m. Mr. Charmello stated that this photograph is approximately 1,445 feet from Route 1. The photograph depicts queuing from Route 1 back up Major Road towards Kingston Lane beyond where the proposed driveway (to the Pulte development) would be located. (6T.29:15-25, 6T.30:1-2).

288. Mr. Charmello reviewed Exhibit SB-27 and stated that it is a photograph of Google Maps dated May 20, 2020 which depicts a more expansive view of the intersections of Route 1, Sand Hills Road and Major Road. Mr. Charmello stated that the carwash sign in the photograph is approximately 1,445 feet away from the intersection. Mr. Charmello further testified that the queue would be beyond the access proposed for the Pulte development. (6T.30:1-25, 6T.31:1-14).

289. Mr. Charmello reviewed Exhibit SB-25 which he characterized as being a traffic crash analysis which he prepared for a five (5) year period prior to his testimony being offered. (6T.32:13-24).

290. Mr. Charmello stated the data is essentially from March 1, 2015 through February 29, 2020. Mr. Charmello testified that the report provides an analysis of where and how and what type of accidents occurred, and what were the apparent contributing circumstances. (6T.33:2-17).

291. Mr. Charmello testified that between March 2015 through February 28, 2016 there were a total of 24 crashes. The following year the number of crashes increased from 24 to 30. From March 2017 through February 2018 there were 23 crashes. From March 2018 through February 2019 there were 21

crashes and from March 2019 through February 2020 there were 16 crashes. (6T.36:12-15, 6T.38:15-18, 6T.40:9-16, 6T.41:1-7, 6T.41:9-23).

292. Mr. Charmello also testified that this intersection is one of the busier intersections in South Brunswick Township and it has one of the highest crash rates. (6T.45:13-15).

293. Mr. Charmello offered his opinion in regard to the impact of the Pulte development on traffic conditions. He stated that it would be more difficult at certain times of the day for people to get out of the development because of the queuing of traffic. (6T.46:1-14).

294. Mr. Charmello also testified that in regard to the realignment of the road, it would limit the view obstruction, however, there would still be traffic queuing conflicts. He also testified that having more than one way in and one way out is a better option from a safety perspective. (6T.48:14-21).

295. Mr. Charmello admitted that he did not prepare any study regarding the calculation of delay times or levels of service as a result of the Pulte application. Furthermore, he did not prepare any studies that analyzed any additional queuing of that intersection that would result from the proposed development. He did not do any calculation of the proposed trips to be generated from the Pulte development. (6T.49:10-25, 6T.50:1-25, 6T.51:1-2).

296. Mr. Charmello confirmed that his report includes accidents that occurred on Route 1 and Major Road including crash data from the northbound ramp onto Major Road, but it did not include any crashes on the Sand Hills Road side of the road and the southbound ramp that feeds into that. (6T.52:1-17).

297. Mr. Charmello testified that he has not made any recommendations regarding reducing the speed limit on Major Road but based on his experience speed reduction will lower the severity of the crash. He stated a reduction in the speed limit may not necessarily reduce the number of crashes, but if the speed limit is reduced, the driver would have more time to react to a crash which could also reduce the number of crashes. (6T.53:19-25, 6T.54:1-2).

298. Mr. Charmello also testified that he has not made any recommendations to make improvements to the section of Major Road in the vicinity of the Pulte application. (6T.54:3-8).

299. Mr. Charmello stated that South Brunswick has discussed various intersections through the Route 1 corridor within South Brunswick Township with the NJDOT and have asked for assistance. He also confirmed that the ramp is under the jurisdiction of the NJDOT. (6T.54:12-24).

300. Mr. Charmello testified that he is aware that Pulte proposed a realignment of the roadway to try to take out some of the curve and the slope at the area where the entrance is coming out. However, he was not aware whether or not Pulte proposed to make any restrictions on egress movements from the development. He further testified that he did recall that Pulte is proposing striping on Major Road indicating "Do Not Block the Box". (6T.54:25, 6T.55:1-21).

301. Mr. Charmello represented that he is generally aware that Pulte is proposing advisory speed limits, but he commented that advisory speed limits are not enforceable. (6T.56:3-15).

302. Mr. Charmello admitted that he is not familiar with any engineering studies that have been done regarding measurements of the curves and the speeds of vehicles to safely navigate the curves in the roadway. He also admitted that he was not aware of the timing sequence of the traffic light at Route 1 and Major Road. Thus, he did not know how long Major Road had a green light. (6T.56:16-25, 6T.57:1-5, 6T.57:6-13).

303. Mr. Charmello further admitted that he was not personally present when the photographs were taken which were identified as Exhibit SB-19A and SB-19B, nor did he take the photographs. Furthermore, Mr. Charmello admitted that he was not in the vehicle at the time the photographs were taken. He also admitted that he had no understanding of what other surrounding circumstances may have been in existence at the time of the queues. (6T.57:14-25).

304. Upon questioning from the Special Hearing Officer in regard to the reduction of car accidents for each year from March 2017 through February 2020, Mr. Charmello testified that South Brunswick Township has an aggressive Police Department that takes traffic safety seriously. He then followed that statement up with a comment that South Brunswick takes part in State and federal grants for traffic safety, but that he could not offer an opinion as to why there was a drop in the number of crashes during that time period. (6T.58:5-25, 6T.59:1-25).

305. In regard to the issue of advisory speed signs, Mr. Charmello testified that if a motorist does not obey an advisory speed sign, the Police Department cannot issue a Summons for violating the advisory speed. (6T.63:14-20)

TESTIMONY OF SOUTH BRUNSWICK TOWNSHIP PLANNER, HENRY BIGNELL

306. Mr. Henry Bignell next testified on behalf of South Brunswick. He reviewed his qualifications to testify as an expert planner and he reviewed Exhibit SB-9 which contained his Resume. (6T.67:14-25, 6T.68:1-25, 6T.69:1-25, 6T.70:1-25, 6T.71:1-25).

307. Mr. Bignell represented that his primary concern is that the Township provide for the health, safety, morals and general welfare of the people that are going to live in this development. He stated that this development will produce a lot of children. For example, he stated the Oaks Crossing development which had 188 units would generate approximately 209 children from kindergarten through high school which does not include children that are not yet of school-age. Mr. Bignell stated that with 152 units proposed, if each unit has one (1) child that would produce a lot of children as part of this development. (6T.74:21-25, 6T.75:1-16, 6T.75:21-25, 6T.76:1-2).

308. Mr. Bignell further indicated that he was concerned with the lack of recreational space available due to the number of units that are proposed to be built on this site. He stated the total amount of recreation area is estimated to be approximately one-third of an acre. Mr. Bignell also indicated there is one tot lot and, in his opinion, school-age children would not congregate there. (6T.76:2-20).

309. The next issue Mr. Bignell addressed was with respect to buffer areas. He testified that one of the purposes of a buffer area is to prevent motorists passing by the development from seeing into the development. Also, another purpose is to provide a desirable visual environment for the people who live within the development. He stated there are very high walls proposed which make the property stable for development and would impact people from outside the development from looking in, but there still remains a need to provide a visual environment for the people who live there. He stated that Pulte has agreed to some of his suggestions about providing fencing and additional landscaping. (6T.77:4-25).

310. In regard to the issue of tree replacement, Mr. Bignell testified that the requirement for the total number of trees on site is 499 trees, but the Applicant is providing 127 trees. Mr. Bignell offered his

opinion that Pulte should be able to increase the number of trees to 200 which the Township would find acceptable. He also wants to make sure that due to the height of the retaining walls, that children are protected because of the lack of play areas on the site. (6T.78:9-25, 6T.79:1-5).

311. Mr. Bignell testified that any approval granted by the Court should be preliminary approval only and subject to the submission of revised plans. (6T.79:6-14).

312. Mr. Bignell stated that the residents of the affordable units are going to be treated differently. He stated they have to walk farther to their cars for parking. They don't have a place to store their refuse. They have to walk to a dumpster. The architecture of the building is different. He thus concluded that Pulte is singling out the low-and-moderate income residents. He also stated, "Quite frankly the other housing wouldn't be here if it wasn't for the affordable housing." (6T.80:25, 6T.81:1-17, 6T.82:8-14).

313. Mr. Bignell stated that this is one of the better projects that he has seen in terms of the location of it. However, he still has concerns with the overall density. He also recognized that the density is below the allowed density but there is still very limited green space and limited areas within which to plant trees. (6T.83:4-25, 6T.84:6-15).

314. In regard to Exhibit SB-10, comment 8.B.C., Pulte is proposing 79 shade trees, 27 evergreen trees and 21 ornamental trees for a total of 127 trees. However, based upon Exhibit P-69 at page 75, Pulte is going to increase the number of trees by adding 19 deciduous trees and 28 evergreen trees which would be added to the total number provided for a new total of 174 trees. (6T.87:8-25, 6T.88:1-10, 6T.89:12-23).

315. Mr. Bignell testified that whatever the deficiency is in the number of trees, Pulte should be required to make a contribution to the Township Tree Fund. He stated the cost of tree replacement is based upon the cost of the trees and the amount to plant it if some Township official had to plant the trees. Mr. Bignell also stated the amount can be negotiated. (6T.90:20-25, 6T.91:1-23).

316. Mr. Bignell admitted that retaining walls would be required. He stated that the retaining walls are in the buffer areas. Mr. Bignell was concerned about the residents views due to the existence of

retaining walls, but he also recognized that the retaining walls make the site safer. (6T.94:15-25, 6T.95:1-15).

317. Mr. Bignell reviewed the open space area which was identified as an open field, a sports area, a tot lot and a pedestrian walkway and gazebo. Thus, there are in essence four (4) open space and recreation areas proposed. (6T.96:5-19).

318. Mr. Bignell questioned whether or not the four (4) areas proposed for open space and active/passive recreation are sufficient for this development project if the development project has 100 or more children. Mr. Bignell's issues is whether there are rich kids or poor kids there should be sufficient areas for recreation. In addition, a prior application was approved which included a multifamily senior adult living development with a clubhouse and swimming pool. In this instance, there are no proposed amenities. He also stated that in his opinion an approximate quarter of an acre lot for a 100 or more children is not a lot of space. (6T.98:6-22, 6T.99:1-10, 6T.99:17-25, 6T.100:1-5).

319. Special Master Cofone inquired as to whether or not Mr. Bignell can point to an industry standard for the amount of recreation space from a planning point of view. She also stated it is her understanding that Mr. Bignell wants this development to function more like a self-contained community that has elements of both active and passive recreational opportunities for children of varying ages. (6T.104:15-23).

320. Mr. Bignell testified that with the size of this development, and the anticipated number of children that the development would generate, in his opinion Pulte needs to take into consideration more area for both active and passive recreation. (6T.105:8-20).

321. Ms. Cofone asked Mr. Bignell in reviewing Exhibit P-38 regarding the proposed open space area adjacent to the access road if that would be acceptable to Mr. Bignell if Pulte were willing to turn it into an active recreation area for an older population and introduce some type of facility similar to what Mr. Bignell had suggested. Mr. Bignell responded in the affirmative and stated, however, he would like to see it on a plan in order to properly evaluate what is being proposed. (6T.106:9-25, 6T.107:1-5, 6T.107:6-8).

322. Mr. Bignell once again reiterated that in his estimation there would be approximately 100 children living in this development. The proposed area of both active and passive recreation is approximately a quarter of an acre which may not be a sufficient area for the anticipated number of children on the site. (6T.108:7-25, 6T.109:1-8).

TESTIMONY OF SOUTH BRUNSWICK TOWNSHIP PLANNER EMILY GOLDMAN

323. The next witness to testify on behalf of South Brunswick Township was Emily Goldman, a planner with Clark Caton and Hintz. Ms. Goldman testified that she and Mary Beth Lonergan prepared a report dated November 12, 2019 which was marked Exhibit SB-5. Mr. Kasuba offered no objection to Ms. Goldman testifying as a licensed professional planner in the State of New Jersey. (6T.111:13-25, 6T.112:1-25, 6T.113:1-21).

324. Ms. Goldman offered her concerns in regard to this project. She reviewed Exhibit P-68. Ms. Goldman represented that she had a concern relative to the height of retaining walls being at a height approximately equivalent to the second story windows. She referenced photo number 3. Ms. Goldman express an overall concern that the affordable units being in the end units would have a visual impediment with a wall of that height. However, she deferred to the engineers in terms of the structural integrity of the wall. (6T.115:24-25, 6T.116:1-25).

325. Ms. Goldman's next concern was with respect to Pulte proposing a 32 square foot sign where the Ordinance limits the sign area to 30 square feet. She asked if Pulte could try to conform to the 30 square foot requirement. (6T.117:7-14).

326. The next area of concern raised by Ms. Goldman was in regard to the location of parking spaces for the affordable units. She stated that although she understands that the number of parking spaces conforms to RSIS standards, she reviewed Exhibit SB-28 with her notations to P-38. (6T.118:1-17).

327. Ms. Goldman stated the affordable units do not have a garage parking area but just the driveway in front of the units and in some instances such as with respect to Building 6 there are two (2) parking spaces directly adjacent to the building for the three (3) affordable units. She, therefore, theorized that the residents who park in the two (2) affordable spaces adjacent to the building will have to walk through the multifamily court parking area to get to the sidewalk to walk around to the front in order to

enter the building. Her concern is that the residents are walking in the drive aisles in order to get to the sidewalk. Furthermore, there are certain areas where there is no sidewalk. Thus, she stated the tenants would probably cross through grass areas to get to the sidewalk area in order to access the entrance in the front of the building. She also had similar concerns about Building 2 and Building 3. Ms. Goldman stated that in many instances it seems that tenants have to walk a very far distance to get to the entrance to their units for which she expressed concern especially if the residents are carrying bundles or have children with them. (6T.120:14-25, 6T.121:1-25, 6T.122:1-19).

328. Ms. Goldman also stated as a planner she supports Mr. Bignell's comments to enhance the recreation package. (6T.123:17-22).

329. Ms. Goldman also supported enhanced buffering in order to protect the neighboring property and also to provide a visual buffer for the residents of this development. (6T.124:13-17).

330. Ms. Goldman reviewed SB-28 which contains her notations to P-38. She recommends that Pulte provide additional evergreen shrubs around the exterior of the pump station to help screen the infrastructure feature for the residents of the facility. (6T.125:6-15).

331. In the area behind Townhouses 14 through 18 Ms. Goldman testified there is a retaining wall and there is an existing site to the south of it that would be overlooking the Pulte development. She stated there is really not much landscaping between the neighboring property and the retaining wall. Ms. Goldman thinks that would be an area where some enhanced planting would benefit both the neighboring property as well as the Pulte proposed development in order to help provide screening between the two (2) properties. Next, she stated on the eastern boundary there is a retaining wall and the Pulte site is at a higher elevation to the adjacent site. Ms. Goldman stated she believes there is a fence that should be installed here along the parking area to help screen the neighboring property from vehicular lights shining into the neighbor's property. She, therefore, offered her opinion that additional plantings to help screen the retaining wall would be appropriate. (6T.125:15-25, 6T.126:1-20).

332. Ms. Goldman provided testimony in regard to the surrounding land uses in relation to the subject site. Ms. Goldman testified that to the east of the property there is an outdoor/indoor archery facility. To the south of the site Ms. Goldman was not entirely sure what the parking use was for. On the other side

of the stormwater basin, she stated there are wetlands and woodlands up to the north of the site. (6T.128:17-25, 6T.129:1-21).

333. Ms. Goldman recommended additional plantings to create a visual barrier between Buildings 14 and 18. Ms. Goldman also stated that the height of the wall between Buildings 15 and 16 is about 18.9 feet in height and the wall height is gradually reduced as it transitions to Building 18. She also admitted that Buildings 16, 17 and 18 are 2-stories in height on the rear side and 3-stories in height on the front side. (6T.131:4-9, 6T.132:15-24).

334. Ms. Goldman reviewed Exhibit P-38 and stated that one of her concerns is making sure that there are adequate safety controls in place regarding where vehicles are parked so that they don't go over the edge of the retaining wall. Therefore, she recommends that a visual barrier be included. (6T.133:11-25, 6T.134:1).

335. Ms. Goldman reviewed Exhibit P-25 and stated that the adjoining property appears to be some sort of a contractor's yard. She also testified that it looks like a facility that has a number of vehicles parked throughout the facility and that there are approximately 3 or 4 buildings on the site. She also admitted that she did not know for what purpose the buildings were used. (6T.134:8-20).

336. Ms. Goldman stated that if Pulte were required to comply with the 50-foot wide open buffer, and if Pulte continued to use the same product-type, there would be a reduction in the number of units which would necessarily result in the reduction of the number of affordable units. (6T.136:15-25, 6T.137:1-8).

337. Ms. Goldman requested a row of evergreens be planted around the outside of the pump station. The January 27, 2020 Maser letter marked as Exhibit P-69 on page 53 stipulates that Maser will agree to evergreen plantings around the pump station as a condition of approval. (6T.137:9-25, 6T.138:3-23)

338. Ms. Goldman admitted that she doesn't have any concerns about lighting since Pulte has agreed to provide some shielding for the on-site lighting along the property boundary lines. She also testified that she was satisfied with the lighting standards if Maser complies with IESNA standards. (6T.139:5-20)

339. Ms. Goldman testified in regard to the refuse enclosure and she stated that she recommends that the refuse enclosure be constructed of materials in order to visually blend in to the retaining wall as much as possible. (6T.141:14-25, 6T.142:1-7).

340. Ms. Goldman admitted that Pulte is complying with the RSIS regarding the number of parking spaces. Ms. Goldman stated that she would be satisfied if there were designated parking spaces for the affordable units in order to designate or identify that space for a specific unit which space would be located in close proximity to the affordable units. (6T.142:21-25, 6T.143:1-22).

341. In regard to additional plantings on the retaining wall located behind Buildings 15 and 18 Ms. Goldman confirmed that Pulte has agreed to provide additional plantings in that area. She stated that she would be looking for small shrubs or small evergreen shrubs that could provide both a visual barrier and a physical barrier on the top of the wall and the visual barrier would be primarily designed for the neighboring property looking into the site versus the residents themselves looking up on top of the wall. (6T.145:2-25).

TESTIMONY OF SOUTH BRUNSWICK TOWNSHIP AFFORDABLE HOUSING PLANNER
MARY BETH LONERGAN

342. The next witness to testify on behalf of the Applicant was Mary Beth Lonergan. Ms. Lonergan who was qualified as an expert witness in land use planning with a particular expertise in affordable housing matters. (6T.152:5-25, 6T.153:1-25, 6T.154:1-25, 6T.155:1-16).

343. There were no objections to Ms. Lonergan being qualified as an expert licensed professional planner in the State of New Jersey with particular expertise in regard to affordable housing matters. (6T.155:11-21).

344. Ms. Lonergan testified that as a result of conversations between South Brunswick and Pulte, both parties considered moving four (4) very low income units off-site and South Brunswick would have an arrangement with a group home provider in order to increase the likelihood of actually producing very low income housing units. Ms. Lonergan opined that very low income “for sale” units are difficult to achieve because of the difficulty in getting very low income households qualified. (6T.157:19-25, 6T.158:1-6).

345. Ms. Lonergan referenced the Uniform Housing Affordability Controls (UHAC). She testified that these were regulations adopted by the New Jersey Housing Mortgage Finance Agency as well as COAH and the Department of Community Affairs which occurred in approximately 2001. Initially, the UHAC standard required just rental developments to provide very low-income housing to affordable households at 35 percent (35%) of the regional median income. Thus, the rent had to be set at 35 percent (35%) of regional median income. Thereafter, the Fair Housing Act was amended in 2008 to have a statutory requirement for very low-income housing. That now refers to the statutory requirement for very low-income housing at 30 percent (30%) of regional median income. That means literally the housing has to be reserved for a household earning 30 percent (30%) of the regional median income or below in the price or the rent. (6T.158:16-25, 6T.159:1-17).

346. Ms. Lonergan next testified in regard to the income limits. Ms. Lonergan stated that South Brunswick Township is in Middlesex County which is in Region 3 and is subject to the income limit chart produced by affordable housing professionals of New Jersey, of which she is a Board member. The 2020 income limits for Region 3 are as follows: a three (3) person household where a median income for three (3) person household is \$107,000.00. Moderate income would be capped at 80 percent (80%) of that figure or \$86,000.00. In very low-income categories an income no greater than \$32,265.00. A three (3) person household earning no more than \$32,000.00 would qualify for very low income. (6T.160:16-25, 6T.161:1-3).

347. Ms. Lonergan testified that there is a statutory requirement for municipal-wide production of 13 percent (13%) of all affordable housing units approved and developed after July 17, 2008 to be very low income. Ms. Lonergan also stated "I am going to recommend to the Court and to the Special Hearing Officer, that the Court permit an offsite production of the very low units." (6T.162:5-25).

348. Ms. Lonergan testified that she is concerned that very low-income units for sale on this site would not be filled and they would not be occupied. There is a need for very low-income housing, but it exists on the rental side and not on the buy side. As a result, Ms. Lonergan testified that Pulte and South Brunswick are hoping to agree to have the very low-income for sale units moved off-site for very low-income individuals or households in a rental rather than a for sale product. (6T.163:20-25, 6T.164:1-8).

349. As a result, Pulte and South Brunswick have agreed to transfer through a payment in lieu of construction \$80,000.00 for a total of four (4) very low-income units to be moved off-site which equates to \$20,000.00 per bedroom for a four-bedroom group home. In addition, there would be another \$20,000.00 transferred for a fifth off-site unit for a total contribution of \$100,000.00. Pulte has proposed a total of 152 for sale units. That comprised a market-rate total of 121 units and 31 affordable units. Transferring four (4) of the very low-income units off-site will reduce the total unit count of the affordable units from 31 on-site to 27 on-site with four (4) very low affordable units off-site. Pulte will also contribute the additional sum of money for creation of the fifth unit off-site. Thus, there will be an actual reduction in the total unit count from 152 units to 151 units. The market rate unit count on-site will increase from 121 units to 124 units and there will be 27 affordable units constructed on-site. (6T.164:18-25, 6T.165:1-25, 6T.166:1-10).

350. Ms. Lonergan also testified that in accordance with this agreement there will be one additional one-bedroom affordable unit where UHAC will have limited the number of one-bedroom affordable units to five (5), this proposal calls for six (6) one-bedroom affordable units. Ms. Lonergan stated she is comfortable recommending to the Court and to the Special Hearing Officer and to the Special Master that this waiver be approved. She stated South Brunswick has significant family affordable units throughout a variety of developments, rental, for sale, and different very low income and moderate-income units and Ms. Lonergan confirmed that the request by Pulte for one (1) addition one-bedroom affordable unit is a reasonable request. (6T.166:16-25, 6T.167:1-20).

351. Ms. Lonergan provided a breakdown of the 27 on-site affordable units to be constructed. She testified that there will be six (6) one-bedroom units, 15 two-bedrooms and six (6) three-bedrooms units. The six (6) one-bedroom units would exceed the maximum limit by one (1) unit and rather than limiting the one-bedroom units to a maximum of 20 percent (20%) it would be slightly increased to 22.2 percent (22.2%) which increase Ms. Lonergan supported. (6T.172:17-25, 6T.173:1-14).

June 9, 2020 Hearing⁶

TESTIMONY OF SOUTH BRUNSWICK TOWNSHIP PLANNER BRYAN BIDLACK

352. The first witness to testify at the June 9, 2020 hearing was Mr. Bryan Bidlack. Mr. Bidlack provided his education, training and experience as a licensed professional planner in the State of New Jersey since 1997. Mr. Bidlack also testified that he serves as the Deputy Township Manager for South Brunswick Township which position he has held for the past ten (10) years. Mr. Bidlack further testified that he has been an employee for South Brunswick Township for approximately the past 21 years. Mr. Bidlack was offered as an expert in planning. Pulte's representatives offered no objection to Mr. Bidlack's qualifications. (8T.9:12-25, 8T.10:1-20)

353. Mr. Bidlack testified that based on his position as the Deputy Township Manager, he has knowledge that the Mayor and Council would be fully committed to having an alternate access road to Route 1. The alternate access road to Route 1 would be subject to NJDOT approval. (8T.12:13-21)

354. Mr. Bidlack reviewed Exhibit SB-2 which was identified as a typical Memorandum that his Department creates for every land use application in South Brunswick. The Memo documents all the reviews from the various Township Departments in a summary fashion. (8T.12:22-25, 8T.13:1-25)

355. Mr. Bidlack reviewed page 8 of his report in regard to the tree removal replacement plan. Mr. Bidlack's report states that Pulte must make arrangements for the payment of 372 trees. That number was arrived at by subtracting the number of trees to be replaced 127 from the number of trees to be removed 499. Mr. Bidlack further clarified his remarks stating that either an applicant will provide a plan that conforms to the Township Tree Removal Ordinance by replacing the same number of trees that they are removing on a one-to-one basis or, in the alternative, an applicant will pay a fee based on the schedule at a certain dollar amount per tree. (8T.14:9-25, 8T.15:1-25, 8T.16:1-25, 8T.17:1-5)

356. Mr. Bidlack reviewed Exhibit SB-29 and provided the calculation to assess the monetary obligation for the tree replacement. For the first 50 trees of the deficit, the fee is \$181.00 per tree. For the second round of 50 trees, the fee is reduced to \$163.00 per tree. The next 100 tree deficit is payable at

⁶ A hearing had been scheduled for June 1, 2020, however, the matter was adjourned until June 9, 2020 without further notice to the public. (7T.4:12-25; 7T.5:1-25, 7T.6:1-25)

\$145.00 per tree. The next 100 tree deficit is assessed at \$128.00 per tree and anything over 300 trees is assessed a fee of \$109.00 per tree. Mr. Bidlack further confirmed that the fees are generated by the South Brunswick Township Engineering Department. (8T.16:19-25, 8T.17:1-24)

357. Mr. Bidlack provided the calculation for a 372 tree deficit and stated that the Applicant's obligation under the Tree Removal Ordinance would be \$52,348.00 which would be an in lieu of payment to the Township Environmental Fund based on the tree removal deficit. (8T.18:1-24)

358. Mr. Bidlack confirmed that in lieu of actually planting 372 trees, Pulte would pay a fee of \$52,348.00 which fee would then be used to plant trees in other areas of the Township. (8T.18:13-25, 8T.19:1-6)

359. Subsequent to the issuance of Exhibit SB-29, Pulte's engineer agreed to plant additional trees on the site. As a result, Mr. Bidlack reviewed the obligation based on Pulte planting more trees. Since Pulte has agreed to provide 22 more trees, the deficit would be reduced to 350 trees. Mr. Bidlack then calculated the reduction in the tree removal fee. Thus, 22 trees multiplied by \$100.00 per tree, is \$2,398.00. Mr. Bidlack stated when you subtract \$2,398.00 from \$52,348.00, the obligation for tree removal would be \$49,950.00. (8T.19:7-20)

360. Mr. Bidlack reviewed Exhibit SB-23 which was identified as a Master Plan Reexamination Report adopted in January 2018 by the South Brunswick Township Planning Board. Mr. Bidlack testified that the original Master Plan was prepared in 2001. The Township underwent a Master Plan Reexamination in 2007 and also in 2018. (8T.20:3-25, 8T.21:1-25, 8T.22:1-7, 8T.22:1-25)

361. Mr. Bidlack reviewed page 14, Section B of the Reexamination Report under the Utilities Plan Element. Mr. Bidlack testified the Township utilities infrastructure has experienced problems meeting demand for services within the Township. A new Water and Sewer Master Plan is recommended in order to meet future utility demands. It was represented that South Brunswick has currently undertaken steps to develop a new Water and Sewer Master Plan. (8T.23:25; 8T.24:1-5)

362. Mr. Bidlack referred to Section C, page 23 under Section 4. Utility Plan Element which provides "The sewer collection system should be evaluated for infiltration and inflow sources and

corrections should be made to eliminate those sources in order to maximize the carrying capacity of the system. Pump stations should be upgraded as needed to convey the projected sewer flows.” (8T.24:10-21)

363. Mr. Bidlack also reviewed Exhibit SB-21 which was identified as South Brunswick Township Ordinance 2018-28. Mr. Bidlack stated the governing body adopted an Ordinance where there is a Checklist Requirement for all development applications to submit a detailed engineering study regarding the sanitary sewer systems. The study is a detailed inspection of the sewer system that has to spell out the sewage flows or what needs to be done in order for a development application to make sure there is capacity in the sanitary sewer system to accept the sanitary sewer flows from that project. (8T.25:9-25, 8T.26:1-25, 8T.27:1-12)

364. Mr. Bidlack stated that every development application must prepare a report which projects sanitary sewer flows into the Township sanitary sewer system. (8T.26:12-25, 8T.27:1-3)

365. Mr. Bidlack testified in regard to Exhibit SB-22 which was identified as South Brunswick Township Ordinance 2018-30. He stated this Ordinance updated the Township’s Off-tract Contribution Ordinance Section 62-164. This Ordinance 2018-30 was based upon some of the requirements of what an applicant may have to do to the sanitary sewer system. The Ordinance updated off-tract contributions to spell out some of the things that may need to be done as part of the prior Ordinance. To summarize, a developer would either make improvements to the system or make a payment pursuant to its pro rata share of the cost. (8T.27:16-25, 8T.28:1-25)

366. Mr. Bidlack stated he would like to see the post-approval process followed as is normally done under a typical Planning Board application. He reiterated that resolution compliance typically runs through his Department and the Township Planning Office. He stated he thinks there is a check and balance in order to insure that conditions of the approval are being met and that the applicant is ready to obtain a building permit. Mr. Bidlack confirmed that following the typical process for post-approvals he characterized as being the most efficient way to insure that conditions of the Resolution are satisfied and that the development actually gets built. (8T.30:1-25, 8T.31:1-13)

367. Mr. Bidlack admitted that the governing body has not taken any formal action to acquire the parcel of land which would provide alternate access to Route 1 by virtue of the condemnation process.

Mr. Bidlack further admitted that no resolution has ever been adopted by the Mayor and Council indicating that it would condemn that parcel of land. (8T.33:1-9)

368. Mr. Bidlack testified that he does not have the experience to state what would be considered unduly cost-generative and what would not be unduly cost-generative. (8T.34:14-17)

369. Mr. Bidlack stated that the tree replacement schedule has not been adopted by an Ordinance even though it has been applied to developers. (8T.34:25, 8T.35:1-10)

370. Mr. Bidlack testified that South Brunswick owns and maintains the sanitary sewer and conducts repairs to the sanitary sewer system. However, Mr. Bidlack admitted that he does not have knowledge of what types of repairs South Brunswick conducts of the sanitary sewer system. (8T.39:10-25, 8T.40:1-5) Mr. Bidlack further stated that he had no knowledge of how much money South Brunswick provides per year to repair and maintain its sanitary sewer system. (8T.40:3-15)

TESTIMONY OF SOUTH BRUNSWICK TOWNSHIP SANITARY SEWER ENGINEER
WAYNE SIMPSON

371. The next witness to testify on behalf of South Brunswick was Wayne Simpson, P.E. Mr. Simpson testified as to his education, experience and background. Mr. Simpson was accepted as an expert in civil engineering with a specialty in sanitary sewer matters. Furthermore, counsel for Pulte offered no objection. (8T.48:4-25, 8T.49:1-25, 8T.50:1-25, 8T.51:1-8)

372. Mr. Simpson reviewed Exhibit SB-12 which is a Memo prepared by him dated November 8, 2019. The Memo sets forth the results of his review of the utility plans for the proposed development, but it further contains conditions which Mr. Simpson said were necessary to make corrections to the plans or to provide further descriptions of the plans in order to satisfy the municipal ordinances and specifications as well as the RSIS. (8T.51:15-25, 8T.52:1-5)

373. Mr. Simpson testified that he has participated in a number of meetings with Pulte's engineers. He confirmed that most of the issues raised in his November 8th Memo have been resolved. He also stated that in response to being asked whether or not there were any issues that he needed to bring to the attention of the hearing officer, he stated "I am not coming up with anything at this time." (8T.51:15-25, 8T.52:6-25, 8T.53:1-3)

374. Mr. Simpson reviewed Exhibit SB-13 which is a document entitled "Township of South Brunswick 2017 Sanitary Sewer System Capacity and Flow Study, Dated April 19, 2018 and Revised October 19, 2018". (8T.53:8-14)

375. Mr. Simpson testified that in 2017 the Township Council directed him to prepare a flow study for the sewer system. The analysis included a study of several interceptors as well as large capacity sewer lines which were monitored for flow during a two (2) month period. A subconsultant CSL was retained. CSL is a specialist in monitoring flows within sewers. Mr. Simpson testified CSL installed meters at approximately 12 different locations on the interceptors. CSL monitored the flows for a two (2) month period from June 2017 through August 2017. The flows were monitored at 5 minute intervals. The monitoring records the depth and velocity at 5 minute intervals. CSL converted data to flow and provided that to Mr. Simpson. CSL also provided rough data analysis in presenting the report to Mr. Simpson. The flows which were taken over a two (2) month period included times when dry weather was experienced and also at times when storm events were experienced. Mr. Simpson analyzed the information in order to compare how the sewers were impacted by rainfall in the area. He further testified that CSL also included rain gauges so Mr. Simpson could directly correlate the effects of rain events with the flows in the sewers. A further analysis of the data was then prepared showing areas of concern. Mr. Simpson stated that they show potential capacity in sewer lines both with and without the projected affordable housing developments. Mr. Simpson also stated that there will probably be more flow in the lines than just these housing developments because there will be other developments that will come into the sewer system over time, but this was a projection of how the developments that were known to be coming would impact it over time, both in dry weather and wet weather. (8T.53:22-25, 8T.54:1-25, 8T.55:1-8)

376. Mr. Simpson reviewed Exhibit SB-24. SB-24 was identified as a map of the South Brunswick Sewer System. Mr. Simpson testified that South Brunswick is approximately 40 square miles in area and contains approximately 200 miles of sewers. (8T.55:9-18)

377. Mr. Simpson referred to the Pulte project and demonstrated how the flows from the Pulte project will travel through the sewer system where it will enter the Town Center interceptor. It will flow through the Town Center interceptor downstream towards Route 130 where Pumping Station No. 10 in the

Township exists. Also, entering into that Pumping Station are flows from the Oakeys Brook interceptor, the Route 130 interceptor as well as an interceptor on Georges Road. Mr. Simpson testified that the Oakeys Brook interceptor and Route 130 interceptor were studied, however, the Georges Road interceptor was not studied because it did not run parallel to any wetlands or streams. It was further not studied because it was determined that it was less likely to be impacted by infiltration. (8T.56:9-25, 8T.57:1-4)

378. Mr. Simpson explained infiltration. He testified that infiltration is when groundwater enters the pipes or manholes within a sewer collection system and introduces clear water to the sanitary sewage. (8T.57:5-9)

379. Mr. Simpson also testified that he was concerned with inflow, which is surface water that gets into the sanitary sewer either through a cross-connection with the storm sewers or manholes that get inundated with water and do not have the proper seal on top so that groundwater will get down directly through the manhole cover into the sewer system. (8T.57:12-19)

380. Mr. Simpson further testified that the Town Center interceptor is only one (1) of four (4) that impact Pumping Station No. 10. Pumping Station No. 10 has been known to have its capacity exceeded during short-term rain events resulting in overflows from manholes. (8T.58:2-13)

381. Mr. Simpson testified that his recommendation is to have corrections made to the sanitary sewer system before other flows are allowed to enter into the sewer system in order to prevent overflow conditions from being exacerbated as previously experienced in South Brunswick. (8T.58:17-21)

382. Mr. Simpson confirmed that there is a requirement to report overflows to the NJDEP. He also testified in regard to Ordinance 2018-28. He stated the Ordinance requires a developer to submit a study for correcting infiltration and/or inflow into the sanitary sewer to the extent they will contribute flow once their development is completed. He identified three (3) phases to the requirement as follows: 1. an initial investigation to determine where the leak is; 2. corrective measures to repair the source of the leak; and 3. a follow-up study to confirm that the leak has been corrected. (8T.59:21-25, 8T.60:1-7)

383. Mr. Simpson referred to N.J.A.C. 7:14A-22.1B which refers to the responsibility of the Township to maintain the sewer system. Mr. Simpson, however, stated there is another provision in that citation that states that the Township must ensure that additional connections to the treatment system do

not result in overflows. Therefore, he testified that Ordinance 2018-28 requires each applicant to ensure there is adequate capacity for its development. (8T.60:15-25, 8T.61:1-8)

384. Mr. Simpson explained the certification process. He stated any entity that seeks to expand a sewage collection system must file for a Treatment Works Approval Permit with the New Jersey Department of Environmental Protection. The Treatment Works Approval Application requires that the operators of the collection system certify that there is adequate conveyance capacity in the collection system. Adequate conveyance capacity is defined in N.J.A.C. 7:14A-1.2. For sewer lines it states that the sewer line must be able to carry all of the dry weather flow at 80 percent (80%) of its available capacity and that no overflows would be a result during wet weather if the development were to be approved. (8T.61:20-25, 8T.62:1-16)

385. Mr. Simpson also testified that in regard to pumping stations. He stated they must be able to handle dry weather flow. In addition, during wet weather conditions with all pumps running they must demonstrate that no overflows would result based upon the future predicted flow. (8T.62:11-16)

386. Mr. Simpson testified that the goal of Ordinance 2018-28 is to ensure that there is adequate capacity in the line and, if not, then adequate capacity must be created so that the TWA Permit can be issued by the NJDEP. Without the TWA Permit being issued, no development can take place. (8T.64:24-25, 8T.65:1-7)

387. Mr. Simpson, therefore, recommended that Pulte conduct a study to determine the source of infiltration and inflow sufficient to allow room in the system for their project and then follow-up with a corrective action as a result of that investigation to eliminate the infiltration and inflow into the sewer system in order to provide capacity for their development. A follow-up study is also required in order to verify that the corrections actually did eliminate sufficient infiltration and inflow. (7T65:18-25, 7T66:1-2)

388. Mr. Simpson did not disagree with the prior testimony of Mr. Lange that in reviewing the Town Center interceptor at measuring points TC-1 and TC-3 they were at 22 percent (22%) to 35 percent (35%) capacity in dry weather. However, Pump Station No. 10 had its capacity exceeded when three (3) or all four (4) interceptors contributing to the pump station were flowing at high levels due to rain events.

Thus, there is a backup in all of the interceptors and Interceptor No. 10 in particular is prone to overflows because of that. (8T.66:9-25, 8T.67:1)

389. Mr. Simpson testified that capacity for Pump Station No. 10 is 9.55 million gallons per day. He stated that based on dry weather flow which he characterized as projected two (2) year flow as well as the future affordable housing that are included in the study would result in an estimated flow of 10.17 million gallons per day. In addition, there is an additional 1.75 million gallons per day reserved for Cranbury. (8T.66:17-25, 8T.67:1-19)

390. Mr. Simpson explained the reservation of sewage capacity for Cranbury. He testified that South Brunswick has entered into an agreement with Cranbury to provide sewer service. Cranbury currently discharges into the Georges Road interceptor which also contributes to Pump Station No. 10 and which effects the flows going into the pump station. Therefore, the total of all flows going to Pump Station No. 10 would be approximately 11.92 million gallons per day. Mr. Simpson confirmed that 11.92 million gallons per day would significantly exceed the capacity of Pump Station No. 10. He then clarified his remarks that during periods of wet weather flow after everyone is on line that would be the case. As a result there would be more frequent overflow events. (8T.67:20-25, 8T.68:1-23)

391. Mr. Simpson, therefore, concluded that South Brunswick is not able to sign off on a TWA Application at this time. (8T.67:1-25, 8T.68:1-25, 8T.69:1)

392. Mr. Simpson testified that Ordinances 2018-28 and 2018-30 represent more efficient ways or more expeditious ways to deal with the capacity problem. He also testified he does not consider these Ordinances to be cost-generating that the Township is trying to pass onto developers. Mr. Simpson testified that South Brunswick is looking at the health and welfare of the community in trying to avoid increasing the frequency of overflows. South Brunswick is also attempting to set up an orderly system for corrections to be made on a timely basis so these applications can move forward as they are ready. (8T.73:10-25, 8T.74:1-2)

393. Mr. Lange estimated that connection fees for the Pulte project will be approximately \$1,000,000.00 and, in his opinion, that should be sufficient to address any infiltration and inflow problems from this development. Mr. Simpson disagreed with that assessment. He stated upon reading N.J.S.A.

40A:26-11 the connection fee represents a fair payment towards the cost of the system and it defrays the capital cost to develop the system, so the residents of South Brunswick over the years have paid into the system to allow these lines to be run throughout the Township, allowing the pumping to be constructed so that sewage can be sent from South Brunswick to the regional sewage authority's that provide treatment of wastewater for the Township. Thus, in a general sense he testified the connection fees are designed to pay for past improvements and not for future improvements. (8T.74:3-25, 8T.75:1)

394. Mr. Simpson estimated the cost to Pulte to comply with Ordinance 2018-28 for pre- and post-investigations to be between \$10,000.00 to \$12,000.00 each. The results of the pre-investigation will determine the length of the pipe that is necessary to be repaired in order to free-up approximately 40,000 gallons per day that will be contributed by the current development. (8T.76:2-13)

395. Mr. Simpson testified in regard to the process of lining a pipe. He further stated that he finds it most efficient to repair the entire length of pipe from manhole to manhole. (8T.79:17-25)

396. Mr. Simpson also addressed cost sharing. Mr. Simpson testified that perhaps another developer may want to share in the cost and benefit from the repairs so that more than one development could get credit for the correction. He also testified it was possible that South Brunswick may be willing to provide some reimbursement. He further testified that Ordinance 2018-30 addresses the situation if the cost exceeds the developer's pro-rata share. (8T.80:12-16)

397. Mr. Simpson was questioned in regard to SB-13, page 11 and in particular Pump Station No. 10. Mr. Simpson explained firm capacity as the ability of the pumping station to discharge the flows with the receiving manhole downstream with its largest pump out of service. Mr. Simpson stated that firm capacity is 9.55 MGD and he did not do an analysis of what the total capacity would be if all the pumps were in operation. He stated it would be marginally higher than 9.55 MGD and may even approach 10 MGD. He stated the DEP only requires firm capacity with the largest pump out of service. (8T.85:17-25, 8T.86:1-25, 8T.87:1-14)

398. Mr. Simpson testified that sewage flows have a diurnal flow basis. They are highest in the morning between 6:00 a.m. and 9:00 a.m. and lowest in the overnight hours between midnight and 6:00 a.m. He also represented that storm events add to that flow depending on the nature of the storm. Therefore,

a flow reading does not give a totally accurate picture of pumping station capacity. (8T.89:15-25, 8T.90:1-2)

399. Mr. Simpson testified that the force main size is a limiting factor in the capacity of Pump Station No. 10. He also stated that the force main that leaves Pump Station No. 10 is a 24 inch force main. He explained that capacity has to do with the friction factors within the pipe, the elevation gain or loss or the condition of the pipe. Mr. Simpson also admitted that over the past 20 years there has not been any effort by South Brunswick to increase the capacity of Pump Station No. 10 or the force main leading out of it. (8T.92:5-23)

400. Mr. Simpson agreed that pumping stations with more than two (2) pumps can handle peak dry weather flow with the largest pump out of service and the peak wet weather flow does not result in any overflow or discharge from any unpermitted discharge location. (8T.93:3-14)

401. Mr. Simpson further agreed that in accordance with N.J.A.C. 7:14A-1.2, assuming the largest pump is out of service, there is sufficient capacity in Pump Station No. 10 for dry weather flows. (8T.94:1-7)

402. Mr. Simpson stated that May of 2018 was the last time there was an overflow for or discharge from an unpermitted discharge location related to Pump Station No. 10. (8T.96:1-4)

403. In regard to flows from Cranbury coming into Pump Station No. 10, Mr. Simpson stated he does not know how much wet weather flow is flowing into Pump Station No. 10 or whether it exceeds the 1.75 million gallons per day. However, he testified that he has never heard the Superintendent of Sewers express any concern that they are even getting close to the 1.75 million gallons per day. (8T.98:13-25, 8T.99:1-10)

404. Mr. Simpson testified that the Township Engineer from CME would be the person who would actually sign the consent form for a TWA Application. He further admitted that since Ordinance 2018-28 has been adopted, South Brunswick has not refused to sign any TWA Application and the reason why is that all developments that have preceded and have submitted TWA Applications have agreed to comply with Ordinance 2018-28. (8T.100:9-22)

405. Mr. Simpson stated that prior to Ordinance 2018-28 going into effect, South Brunswick never required any developer to reduce I and I flows as a condition of executing a consent for TWA. However, South Brunswick now requires a developer to line the sewers from manhole to manhole. The maximum length is usually around 400 feet but on average it could be around 300 feet. Mr. Simpson confirmed that Pulte's development would generate approximately 40,000 gallons per day of wastewater pursuant to NJDEP regulations. Mr. Simpson stated it is possible that approximately 40,000 gallons per day could be removed from the system by replacing or lining one stretch of pipe from one (1) manhole to another. (8T.100:23-25, 8T.101:22-25, 8T.102:1-21)

406. Mr. Simpson estimated that the cost to line an approximate 300 foot length of sewer pipe would be around \$60,000.00. Mr. Simpson admitted that if a developer undertook an inspection and then lined a section of pipe and then an analysis revealed that 40,000 gallons per day was not removed, then the developer would have to find another section of pipe and then undergo the same process again until they reached the 40,000 gallon per day requirement. Mr. Simpson stated theoretically that would be the case, but that he would hope that the Township would work with the developer to find suitable locations so that does not happen. (8T.103:15-25, 8T.104:1-16)

407. Mr. Simpson testified that in all six (6) occurrences that were referenced by Mr. Lange earlier, all six (6) would result in backflow conditions in Pump Station No. 10. He stated he receives reports frequently from the Township Sewer Superintendent that he has men at the pump stations all night long to make sure that overflows don't occur because the station is close to capacity. In those instances, there would be backflow. (8T.107:21-25, 8T.108:1-7)

408. Mr. Simpson agreed that there seems to be an I and I issue at Oakeys Brook and that is why the committed capacity ratio is significantly higher than at the Town Center interceptor. Mr. Simpson stated there is no reason to believe that there is a significant I and I issue in the Town Center interceptor, but rather in the downstream pump station force main. Its an issue at the downstream pump station because of I and I issues and other interceptors. Oakeys Brook may be the largest contributor to I and I but all of the interceptors have some share in it and they contribute to the problem. Further, Mr. Simpson confirmed that

the wastewater from the Pulte development is not going to flow through the Oakeys Brook interceptor.

(8T.109:4-25, 8T.110:1-6)

409. Mr. Simpson confirmed that the Oakeys Brook, Town Center and Route 130 interceptor is all part of one system. They all contribute to Pump Station No. 10. When Pump Station No. 10's capacity is nearing its limits, the wastewater will back up into all of the interceptors so its not possible to parcel out and divide up a problem in one section of the system so that it will have no impact on the other sections of the system. (8T.110:14-25, 8T.111:1-6)

TESTIMONY OF PULTE ENGINEER AND PLANNER JEROMIE LANGE

410. Mr. Lange reviewed Exhibit P-93 which is a plan that depicts layout changes that were discussed in testimony throughout the hearing process. Mr. Lange began with COAH units. Three (3) COAH units were removed from Building 2 and replaced with two (2) market rate units. In Building 4, there was a three (3) bedroom COAH unit which has been removed and is now just a standard market rate unit. Mr. Lange explained the reason for the plan amendments as they relate to COAH units. Mr. Lange referred to Exhibit P-96 which is a letter dated May 26, 2020 from Robert Kasuba to the Special Hearing Officer. The letter outlines an agreement by the Applicant to fund five (5) affordable units off-site. There would be four (4) very low-income units and one (1) moderate income unit that would be constructed off-site utilizing the funding that was agreed to. Thus, there was a total of 156 units but five (5) units would be constructed off-site. Thus, there will now be 151 units on-site which is a slight reduction from what was originally presented as 152 units. The breakdown of the 151 units would be 44 townhome units which remains the same as previously proposed. The multi-family stacked townhome units have been reduced from 108 units down to 107 units and that further breaks down to 124 market rate units and 27 affordable units so there will be 27 affordable units on-site and then an additional 5 affordable units off-site. (8T.116:24-25, 8T.117:1-25, 8T.118:1-25, 8T.119:1)

411. Mr. Lange testified that the density would be approximately 5.7 units per acre. He also reviewed the impact on parking. Mr. Lange testified that pursuant to RSIS requirements, the Applicant is required to provide 328 parking spaces. The Applicant is providing 413 parking spaces. There are 121 surface parking stalls for visitors where 76 parking spaces are required for visitor parking. Further, when

you factor in the COAH units and the remaining garage units, visitors (which is a subset of the overall visitors), you are required to provide 116 parking spaces and the Applicant is providing 121 parking spaces, so there is sufficient surface parking to meet the RSIS standards. (8T.119:1-25, 8T.120:1-5)

412. Mr. Lange stated that there are six (6) handicapped parking stalls, two (2) of which would be van accessible as well as 2% of the stacked garages have to be accessible. Each COAH unit has an assigned parking stall. The designated parking stall for a COAH unit is marked with a C in the parking space. Mr. Lange also stated that the distance from a COAH unit to a parking stall would be anywhere between 60 to 120 feet. Mr. Lange testified that in his professional opinion that is an adequate distance for parking to the units consistent with town planning. Mr. Lange also said there would be a sign in front of the stall limiting the parking stall to that particular unit. (8T.120:6-25, 8T.121:1-14)

413. Mr. Lange reviewed plan revisions in order to depict where on the site additional sidewalk is now being proposed on the site plan. (8T.122:6-25, 8T.123:1-25, 8T.124:1-25, 8T.125:1-6)

414. Mr. Lange reviewed calculations for water and sewer demands. He stated they are virtually identical with the unit change because it is so minimal, but in terms of the water demand it would go from 30,850 gallons per day to 30,760 gallons per day and it would roundoff to 0.093 million gallons per day which is well under the available 1.805 million gallons per day. (8T.126:5-17, 8T.130:12-21)

415. Mr. Lange addressed sanitary sewer capacity. He stated the original calculation was 40,425 gallons per day, but that would be reduced slightly to 40,275 gallons per day. (8T.130:22-25)

416. Mr. Lange reviewed the proposed recreation areas. First, as to the Tot Lot, that would be an approximate 3,000 square foot recreation area. Second, there is a passive recreation area that includes the walking trail around the wet pond, the gazebo area as well as a couple of benches along the trail which constitutes approximately another 5,000 square feet of recreation area. The third and final recreation area is located adjacent and west of Building 9. That area is about 12,500 square feet and will include a hard recreational surface of approximately 40 by 50 feet in area. The balance of that area that would not contain the hard surface and would be a lawn type open field type area for general recreation. Collectively, the recreational areas would total approximately a half an acre of recreation space on-site in this development. (8T.133:11-25, 8T.134:1-13)

417. Mr. Lange addressed the tree replacement on the site and stated that he agrees with Mr. Bidlack's calculation of 372 trees. However, Pulte has committed to add an additional 19 shade trees and 28 evergreen trees which brings Pulte's proposed total to 153 trees and reduces the deficit to 346 trees. (8T.134:14-23)

418. Mr. Lange addressed landscaping on the southeast retaining wall that is adjacent to the truck, bus, contractor yard. The developer has agreed to put shrubs along the top of the wall on the southwest corner of the site. He stated that trees could not be planted in that location because they could potentially have an adverse impact on the wall. On the other side of the wall on the southeast side of the project where the parking lot, Pulte is installing a 6-foot board on board fence to shield that adjacent property from headlights or any other deleterious impact. (8T.135:9-21)

419. Mr. Lange reviewed Exhibit P-91 which depicts the area of the intersection of Major Road and proposed Road A which accesses the development. Mr. Lange highlighted a major change which is the addition of a dedicated left turn bay. A vehicle traveling south bound on Major Road, would have a left turn bay approximately 65 feet in length and in width. It would have enough capacity to hold three (3) cars making a left turn into the site. In addition, there is "Do Not Block the Intersection" striping and signage. Pulte has added striping and signage for the left turn bay. The through movement still has a curve correction, but it's essentially in the same location as it is today while eliminating the broken back curve along the edge line. (8T.136:7-25, 8T.137:1-5)

420. Pulte is not proposing any improvements outside of or beyond the existing edge of pavement. All proposed improvements are in the existing edge of pavement or within the right-of-way. (8T.137:1-22)

421. Mr. Lange testified in regard to design speeds. He stated the vertical curve that is closer to Route 1 continues to have a 30 mile per hour design speed and the vertical curve that is farther from Route 1 has a 35 mile an hour design speed. Further, in terms of the intersection site distance for both movements in and out of the site, it's a 30 mile an hour design speed. Mr. Lange also testified that if the municipality were to reduce the speed limit for the stretch of road to 30 or 25 mph Pulte would be supportive of such a reduction in speed. (8T.138:1-18)

422. Mr. Lange testified that one of the other benefits of providing a left turn bay would be to act as a deterrent for motorists leaving the site to try to make an illegal left turn because they would now have to cross the dedicated left turn lane to make the left turn movement which would be more of a deterrent. Further, Pulte is proposing the left turn bay to address comments from the Township Engineer who requested a dedicated left turn lane in order to prevent other cars from backing up behind the car if they had to wait to make a left turn into the proposed development. (8T.139:1-21)

423. Mr. Lange provided clarification of the differences between Exhibit P-92 and P-93. He stated originally there were six (6) COAH stalls in the parking lot south of Building 3. The difference between P-92 and P-93 is that three (3) COAH stalls were moved north to the seven (7) stall parking lot located south of the terminus of Road A. That is the only change between the two exhibits. That was done to better distribute the parking both in terms of the COAH units as well as visitor parking for the town homes. Further, Mr. Kasuba stated that in light of the change to Exhibit P-93, the Applicant would not be moving Exhibit P-92 into evidence, but rather Pulte would only move Exhibit P-93 into evidence. (8T.146:16-25, 8T.147:1-18)

424. Mr. Bignell testified that he has no issues with the vinyl fencing around the dumpsters nor does he have a problem with the aluminum fencing. The only issue that he has is in regard to the split rail fence. In response, Mr. Lange stated the split rail fence would be a treated lumber. It would last more than 3 to 5 years. He stated in his experience a split rail fence would last approximately 10 to 15 years. He stated the fence would need to be maintained similar to asphalt roadways or sidewalks or any other infrastructure. (8T.150:23-25, 8T.151:1-25, 8T.152:1-10)

425. Mr. Bignell testified in regard to planting and landscaping. He stated he would like the ornamental trees to be at least 2-1/2 inches in caliper. The trees to be planted on the way in should be at least 3 to 3-1/2 inches in caliper. If Pulte were to do that, then the town can negotiate relief with respect to the payment for the remaining trees. Further, the larger trees would last longer because they would be bigger. They would grow a little quicker and maintain the divisional line that he was talking about. (8T.153:3-21)

426. Mr. Bignell stated he still has concerns with the size of the recreation area. He stated the recreation area hasn't been expanded very much. However, he's not sure what can be done about the recreation area at this time. Finally, he stated the Township should keep control of resolution compliance. There is no reason to add a third-party to add even more confusion to the process. He stated the Township professionals can certainly perform resolution compliance and inspections. (8T.152:20-25, 8T.153:1-25, 8T.154:1-19)

427. Mr. Zielinsky offered additional comments to areas of the site where he would like to see sidewalk added. Mr. Zielinsky also stated he does not think a de minimis exception would be objectionable regarding the lack of sidewalks on the northwest or east side of Road A. (8T.156:22-25, 8T.157:1-25, 8T.158:1-11)

428. Mr. Zielinsky reviewed Exhibit P-91. He stated he has no issues regarding the left turn design tapering and striping and signage. The only concerns now are in regard to the horizontal curve, the vertical curve and the intersection sight distances being designed for 30 mph speed where the speed limit is 35 mph. Mr. Zielinsky's testimony as well as that of the police and traffic safety officer is that the road should be designed according to the speed limit and that warning signs for a reduced speed are not enforceable. Mr. Zielinsky also stated that with a 35 mph speed limit a horizontal curve would probably go from a 288 foot radius to close to 400 feet and to put a 400 foot radius in here would require property acquisition across the street south of the site. (8T.158:12-25, 8T.159:1-24)

429. Miss Emily Goldman, Township Planner, offered her comments. Ms. Goldman stated she appreciates that Pulte has designated parking spaces for affordable housing units, and provided additional sidewalk areas to help facilitate tenant access to their units. Ms. Goldman still has concerns that people would take the shortest route to get to the sidewalk. She thinks residents will walk across grass areas to get to the sidewalk. Other than that, she stated that she is pleased with the changes. However, Ms. Goldman still has concerns about the overall height of the retaining wall. Ms. Goldman also expressed concerns about the type of fencing. Mr. Lange testified that the aluminum fence was selected as a much more permanent installation. The main purpose was to have a more permanent fence along high pedestrian traffic areas. (8T.163:7-25, 8T.164:1-25, 8T.165:1-24)

430. Mr. Simpson offered no further comments as it related to Mr. Lange's testimony for Exhibits P-91 through P-93. He further testified he has no issues with the Utility Memo P-94. (8T.168:9-16)

431. Marybeth Lonergan had no further comments. (8T.169:1-8)

NOW, THEREFORE, the SHO makes the following conclusions of law based on the evidence presented throughout the public hearing process.

The public policy of the State of New Jersey is that persons with low and moderate incomes are entitled to affordable housing. So. Burl. Cty. N.A.A.C.P. v. Tp. of Mt. Laurel (Mount Laurel I), 67 N.J. 151 (1975); DeSimone v. Greater Englewood Housing Corp. No. 1, 56 N.J. 428 (1970) A municipality has a constitutional obligation to provide realistic housing opportunities for people of low and moderate income. As a result, municipal land use regulations must provide the requisite opportunity for a fair share of the regions need for low and moderate income housing. So. Burlington Cty. N.A.A.C.P. v. Mount Laurel Tp (Mount Laurel II), 92 N.J. 158, 208, 209 (1983).

In Mount Laurel I, the Supreme Court held the general welfare includes more than the welfare of that municipality and its citizens. It also includes the general welfare-in this case the housing needs-of those residing outside of the municipality but within the region that contributes to the housing demand within the municipality. Mount Laurel I, supra., 67 N.J. at 174 and 181, Mount Laurel II, supra., 92 N.J. at 208, 209.

In Mount Laurel II, the New Jersey Supreme Court held:

The basis for the constitutional obligation is simple: the State controls the use of land, all of the land. In exercising that control it cannot favor rich over poor. It cannot legislatively set aside dilapidated housing in urban ghettos for the poor and decent housing elsewhere for everyone else. The government that controls this land represents everyone. While the State may not have the ability to eliminate poverty, it cannot use that condition as the basis for imposing further disadvantages. And the same applies to the municipality to which this control over land has been constitutionally delegated. Mount Laurel II, supra. 92 N.J. at 209.

A builder's remedy is a means by which the Court can require a municipality to meet its Mt. Laurel obligation to provide its fair share of low and moderate income housing in the region. It Mount Laurel II, the Supreme Court held:

[W]here a developer succeeds in Mount Laurel litigation and proposes a project providing a substantial amount of lower income housing, a builder's remedy should be granted unless the municipality establishes that because of environmental or other substantial planning concerns, the plaintiff's proposed project is clearly contrary to sound land use planning. We emphasize that the builder's remedy should not be denied solely because the municipality prefers some other location for lower income housing even if it is in fact a better site. Mount Laurel II, supra., 92 N.J. at 279, 280.

The SHO finds that Pulte and South Brunswick have an agreement in principle whereby there will be a transfer of funds through a payment in lieu of construction of \$80,000.00 for a total of four (4) very low income units to be moved off-site which equates to \$20,000.00 per bedroom for a 4-bedroom group home. In addition, there would be another \$20,000.00 transferred for a fifth off-site unit for a total contribution of \$100,000.00 payable by Pulte. Pulte proposed a total of 152 for sale units. That comprised a market rate total of 121 units and 31 affordable units. However, transferring four (4) of the very low income units off-site will reduce the total unit count of the affordable units from 31 on-site to 27 on-site with four (4) very low affordable units off-site. Pulte will also contribute the additional sum of money for creation of the fifth unit off-site. Thus, there will be an actual reduction in the total unit count from 152 units to 151 units. The market rate unit count on-site will increase from 121 units to 124 units and there will be 27 affordable units constructed on-site. (6T.164:18-25, 6T.165:1-25, 6T.166:1-10)

In regard to the 27 on-site affordable units to be constructed, there will be six (6) one-bedroom units, fifteen (15) two-bedroom units and six (6) three-bedroom units. The six (6) one-bedroom units exceeds the 20 percent (20%) maximum allowed under UHAC by one (1) unit which results in 22 percent (22%) of the units being one-bedroom units. However, Ms. Lonergan on behalf of South Brunswick supports the increase. A breakdown of the 151 units to be constructed on site consists of 44 townhome units and 107 multifamily stacked townhome units. (8T.118:19-25) There will also be 124 market rate units and 27 affordable units constructed on site.

Pulte proposes to construct a project with 151 dwelling units on site. The density for this proposed project is approximately 5.75 dwelling units per acre. With a proposed density of 5.75 dwelling units per acre, the proposed development project provides a density which is lower than the presumptive minimum density of six (6) units per acre in a for sale inclusionary development providing a 20 percent (20%)

affordable housing set aside under the Second Round Substantive Regulations of COAH pursuant to N.J.A.C. 5:93-5.6(b). The SHO further notes that the subject property is already zoned as an age-restricted multifamily use with a density of eight (8) dwelling units per acre which would permit a total of 212 age-restricted residential units. The SHO finds that the proposed density does not violate sound land use planning principles.

The SHO further finds that Pulte's proposed bulk standards, site layout and product type do not violate sound land use planning principles. The proposed bulk standards, site layout and product type are ideal for the property due to the existing topographical features and surrounding land uses. The SHO finds that the property was a former sand mine and has substantial, existing man-altered slopes on site. The SHO further accepts the representations of Mr. Lange that there is an approximately 70 foot vertical drop from the elevation of Major Road to the lower portion of the site. Based on the testimony in this case, it is clear that most of the proposed buildings will not be seen by the public traveling on Major Road. Further, the proposed retaining walls will face inward towards the proposed development. There will be little visual impact for the general public and the neighboring properties.

In recognition of the uniqueness of the site and the topographic conditions of the site, the proposed townhouse buildings have been designed such that there will be two (2) stories exposed on the "uphill" side and three (3) stories exposed on the "downhill" side with either a garage under or a walkout basement depending upon which side of the building has three (3) stories exposed. The proofs also reflect that the townhouse buildings will be horizontally stepped to "work with the grade of the land".

The proposed setbacks for this project were selected because in the estimation of Pulte's engineer and planner, they are reasonable and are substantially in conformance with the setbacks set forth in Urban League of Essex County v. Township of Mahwah, 207 N.J. Super. 169, 283 (Law Div. 1984). The setbacks are also substantially similar to those setbacks in the Highland Park community development which bulk standards are reflected in Exhibit P-41.

Further, the neighboring properties include, but are not limited to, a cemetery and a contractor's yard and, thus, a multifamily residential use would be compatible and not in conflict with the land uses in

the surrounding vicinity. The SHO further recognizes that the Planning Board previously granted site plan approval on this site for a 169 unit age-restricted development.

Pulte is proposing substantially more improvements to Major Road and the proposed access point than what was approved by the Planning Board as part of the previously granted 169 unit age-restricted development. Pulte is improving the horizontal and vertical geometry of Major Road. Pulte is also restricting left turns out of the proposed development thus resulting only in right turns being permitted when leaving the development. Pulte is also improving sight distances, and adding "Do Not Block the Box", striping which will help facilitate motorists providing courtesy gaps. Pulte is also installing a dedicated left turn lane to facilitate vehicles making a left turn into the proposed development. Based upon these proposed improvements the SHO finds the proposed site access is safe and does not violate sound planning principles.

The SHO finds there is sufficient potable water and sanitary sewage infrastructure in the vicinity of the property to support the development. The property is also in the sanitary sewer service area and there is capacity at the wastewater treatment plant. The issue of whether there is sufficient conveyance capacity for the wastewater will be discussed in greater detail infra.

The development does not violate any environmental policies of the New Jersey Department of Environmental Protection ("NJDEP") or any requirement of any other outside agency. The SHO finds there are no environmental concerns or sound land use planning principles that prevent the application from being approved.

The development conforms to the requirements of the RSIS. On-site parking conforms to the requirements of the RSIS where 328 parking spaces are required and 413 parking spaces are proposed.

Pulte requires a de minimis exception from the RSIS. The exception is for the minimum velocity in the closed conduit storm sewers N.J.A.C. 5:21-7.3(c). The storm sewers meet the slope requirements of the RSIS, but not the velocity requirements due to the small drainage areas contributing to certain inlets. Pulte has demonstrated that the proposed design is more stable than an alternative design which would strictly adhere to the RSIS requirements.

The SHO makes the following findings regarding the open issues as set forth in Exhibit C, annexed hereto, which document was signed by all counsel and dated June 26, 2020. The SHO makes the following findings regarding the open issues:

A. Traffic/Site Access.

1. Whether there is safe and efficient vehicular access to the proposed inclusionary development, including the proposed improvements to Major Road, which include an improvement to the horizontal and vertical geometry of Major Road to improve sight distances, with a right turn out only restriction and the addition of a dedicated left turn lane, and whether the proposed improvements to Major Road are appropriate in light of the current posted 35 mph speed limit for Major Road.

Pulte is proposing substantial improvements to the design of Major Road. Pulte is proposing to raise and lower the road in order to improve both the horizontal and vertical geometry of the road, flatten some of the curvature and improve sight distance. Furthermore, Pulte proposes to install signage and pavement striping advising motorists to “Not Block the Box” in order to assist with courtesy gaps for ingress and egress movements when the queue from the Route 1 intersection reaches the site access. Moreover, Pulte is restricting left hand turns out of the development and thus only right turns will be permitted for egress from the development. Pulte has also agreed to install a dedicated left hand turn lane for vehicles making a left turn into the proposed development.

The Special Master concludes “With the proposed improvements to the roadway system, together with the posted advisory speed sign Pulte has sufficiently demonstrated safe and efficient access will be afforded to the development.” (Special Master Report page 3) The SHO agrees with the recommendation of the Special Master that there is safe and efficient proposed ingress to and egress from the development. The SHO reaches these conclusions based upon the improvements to Major Road which are designed to improve both the horizontal and vertical geometries and sight distances, providing a dedicated left turn lane and dedication of land, prohibiting left hand turns out of the development, installing 25 mph advisory speed signs in the area and providing striping and signage indicating to motorists that they should not block the box in order to facilitate the use of courtesy gaps.

A. Traffic/Site Access.

2. Whether the proposed inclusionary development is considered a permitted use for purposes of evaluating the relevance of the existing traffic conditions in the vicinity of the site, including the operation and levels of service of the Route 1 and Major Road/Sand Hills Road intersection.

The SHO finds that the proposed development is considered a permitted use pursuant to the CMO. The SHO finds that it is well settled law that existing traffic conditions are not relevant and cannot be the basis to deny an application for a permitted use. In the matter of Dunkin Donuts of N.J. v. Tp. of North Brunswick, 192 N.J. Super. 513, 515 (App. Div. 1984) the Appellate Division held that a Planning Board was without any authority to deny a site plan approval because of off-site traffic conditions stating that “The authority to prohibit or limit uses generating traffic into already congested streets or streets with a high rate of accidents is an exercise of the zoning power invested in the municipal governing body.” Id. Furthermore, other Courts have similarly held that site plan approval cannot be denied because of off-site traffic conditions when the proposed development of a site is for a permitted use. Tennis Club Assoc. v. Planning Bd., 262 N.J. Super. 422, 434-435 (App. Div. 1993); Lionel’s Appliance Center, Inc. v. Citta, 156 N.J. Super. 257 (Law Div. 1978).

The Special Master reviewed the CMO and stated the CMO provides “The Builder site plan application shall be deemed a fully conforming ‘as of right’ application in accordance with the proposed zoning regulations the Builder shall submit with its site plan submission, which shall be deemed to be the standards applicable to the Builder’s proposed site plan.” The Special Master concluded that the application shall proceed as a permitted use. The SHO agrees with the Special Master’s conclusion that the application is a fully conforming as of right application. The SHO, therefore, finds that the existing traffic conditions are not a basis to deny the application and that Pulte’s proposed improvements to both Major Road and access to the site will substantially improve the existing conditions on Major Road and the inclusion of the dedicated left turn lane will likely result in no additional traffic congestion as vehicles enter the left hand turn lane in order to enter the site. The SHO also finds that prohibiting left turns out of the development is an additional safety factor.

B. RSIS Internal Road Classification and Sidewalks.

1. Whether the internal streets which are identified on the site plan as Road A, Road B and Road C should be classified as Residential Neighborhood Access or Multifamily Cul-de-sac and Multifamily Court.

Street classifications of residential developments are governed by the RSIS. N.J.A.C. 5:21-1 et seq. (Exhibit P-89), Table 4.2 lists the criteria for various street classifications. Mr. Lange testified that Roads A, B and C would be considered multifamily cul-de-sacs because (1) it serves a multifamily development; (2) there is a single means of ingress and egress; and (3) the ADT (average daily traffic) is less than 1,000 trips. (1T.75:20-24, 1T.76:1-4) Furthermore, Mr. Rached also reviewed the roadway classification and testified that the proposed development meets the criteria set forth in Table 4.2. He concluded that whether you consider the road classification from a definitional standpoint or from a functionality standpoint the roadways are properly characterized as multifamily access cul-de-sacs. (4T.16:14-25)

The Special Master similarly reviewed N.J.A.C. 5:21-1 et seq. as well as having reviewed and considered the testimony of Mr. Rached which she found to be persuasive and, in her opinion, establishes that the internal streets should be classified as multifamily cul-de-sacs and multifamily courts. The SHO finds the testimony of Mr. Rached to be credible and accepts the recommendations of the Special Master. Therefore, the SHO similarly finds for the reasons stated herein that the streets internal to the site should be classified as a multifamily cul-de-sac and the driveway and parking area should be classified as multifamily courts.

B. RSIS Internal Road Classification and Sidewalks.

2. If the internal streets are classified as Residential Neighborhood Access and the design speed limit for sight distances is 25 MPH (see N.J.A.C. 5:21-4.20(b)) whether a de minimis exception should be granted pursuant to N.J.A.C. 5:2-3.1(g) for the sight distance for the left turn movement from the multifamily courtyard located between Buildings 8 and 9 and Road A.

The RSIS pursuant to N.J.A.C. 5:21-3.1 titled "Exceptions", permits the granting of de minimis exceptions under certain circumstances. More specifically, subpart (g) provides as follows:

(g) The municipal approving authority's granting of a request for a de minimis exception shall be based on a finding that the requested exception meets the following criteria: (1) it is consistent with the intent of the Site

Improvement Act; (2) it is reasonable, limited, and not unduly burdensome; (3) it meets the needs of public health and safety; and (4) it takes into account existing infrastructure and possible surrounding future development.

The Special Master and the SHO have recommended that the streets internal to the site should be classified as a multifamily cul-de-sac and the driveway and parking area should be classified as multifamily courts. As a result, this open issue has been rendered moot and no longer needs to be addressed because multifamily cul-de-sacs do not require a design speed of 25 mph under the RSIS. However, to the extent a subsequent legal determination is made wherein a decision on this issue is necessary, the SHO recommends that a de minimis exception be granted from the 25 mph design speed for the left turn movement from the multifamily court between Buildings 8 and 9 onto Road A. The SHO further finds that the proofs in this case satisfy the criteria to enable Pulte to obtain a de minimis exception under the RSIS, if required, due to the slope of Road A at that location, the impossibility of Pulte being able to comply, the limited scope of the exception and Pulte's decision to post the speed limit at 15 mph. Furthermore, the Special Master has opined that an application for an exception is not required, and that the requested de minimis exception is reasonable as it meets the four (4) criteria under the RSIS. The Special Master's recommendation to grant a de minimis exception is conditioned upon the fact that the issue still remains open and has not been previously rendered moot by virtue of a finding that the road classification is a multifamily cul-de-sac and the driveway and parking areas are multifamily courts.

B. RSIS Internal Road Classification and Sidewalks.

3. If the internal streets are classified as Residential Neighborhood Access and sidewalks are generally required on both sides of the street (see N.J.A.C. 5:21, Table 4.3), whether a de minimis exception should be granted pursuant to N.J.A.C. 5:21-3.1(g). Additionally whether any other additional sidewalk needs to be provided or what has been provided on Exhibit P-93 is adequate.

Pulte contends that it does not provide sidewalks along both sides of the streets where placement of such sidewalks would interfere with the driveways of residential units, and that it should be granted a de minimis exception from providing sidewalk on both sides of the street at these locations. Pulte relies upon the testimony of Mr. Lange who testified that the sidewalks would traverse driveways along Buildings 1, 2 and 3 creating an unsafe condition. Mr. Lange further stated that the proposed sidewalks are appropriately

placed essentially behind or to the east and south of those buildings respectively to serve the front doors.
(3T.15:21-25, 3T.16:1-23)

On the other hand, the Township Engineer and Planner, Mr. Zielinski and Ms. Goldman, respectively testified that sidewalks are required on both sides of the street throughout the development pursuant to the RSIS and for safety purposes.

The SHO finds once again that this issue has been rendered moot based upon the roadway classification of multifamily cul-de-sacs and multifamily courts and, as a result, the RSIS does not require sidewalks on both sides of multifamily cul-de-sacs and multifamily courts. However, to the extent that it is determined that these classifications are incorrect and that sidewalks are now required, it is the SHO's recommendation that a de minimis exception from installing sidewalks along both sides of the internal streets be granted. Pulte has proposed ample sidewalks and pedestrians can safely navigate throughout the proposed development. Installing sidewalks on both sides of the streets does not make sense because the front doors are located on the other side of the residential buildings. The sidewalks would have to be installed in a manner which would traverse driveways which would be impractical and would create an unsafe condition. Furthermore, Pulte, although not obligated to do so, agreed to install additional sidewalks as shown on Exhibit P-93 and the markup of P-93, which added more sidewalks, submitted with the open issues and stipulations.

The Special Master opined that an application for an exception is not required, but that any additional sidewalks should be provided in accordance with Exhibit P-93 which was amended to include additional sidewalks and submitted with the open issues and stipulations. The SHO finds that Pulte shall install sidewalks in conformance with Exhibit P-93 as amended.

C. Location of Visitor Parking Spaces.

1. Whether there are sufficient visitor parking spaces located within a reasonable walking distance of the buildings they are designed to serve pursuant to N.J.A.C. 5:21-4.16(a).

Pulte is providing more visitor parking than what is required under the RSIS. (1T89:3-23, 1T90:4-17) Pulte further contends that the walking distance is sufficient, citing an ITE (Institute of Traffic Engineers) standard. In addition, Pulte stipulated that "Approximately 43 percent of the required visitor parking stalls for buildings 10, 11, 17 and 18 are located within 280 feet or less of the proposed buildings.

Furthermore, pursuant to ITE standards, walking distance of up to 1,600 linear feet between a parking area and a building is an acceptable walking distance. The proposed distance between the parking area and the buildings are well within the standard. The remaining parking spaces are located 400 to 600 feet away within a parking lot at the end Road B.” Exhibit P-69, p. 9 Item 24. In addition, functionally, the driveways will provide an additional guest parking space for each townhouse unit, even if the driveway only counts as one parking space. The driveways will be widened from 17 feet to 18 feet to allow two (2) vehicles to park in the driveway. Exhibit P-69, p. 9 Item 24. Therefore, it will be relatively uncommon for both driveway parking spaces to be occupied thus requiring a guest to have to walk a significant distance.

The Special Master opined that a “reasonable walking distance” as required by the RSIS is open to interpretation and is thus a relatively subjective assessment. South Brunswick contends that since the ITE standard is not applicable to a residential development, Pulte should not be permitted to apply the standard to parking on the site as the walking distance does not constitute sound planning. The Special Master has determined that Pulte has provided adequate testimony citing industry standards that the visitor parking areas are located in reasonable locations. The SHO also finds that the proposed visitor parking spaces are located within a reasonable walking distance of the buildings they are designed to serve.

**D. Sewer Conveyance Capacity, Ordinance 2018-28 (Exhibit SB-21),
Treatment Works Approval and Water.**

1. Whether there is adequate conveyance capacity as defined by RSIS and NJDEP’s regulations for Pulte’s proposed inclusionary development.

Mr. Lange provided an overview of the proposed sanitary sewer system. He represented during the hearing process that the proposed flow is approximately 40,425 gallons per day which translates to 0.04 million gallons per day. (1T146:4-10) Mr. Lange further confirmed that as a result of revisions to the site plan during the course of the hearing, that reduced the number of on-site affordable housing units, the sanitary sewer discharge was reduced slightly to 40,275 gallons per day. (8T130:22-25) Mr. Lange represented that the system has a capacity of 0.937 million gallons per day and compared to the flow projected at 0.04 million gallons per day, the system has more than adequate capacity. Mr. Lange further represented that the subject site is located within the Middlesex County Utility Authority Sewer Service Area and that the Middlesex County Utility Authority Treatment Plant has a capacity of 147 million gallons per day. (1T.146:15-17, 1T.147:17-24, 1T.148:1-10, 1T.149:1-8)

Based upon Mr. Lange's review of the findings in "2017 Sanitary Sewer System Capacity and Flow Study" prepared by Alaimo Associates and dated April 19, 2018, revised October 19, 2018 (SB-13) (Alaimo SS report), it was Mr. Lange's opinion that the Town Center interceptor, which is the main sewer line into which the Pulte discharge will flow, has adequate capacity in both dry and wet weather conditions. (1T.167:15 through 1T.172:11) Furthermore, pursuant to N.J.A.C. 7:14A-1.2, adequate conveyance capacity is defined, in part, as being where "the peak wet weather flow does not result in overflows or discharges of any unpermitted discharge location. (1T.150:12-14, 8T.62:4-10)

Mr. Lange testified in regard to six (6) incidents regarding sewer overflow discharges including, but not limited to, May 27, 2018, August 1, 2016, April 30 and May 1, 2014, September 20, 2011, March 6 and March 7, 2011 and the sixth event was reported on March 17, 2010 relative to rainfall events on March 12 through March 14, 2010.

Mr. Lange further testified in regard to the 2017 sanitary sewer system capacity and flow study and testified that the report confirms that the capacity of Pump Station No. 10 is exceeded. The study reports the firm capacity of Pump Station No. 10 at 9.55 MGD. In addition, future development of 0.8 million gallons per day is included which includes development that is not on line or may not come out of the builders remedy process. Thus, the subtotal is 10.17 million gallons per day which exceeds the 9.55 million gallons per day at firm capacity. The report further states that South Brunswick has a contractual obligation to preserve an additional 1.75 million gallons per day of capacity to the pump station for future connections in Cranbury Township which thereby brings the total to 11.9 million gallons per day. (1T.173:9-15, 1T.174:9-24, 1T.175:1-12)

In addition to the testimony of Mr. Lange, the SHO also considered the expert testimony of Mr. Wayne Simpson, P.E. Mr. Simpson has 42 years of experience in water and wastewater sewer utilities. (8T.49:14-18) Mr. Simpson testified that an in depth study of South Brunswick's sanitary sewer system was conducted resulting in a full report on capacity and the issue of infiltration and inflow (I&I) (SB-13). The study was conducted between June and August 2017. Alaimo and its subconsultant, CSL, installed flow monitoring equipment in key manholes throughout the Township. The monitoring devices measured the flow in the sanitary sewer lines in both dry and wet weather conditions during the two (2) month period.

(8T.53:24 through 8T.54:24) The Town Center interceptor portion of South Brunswick's sanitary sewer system into which the Pulte development will discharge is included in the study. (8T.56:14 through 8T.57:4) Further, Mr. Simpson testified there will probably be more flow in the lines because there will be other developments that will come into the sewer system over time but the study reflects a projection of how the developments that were known to be coming would impact it over time both in dry and wet weather. (8T.53:22-25, 8T.54:1-25, 8T.55:1-8)

Mr. Simpson testified that infiltration is when groundwater enters the pipes or manholes within a sewer collection system and introduces clear water into the sanitary sewage system. (8T.57:5-9) He also represented that he was concerned with inflow, which is when surface water enters the sanitary sewer either through a cross-connection with the storm sewers or manholes that get inundated with water and do not have the proper seal on top so that groundwater will get down directly through the manhole covering to the sewer system. (8T.57:12-19)

Mr. Simpson testified that the Town Center interceptor is only one (1) of four (4) that impact Pumping Station No. 10. Pumping Station No. 10 has been known to have its capacity exceeded during short term rain events resulting in overflows from manholes. (8T.58:2) Therefore, Mr. Simpson testified that his recommendation is to have corrections made to the sanitary sewer system before other flows are allowed to enter into the sewer system in order to prevent overflow conditions from being exacerbated as previously experienced in South Brunswick. Mr. Simpson, therefore, represented that Ordinance 2018-28 requires a developer to submit a study for correcting infiltration and/or inflow into the sanitary sewer to the extent they will contribute flow once their development is completed. He identified three (3) phases to the requirement as follows: (1) an initial investigation to determine where the leak is; (2) corrective measures to repair the source of the leak; and (3) a follow-up study to confirm that the leak has been corrected. (8T.59:21-25, 8T.60:1-7)

Pulte's engineer confirmed that there has been more than 50 overflows from the existing sanitary sewer system since 2016. (1T.158:12-18)

The Special Master in her report stated "Based on the persuasive testimony of Simpson, an engineer with 42 years of experience in water and wastewater sewer utilities (8T.49:14-18) and an extensive history

of studying the Township's sanitary sewer system, the evidence suggests that there is a capacity problem within the system." The SHO also finds the testimony of Mr. Simpson to be persuasive and agrees with his recommendation to have corrections made to the sanitary sewer system to ensure there is sufficient capacity to accommodate Pulte's additional sewer discharge of 40,275 gallons per day.

D. Sewer Conveyance Capacity, Ordinance 2018-28 (Exhibit SB-21), Treatment Works Approval and Water.

2. Whether Pulte is required to comply with Ordinance 2018-28 (SB-21) or whether Pulte is only required to make a pro rata financial contribution in the amount of \$16,046.

a. Whether the ordinance requires a contribution for off-tract improvements that exceeds Pulte's pro rata financial contribution and violates N.J.S.A. 40:55D-42.

Pulte asserts that it should not be required to comply with Ordinance 2018-28 and 2018-30 and should only be required to make a pro rata contribution in accordance with N.J.S.A. 40:55D-42. Pulte asserts that the Township has been aware of overflow and capacity issues for over 20 years, but has made no significant improvements to its system. Pulte asserts that South Brunswick seeks to shift the financial responsibility from its shoulders to that of developers proposing inclusionary developments. (1T.179:5-21)

Pulte contends that Toll Brothers Inc. v. Board of Chosen Freeholders of Burlington, 194 N.J. 223 (2008) holds that a developer cannot be required to contribute more than its pro rata share of the cost of off tract improvements. Furthermore under the MLUL pursuant to N.J.S.A. 40:55D-42 a developer is only required to provide its pro rata share of the cost of improvements. In this instance, Pulte contends there is a gross disparity in the pro rata contribution initially calculated at \$16,000.00 which will be increased to approximately \$80,000.00 if Pulte were required to comply with Ordinances 2018-28 and 2018-30.

South Brunswick contends that pursuant to N.J.S.A. 40:55D-42 the Township has the right and authority to adopt Ordinances 2018-28 and 2018-30 requiring developers to ensure adequate sanitary sewer capacity for their project and to either pay for or to make repairs to the existing system sufficient to accommodate the anticipated sewer flow from the development. Mr. Lange also conceded that Ordinance 2018-28 seeks to address the I&I and sanitary sewer capacity problems in the Township. (3T.33:1-15) Mr. Bidlack testifying on behalf of South Brunswick stated that Ordinance 2018-28 (SB-21) and Ordinance 2018-30 (SB-22) were adopted by the Township Council in response to the adoption by the Planning Board in January 2018 of the utility element of the Master Plan Reexamination Report. (8T.19:25, 8T.24:9) (SB-

23) Ordinance 2018-28 amended South Brunswick's Land Use Code and requires all developers to submit water and sewer engineering reports as part of the development application checklist requirements. (8T.25:9 through 8T.26:1)

Furthermore, Ordinance 2018-30 (SB-22) revised the requirements for a developer off tract improvement obligations for either actual construction or payment of the developer's pro rata share of the costs related thereto. All developers are responsible for their pro rata share of improvement costs to the sanitary sewer system in order to address each project's impact on the system. (8T.27:16 through 8T.28:22)

The Special Master recommends that Pulte is responsible for complying with the provisions of Ordinance 2018-28 and Ordinance 2018-30. The Special Master correctly refers to the MLUL pursuant to N.J.S.A. 40:55D-38.b(3) that a municipal site plan ordinance must contain provisions ensuring adequate sewage facilities for a new development and pursuant to N.J.S.A. 40:55D-39.a. a municipal site plan ordinance may contain provisions for off tract sewer improvements which are necessitated by the development.

The MLUL pursuant to N.J.S.A. 40:55D-42 provides in relevant part:

The governing body may by ordinance adopt regulations requiring a developer, as a condition for approval of a subdivision or site plan, to pay the pro rata share of the cost of providing only reasonable and necessary street improvements and water, sewage and drainage facilities and easements therefore, located off tract but necessitated or required by construction or improvements within such subdivision or development.

The Special Master also relies upon Toll Brothers Inc. v. Board of Chosen Freeholders of County of Burlington, 194 N.J. 223, 229, 230 (2008) in support of the recommendation. More specifically Toll Brothers held "Under the MLUL, a planning board may only impose off tract improvements on a developer if they are necessitated by the development." Concomitantly, a developer cannot be compelled to shoulder more than its pro-rata share of the cost of such improvements. N.J.S.A. 40:55D-42; Holmdel Builders Ass'n v. Twp of Holmdel, 121 N.J. 550, 570-71 (1990). It follows that a Planning Board violates the MLUL when a condition unrelated to the needs generated by a development is imposed or, if related, places on the developer an exaction in excess of its proportional share. Toll Brothers, supra., 194 N.J. 229, 230 (2008).

The Special Master also relies upon Toll Brothers which permits a municipality to require that the off tract improvements be completed at the expense of the developer. Toll Brothers, supra. 194 N.J. at 245.

The Special Master found that the sewer system is already at or near capacity. A requirement that Pulte find and eliminate I&I in an amount equal to its new flow introduced into the system is narrowly tailored to address the Pulte's own impact on the system. Pulte is not being "compelled to shoulder more than its pro rata share of the cost" of the improvement. As a result, the Special Master concluded that Ordinances 2018-28 and 2018-30 are not cost generative and that they are narrowly tailored to free space in the system for Pulte's anticipated flow and are necessitated by the development. The Special Master also recommends that if Pulte eliminates more I&I than its anticipated flow, it is entitled to a pro rata reimbursement for its overspending. Pulte is also entitled to have the I&I found and eliminated in the most cost effective manner possible.

The SHO finds the testimony of Mr. Simpson, the Township Water and Sewer Engineer, as well as the testimony of Mr. Bidlack, a licensed planner and the Deputy Township Manager, to be very credible and persuasive and finds that Township Ordinances 2018-28 and 2018-30 were specifically adopted pursuant to the Utility Element of the Master Plan Reexamination Report which requires all developers to submit water and sewer engineering reports as part of South Brunswick's development application checklist requirements. The SHO also finds that the Ordinances 2018-28 and 2018-30 are consistent with the MLUL requirements which enable a municipality to adopt Ordinances for off tract improvements necessitated by a development and, as such, are not unduly cost generative and are applicable to this application. The SHO agrees with the recommendations of the Special Master. The SHO finds that Pulte be required to eliminate infiltration and inflow in an amount approximating the projected 40,275 gallons per day of new flow into the sanitary sewer system.

D. Sewer Conveyance Capacity, Ordinance 2018-28 (Exhibit SB-21), Treatment Works Approval and Water.

2. Whether Pulte is required to comply with Ordinance 2018-28 (SB-21) or whether Pulte is only required to make a pro rata financial contribution in the amount of \$16,046.

b. Whether Ordinance 2018-28 (SB-21) is an undue cost generative requirement and violates the Mount Laurel doctrine.

South Brunswick Township Ordinances 2018-28 and 2018-30 were adopted in accordance with the recommendations set forth in the Utility Element and Master Plan Reexamination Report of South Brunswick Township. Mr. Simpson has opined that compliance with the Township Ordinances is not cost

generative, but rather is required to protect the health, safety and welfare of the residents of South Brunswick. South Brunswick contends that in adopting the aforementioned Ordinances, both the Township and the Planning Board have not sought to impose any requirements more stringent than what is mandated under the RSIS. Therefore, South Brunswick contends that Pulte is not being asked to provide more than what is required by the RSIS and, as such, there are no cost generative issues to be decided in this matter. South Brunswick further contends that COAH Second Round Rules permit municipalities to require inclusionary developers to conduct studies and post escrow accounts related to fiscal, traffic and environmental impacts of their proposed inclusionary developments. N.J.A.C. 5:93-10.3(a)

The Special Master recommends a finding that the Ordinances are not cost generative. The Special Master determined that the Ordinances are essential to protect the public health and welfare and that they are narrowly tailored to free space in the system for Pulte's anticipated flow and are necessitated by the proposed development. The Special Master also points out that if the developer eliminates more I&I than its anticipated flow, it is entitled to a pro rata reimbursement for its overspending. Pulte is also entitled to have the I&I found and eliminated in the most cost effective manner.

The SHO finds the testimony of both Mr. Simpson and Mr. Bidlack to be extremely credible. The SHO accepts the representations of Mr. Simpson that South Brunswick is looking at the health and welfare of the community in trying to avoid increasing the frequency of overflows. Further, South Brunswick is attempting to set up an orderly system for corrections to be made on a timely basis so that applications for development can move forward as they are ready. (8T.73:10-24, 8T.74:1-2) Furthermore, the SHO finds the testimony of Mr. Simpson to be credible that there are opportunities for cost sharing relative to another developer sharing in the cost and benefit from the repairs so that more than one development could get credit for the correction. In addition, Mr. Simpson testified that South Brunswick may be willing to provide some reimbursement to Pulte and also Ordinance 2018-30 addresses the situation if the cost exceeds the developer's pro rata share. (8T.80:12-16) The SHO also finds that South Brunswick is interested in protecting the health, safety and welfare of the community in trying to avoid increasing the frequency of overflows which could create a health hazard. Further, compliance with the Township's Ordinances will help to insure that additional connections to the treatment system do not result in overflows. Based upon

the recommendations of the Special Master and for such other reasons as stated herein the SHO finds that Ordinances 2018-28 and 2018-30 are not cost generative.

D. Sewer Conveyance Capacity, Ordinance 2018-28 (Exhibit SB-21), Treatment Works Approval and Water.

2. Whether Pulte is required to comply with Ordinance 2018-28 (SB-21) or whether Pulte is only required to make a pro rata financial contribution in the amount of \$16,046.

c. Whether Pulte is entitled to a credit towards the connection fees, estimated to be in excess of \$1,000,000.00 for any costs expended for improvements to the existing sanitary sewerage system, such as a detailed engineering report/investigative study, and modifications/improvements to the existing sanitary sewer system to eliminate, at a minimum, the project's projected daily wastewater flow into the system, if required to comply with Ordinance 28-2018 against the sanitary sewerage connection fees to be paid for the proposed inclusionary development.

Mr. Simpson disagreed with Mr. Lange that the estimated \$1,000,000.00 payment from Pulte to South Brunswick in sewer connection fees should be utilized to address infiltration and inflow problems that may arise from this development. Mr. Simpson opined that N.J.S.A. 40A:26-11, regarding the payment of connection fees, represents a fair payment toward the cost of the system and it defrays the capital cost to develop the system. As a result he explained that the residents of South Brunswick over the years have paid into the system to allow the sewage conveyance system to run throughout South Brunswick thereby enabling the conveyance of sewage to be conveyed to the regional sewage authority that provides treatment of wastewater for the Township. He, therefore, opined that the connection fees are designed to pay for past improvements and not for future improvements. (8T.74:3-25, 8T.75:1)

South Brunswick, therefore, concludes that connection fees are for past expenditures and the I&I investigation and remediation involves future expenditures. South Brunswick contends Pulte is not entitled to a credit towards its connection fee obligation for any I&I work necessitated by the project.

The Special Master agrees with the position of South Brunswick. The SHO similarly finds the testimony of Mr. Simpson to be extremely credible and finds that pursuant to N.J.S.A. 40A:26-11 that connection fees represent a fair payment towards the cost of the system as well as defraying the capital cost to develop the system. Therefore, the SHO finds that the connection fees are designed to pay for past improvements and not for future improvements, while the I&I study are designed to find capacity in the sewer conveyance system in order to accept the new sewer flows from this project.

**D. Sewer Conveyance Capacity, Ordinance 2018-28 (Exhibit SB-21),
Treatment Works Approval and Water.**

3. Whether there are any preconditions before South Brunswick endorses a Treatment Works Approval application.

a. Whether Pulte needs to submit a draft TWA application and/or BWSE application package to the Township.

Mr. Simpson explained the certification process. He stated that any entity that seeks to expand the sewage collection system must file for a Treatment Works Approval Permit with the New Jersey Department of Environmental Protection. The Treatment Works Approval application requires that the operators of the collection system certify that there is adequate conveyance capacity in the collection system. Adequate conveyance capacity is defined in N.J.A.C. 7:14A-1.2 and for sewer lines it states that the sewer line must be able to carry all of the dry weather flow at 80 percent (80%) of its available capacity and that no overflows would be the result during wet weather if the development were to be approved. (8T.61:20-25, 8T.62:1-16)

The Special Master recommends that Pulte submit a draft TWA application and/or a BWSE application to South Brunswick for review or the Township Engineer would not be able to determine whether or not adequate capacity exists.

The SHO agrees with the Township and with the Special Master. Pulte must submit its draft TWA application and/or BWSE application to the Township for review demonstrating to the Township Engineer that adequate capacity exists. Without such evidence, the Township Engineer cannot sign the application, and, therefore, no TWA can be issued and the development cannot connect to the sanitary sewer system. (8T.64:19-23) The SHO agrees with Mr. Simpson that the goal of Ordinance 2018-28 is to ensure that there is adequate capacity in the line and, if not, to create adequate capacity in the line so that the TWA permit can be issued by the NJDEP. Without the TWA permit, no development can take place. (8T.64:24 through 8T.65:7)

**D. Sewer Conveyance Capacity, Ordinance 2018-28 (Exhibit SB-21),
Treatment Works Approval and Water.**

4. Whether the water system has available capacity for Pulte's proposed inclusionary development, to be determined by NJDEP/Bureau of Water System Engineering at the time of application to that bureau.

Mr. Lange testified that there are existing water utilities on Major Road to which Pulte is proposing to connect. He further represented that the water system has an available firm capacity of approximately

1.8 million gallons per day. The proposed project will utilize approximately 30,850 gallons per day, which translates to 0.093 gallons per day and is under the 1.8 million gallons per day of water which is available. (1T.142:17-24, 1T.143:1-5) Furthermore, Mr. Lange stipulated that the developer would comply with the Township Engineer's request to install fire hydrants on all dead end mains. Mr. Lange also testified that Pulte will also loop the mains around Building No. 4 and Road C and Buildings No. 7 and 8 as requested by the Township Engineer. (1T.144:4-10)

South Brunswick Township indicates that based upon a preliminary analysis, it appears that sufficient water system capacity is available. However, South Brunswick contends that a condition of approval should require that Pulte obtain final approval from the NJDEP/Bureau of Water System Engineering.

The Special Master agrees with South Brunswick that a condition of approval should be that Pulte must obtain final approval from the NJDEP. The SHO agrees with the Special Master that a condition of approval should be that Pulte must obtain final approval from the NJDEP/Bureau of Water System Engineering.

E. Architecture

1. Whether additional design elements, such as bay windows, should be added to the front facades of buildings 14, 15, 16, 17 and 18 (the Isleton/Ironwood models).

South Brunswick was generally critical of the architectural design of the Isleton and Ironwood townhouse style buildings. Pulte's architect, Ms. McCaffrey, testified in regard to the facades of the Isleton and Ironwood townhouses. She stated the roofline is stepped, further the facades are augmented with multiple features including, but not limited to, banding, change of materials, different window trims on different facades, gable ends and dormers. She represented that these are architectural features that will be utilized so that the facade does not look flat. (3T.90:19-25, 3T.91:1-10)

The Special Master reviewed Exhibit P-47 and opined that the exhibit looked as if the proposed building is one long monolithic elevation. The Special Master was also concerned about an offset on the exterior of the buildings. Ms. McCaffrey testified that the offset is 1 or 2 feet and she would confirm the amount of the offset. (3T.90:19-25, 3T.91:1-10, 3T.124:17-25, 3T.125:1-25, 3T.126:1-7) It was later confirmed that Pulte did agree to have an offset of at least 1 foot and that there would be variation in the

color packages. “The horizontal offset between each Isleton/Ironwood unit will vary depending on the vertical offset between each unit, but it will be a minimum of 1 foot horizontal offset between each unit.” (Exhibit P-85)

Ms. McCaffrey also testified that it is Pulte’s intent that the public will not be able to identify what unit is a COAH unit as opposed to what unit is a market rate unit. (3T.127:14-24). In light of the foregoing, the Special Master found the architecture acceptable as proposed. The SHO similarly finds that based on the representations of Pulte’s architect, the various architectural features to be employed will insure that the facade does not look flat, thereby enhancing the appearance of the Isleton and Ironwood models. A Planning Board cannot deny an application for site plan approval based on aesthetic or architectural considerations if the application meets the standards set forth in the Site Plan Ordinance, and here there is no Ordinance requiring additional articulation or bay windows. Morris Cty. Fair Housing Council v. Boonton Tp., 230 N.J. Super. 345, 357 (App. Div. 1989); Morris Cty. Fair Housing Council v. Boonton Tp., 228 N.J. Super. 635, 647-48 (Law Div. 1988).

F. Tree Removal and Replacement

1. Whether Pulte should be required to make a financial contribution to South Brunswick’s tree fund for the tree deficiency resulting from the proposed inclusionary development pursuant to South Brunswick Code 118-126.

a. *If so, what is the amount?*

b. *Whether the Township’s payment schedule is valid as it has not been codified in an ordinance.*

2. Whether such financial contribution is an undue cost generation requirement and violates the Mount Laurel doctrine.

The Deputy Township Manager, Mr. Bidlack, reviewed South Brunswick’s request for financial reimbursement regarding tree removal by Pulte. Mr. Bidlack asserts that Pulte must make arrangements for the payment of 372 trees. That number was arrived at by subtracting the number of trees to be replaced 127 from the number of trees to be removed 499. Mr. Bidlack also testified that the tree removal plan provides for replacement of trees on a one-to-one basis or, in the alternative, Pulte would be required to pay a fee in lieu of tree replacement based on a fee schedule.

Thereafter, Mr. Bidlack reviewed Exhibit SB-29 and provided the calculation to assess the monetary obligation for the tree replacement. For the first 50 trees of the deficit, the fee is \$181.00 per tree. For the second round of 50 trees, the fee is reduced to \$163.00 per tree. The next 100 tree deficit is payable

at \$145.00 per tree. The next 100 tree deficit is assessed at \$128.00 per tree and anything over 300 trees is assessed a fee of \$109.00 per tree. Mr. Bidlack then calculated that Pulte would owe a fee of \$52,348.00 based on a 372 tree deficit. (8T.14:9-25, 8T.15:1-25, 8T.16:1-25, 8T.17:1-5, 8T.16:19-25, 8T.17:1-24, 8T.18:1-24)

However, subsequent to the issuance of Exhibit SB-29 Pulte's engineer agreed to plant 22 additional trees on site. This resulted in the deficit being reduced from 372 trees to 350 trees. As a consequence of Pulte's intent to provide 22 more trees, Mr. Bidlack calculated a reduction of \$2,398.00 from the original assessment of \$52,348.00. Thus, Mr. Bidlack calculated that Pulte's obligation for tree removal would be \$49,950.00. (8T.19:7-20)

Pulte contends that it is providing a robust landscaping plan as indicated on Exhibits P-27 and P-76. Furthermore, Pulte contends that it is disturbing approximately 12.07 acres of the 26.5 acre site leaving over 14 acres in its natural, vegetative and wooded condition. Exhibit P-8 P.1, 14. Pulte also contends there are no other logical locations for additional plantings. In addition, Mr. Bidlack admitted that the tree replacement schedule has not been adopted by an Ordinance even though it has been applied to developers in the past. (8T.34:25, 8T.35:1-10)

Pulte contends that South Brunswick's application of a fee schedule relative to tree replacement, which fee schedule was not properly authorized by the adoption of an Ordinance in South Brunswick, makes the request for payment to be arbitrary, capricious and unreasonable. Pulte relies upon Battaglia v. Wayne Township Planning Board, 98 N.J. Super. 194, 198 (1967) and Divan Builders v. Planning Bd. of Tp. of Wayne, 66 N.J. 582, 598 (1975) which hold that a municipal ordinance devoid of standards relating to the imposition of costs was arbitrary, discriminatory and could not be imposed upon developers.

South Brunswick contends that the municipal Tree Replacement Ordinance is enacted under the general police powers of the municipality and is entitled to the presumption of validity. Grabowsky v. Tp. of Montclair, 221 N.J. 536, 551 (2015)

New Jersey Shore Builders Ass'n v. Township of Jackson, 199 N.J. 38 (2009) held that while tree removal ordinances were permitted under a municipality's police power, the ordinance at issue was unenforceable as it was impermissibly vague and contained arbitrary standards.

The Special Master after reviewing the record in this matter determined that the application of the Tree Removal Ordinance is not appropriate to this application. Furthermore, the SHO finds interesting the comments of Mr. Bignell who requested that the ornamental trees planted along the entrance way be increased from 2½ inches in caliper to 3½ inches in caliper. Mr. Bignell also stated that if Pulte were to do that the amount of the contribution on behalf of Pulte could be further negotiated. (8T.153:3-21) The SHO, therefore, finds that the negotiation of fees contains arbitrary standards and as such is unenforceable. The SHO, therefore, supports the recommendation of the Special Master that the Tree Removal Ordinance is not appropriate for this application.

F. Tree Removal and Replacement

3. Whether larger caliper trees along the entrance roadway should be provided to enhance the visual environment, in accordance with the testimony of Township Planner Hank Bignell and in accordance with the purposes of the MLUL. If larger caliper trees are provided, how much should each larger caliper tree reduce the amount of tree fund contribution.

Mr. Bignell has now requested that the entrance road have trees 3 to 3½ inches in caliper. (8T.153:3-21) This issue was not previously raised by anyone. Pulte contends that providing larger caliper trees along the entrance provides an opportunity for South Brunswick to provide a monetary credit to Pulte in regard to the Tree Removal Ordinance. Pulte contends this is not authorized by Ordinance and Pulte should not be required to make any such modification. The Special Master, however, recommends that Pulte be required to plant larger caliper trees along the entrance roadway as representing a fair balancing of the interests of South Brunswick and Pulte because the Special Master is recommending that Pulte not be required to pay into the tree fund. The SHO agrees with the position of the Special Master and that as a condition of approval Pulte should be required to plant larger caliper trees along the entrance roadway at 3 to 3½ inches in caliper since it is not required to make a contribution to the South Brunswick tree fund.

G. Stormwater Maintenance Agreement

1. Whether Pulte is required to enter into a Stormwater Maintenance Agreement with the Township, and if so, whether the Stormwater Maintenance Agreement can be in the form as modified by Pulte and submitted by letter dated February 24, 2020 (Exhibit P-77).

Mr. Zielinsky testified that the Stormwater Maintenance Agreement appears to be an open issue. He stated that all developments in South Brunswick Township execute a Stormwater Maintenance Agreement with both the Township of South Brunswick as well as Middlesex County. The purpose of the

Agreement is that if the basin is not being properly maintained, the municipality has the right of entry to maintain the basin. (5T.25:1-15) Furthermore, Mr. Zielinsky was concerned that without an agreement in place if the basin were not to be maintained properly there are concerns about identifying the responsible party for having maintenance on the basin addressed. (5T.25:22-25, 5T.26:1)

South Brunswick is concerned that if the stormwater basin does not function properly i.e., if the aerators malfunction or the outlet structure becomes clogged, drainage from the site would be compromised and could lead to flooding. In addition, South Brunswick is concerned about if there is a lack of proper maintenance that there could be an accumulation of stagnant water resulting in mosquito breeding which could pose a threat to the health and safety of the residents. (5T.36:11-25)

South Brunswick Code Section 62-2581 requires that for all developments in the Township that propose to have a stormwater management basin, the developer must enter into a Stormwater Maintenance Agreement. The purpose of the Stormwater Maintenance Agreement is to insure that a developer, subsequent owner of the development, or a homeowners association properly maintains the basin and, if not, the Township would be authorized to perform maintenance. (5T.25:1-14)

Pulte is unwilling to execute the standard Stormwater Maintenance Agreement but will execute a Stormwater Maintenance Agreement as amended and identified as Exhibit P-77.

The Special Master recommends that Pulte enter into the Stormwater Maintenance Agreement. The Special Master states that South Brunswick Code Section 62-2581 is applicable to all developments in the Township that propose to have a stormwater management basin. The SHO finds that the requirement to have Pulte enter into the Stormwater Maintenance Agreement as required under South Brunswick Code Section 62-2581 is a requirement that all developments in the Township that propose to have a stormwater management basin are required to enter into. Thus, Pulte is being treated no differently than any other developer. Further, the SHO finds very persuasive that in the event a problem arises, it is likely that the residents will contact South Brunswick for assistance and that under those circumstances South Brunswick will be able to respond by virtue of the fact that they are authorized to perform maintenance pursuant to the Stormwater Maintenance Agreement should such action become necessary.

H. Retaining Walls and Steep Slopes

1. Whether the locations and heights of the proposed retaining walls are consistent with sound planning.

Mr. Lange testified that the design layout and the proposed grading utilized the existence of the steep slopes to hide the development view. As a result, Mr. Lange addressed the use of the retaining walls on the site. Mr. Lange represented that retaining walls are generally in the 10 foot to 15 foot in height range. However, the highest retaining wall is in the southerly corner of the wet pond at the intersection of two (2) retaining walls. That retaining wall is approximately 26 feet in height at that location. He further indicated that for safety reasons all retaining walls would have a fence located on top of the wall. Mr. Lange also proposed that Pulte will provide split rail-type fences as well as metal jerith-type fences. (1T.104:5-15, 1T.105:2-24)

Mr. Lange represented that the walls would be structurally sound and as part of any approval, the wall designs would be submitted for approval. (1T.107:15-23) Mr. Lange also reviewed Exhibit P-68 which depicted various retaining walls in other Pulte projects to provide a depiction of what the walls could look like.

The Township contends the visual impact of the walls upon the residents. Further, Ms. Goldman on behalf of South Brunswick offered her concerns in regard to this project. She reviewed Exhibit P-68. Ms. Goldman represented that she had a concern relative to the height of retaining walls being at a height approximately equivalent to the second story windows. Ms. Goldman expressed an overall concern that the affordable units being in the end units would have a visual impediment with a wall of that height. She also deferred to the engineers in terms of the structural integrity of the wall. (6T.115:24-25, 6T.116:1-25)

The Special Master agrees with Pulte that the proposed location and height of the retaining walls is sound planning considering the testimony of Mr. Lange who testified in regard to the engineering necessity for the retaining walls due to the existing steep slopes and providing fencing to enhance safety. The SHO finds the testimony of Mr. Lange to be credible. Mr. Lange also represented that the proposed retaining wall facing the wet pond would not be a tiered wall but would be 26 feet in height. In addition, Mr. Lange represented that the manufacturers have instruction manuals that detail how a contractor is

supposed to construct the walls. Further, engineering plans and the calculations are detailed and reviewed and approved by the municipality. Thus, the SHO accepts the representations of Mr. Lange that the retaining walls will be constructed in a safe manner. (2T.17:1-24, 2T.18:6-8, 2T.19:16-19) The SHO also recognizes that the subject property has a long history of being used as a sand mine and the existing steep slopes have been altered. Furthermore, the SHO finds that the proposed retaining walls and disturbance of steep slopes does not violate sound land use planning.

H. Retaining Walls and Steep Slopes

1. Whether the locations and heights of the proposed retaining walls are consistent with sound planning.

a. Whether Pulte needs to demonstrate compliance with Ordinances 62-202: Steep Slopes and 62-203: Steep Slope Avoidance and submit an engineer's certificate. See Bignell Review Memo (SB-10) Comment 8E.

South Brunswick request that Pulte's engineer to certify that the resulting steep slopes on the property both during construction and after construction is complete will not result "in accelerated erosion processes from stormwater runoff and the subsequent sedimentation of water bodies with the associated degradation of water quality and loss of aquatic life support. (joint written summation and appendix on behalf of the Township of South Brunswick and the Planning Board of the Township of South Brunswick page 79). Pulte contends that Township Code 62-203 provides that proposed slopes shall not exceed 33.33 percent (33.33%). Furthermore, Pulte contends that the submitted plans which are signed and sealed by a licensed professional engineer verifies that there will not be slopes in excess of 3:1 ratio upon completion. Pulte, therefore, contends that the purpose of the Ordinance has been satisfied and there is no need for an engineer's certificate. P-69 p. 22, 77.

The Special Master supports Pulte in that the proposed slopes do not exceed 33.33 percent (33.33%) and that the signed and sealed submitted plans have a similar affect to a certification. The SHO is in agreement with the recommendations of the Special Master that the proposed development will not have slopes in excess of 3:1 ratio upon completion, the purpose of the Ordinance has been satisfied and there is no need for an additional requirement to have Pulte's engineer submit a certificate of compliance with Township Code 62-202, 62-203.

H. Retaining Walls and Steep Slopes

2. Whether Pulte must comply with Ordinance Section 52-1871, which requires “no wall or fence more than four feet in height may be erected, except that a wall or fence behind the front yard setback line may be six feet in height”, when Pulte is proposing retaining wall up to 29.2 feet high. See Clark Caton Hintz Review Memo (SB-5) Comment 6.3.

Pulte asserts that Township Code Section 62-1871 does not apply to retaining walls. Further, Pulte stated that if it did in fact apply, it would be unreasonable and unduly cost generative to require Pulte to comply with Township Code Section 62-1871. Pulte further asserts that the retaining walls and disturbance of steep slopes does not violate sound land use planning. South Brunswick contends that Pulte should be required to redesign the site layout in order to reduce the disturbances to the steep slopes which will in turn reduce the heights of the retaining walls.

The Special Master recommends that Pulte certify that the proposed retaining wall height is not detrimental to the public health, safety and welfare. The SHO agrees with Pulte and the Special Master. Pulte will not be required to redesign the site layout in order to reduce the disturbances to the steep slopes which would in turn reduce the size of the retaining walls. Pulte has represented that a majority of the retaining walls will be tiered and the highest retaining wall which is located by the wet pond will be structurally sound and will be built in a safe manner. The SHO finds that the residents will be adequately protected and it is unlikely that the construction of the proposed retaining walls will result in any health and safety issues for the residents that reside in this development. As previously stated, Pulte will comply with the manufacturers instructions relative to construction of the wall and the structural calculations will be reviewed and approved by South Brunswick.

H. Retaining Walls and Steep Slopes

3. Whether longer lasting, more durable fencing should be provided instead of western post fencing, and if so at what locations.

Pulte contends that it is permitted to install a western style fence with a safety mesh at designated locations. Ms. Goldman testified that the split rail fence with anti-climbing mesh is “fairly typical in what you see in a lot of a proposals”. “So in terms of what they are actually proposing, I am not that concerned.” (8T.163:9-12) In addition, Mr. Bignell was concerned about the split rail fence would be weathered and would not last that long. (8T.151:15-24)

Mr. Lange testified that the western post fencing would last longer than three (3) to five (5) years as was represented by Mr. Bignell. Mr. Lange also testified that Pulte is proposing an aluminum fence in other parts of the development and that the design life would be significantly beyond that of a split rail fence. They would also be more aesthetically pleasing and would be considered more of permanent fence than the western post fencing. (8T.165:17-23)

The Special Master recommends that aluminum fencing be uniformly provided throughout the development. The SHO agrees with the assessment of the Special Master and similarly recommends the aluminum fencing should be uniformly provided throughout the development.

I. Recreation

1. Whether, as amended, the proposed application provides sufficient recreational amenities for the proposed community and whether the proposed recreational amenity areas are representative of sound planning pursuant to the testimony of the Township Planners. See Clarke Caton Hintz Review Memo (SB-5) Comments 5.11 and 5.12. See also Township Planning Hank Bigness testimony and report.

Mr. Lange calculated the square footage of each proposed open space/recreational area. Recreational Area Number 1 which is located in the northwest corner of the project just northwest of Building 9 and southwest of Road A is approximately 6,300 square feet in area. Recreational Area Number 2 which consists of the walking path, gazebo and benches are located along the wet pond behind Buildings 1 and 2 in the northeast portion of the project area is approximately 4,900 square feet in area. Recreational Area Number 3 which most prominently has the tot lot proposed on it is approximately 9,600 square feet in area. Recreational Area Number 4 which is an expansion of Area Number 1 is approximately 4,900 square feet in area. Thus, Pulte is proposing approximately 25,700 square feet of open space/recreational area. The total acreage of the site is approximately 26.5 acres. (2T.23:21-25, 2T.24:1-15)

In addition, Pulte has agreed to work with the Special Master and the Township in regard to the nature and extent of the types of fields and services that will ultimately be constructed as part of this development. Pulte contends that it cannot provide any additional room for recreational amenities without reducing the density on the project.

The Special Master recommends that Pulte provide additional space for active recreation to supplement that which it has already provided. This Special Master is recommending flexibility in that the

location and type of recreational space is subject to the review and approval of the Special Master. The Special Master also clearly indicates that any increase in recreational area should not reduce the number of market rate or affordable units on the site. The SHO notes that the total acreage of the site is approximately 26.5 acres. The SHO is in agreement with the Special Master that Pulte should use its best efforts to increase the open space/recreational area. The nature and sufficiency of which shall be subject to the review and approval of the Special Master. However, the SHO further finds that any additional open space/recreational area shall not cause any reduction in the number of market rate or affordable units on the site. The SHO finds that the proposed density at 151 units constitutes sound planning and shall not be reduced.

J. Environmental Conditions

1. Whether the Township has jurisdiction to or is pre-empted from commenting on or directing action relative to environmental exploration, investigation, remedial work plan preparation (if required) and remedial work to demonstrate the site is suitable for residential use under all applicable NJDEP statutes and regulations.

Under NJDEP regulations, a Licensed Site Remediation Professional (LSRP) has sole oversight on site remediation for any environmental conditions existing on the site. Thus environmental issues are under the sole jurisdiction of the NJDEP. N.J.S.A. 5A:10C-11(b), N.J.A.C. 7:26C-1.1 et seq. The Township apparently recognizes that it does not have approval authority over any environmental site remediation efforts and that jurisdiction lies exclusively with the NJDEP. The Township requests that Pulte keep South Brunswick apprised of the status of such environmental remediation efforts.

The Special Master is of the opinion that Pulte is under no obligation to keep the Township apprised of the NJDEP action under which it has no jurisdiction, but is certainly permitted and should do so as a professional courtesy. The SHO is in agreement with the Special Master's recommendation and, as such, Pulte, as a condition of approval, shall be required to provide to the South Brunswick Building Department a copy of a Remedial Action Outcome Letter which confirms that the environmental site remediation has been satisfactorily completed prior to the issuance of Certificates of Occupancy for the development.

K. Resolution Compliance Process

1. Whether the Special Hearing Officer or a neutral third-party should be appointed [to] oversee Resolution Compliance or whether the Township and its Engineering, Construction and Planning Department shall perform Resolution Compliance review, as they would for other applications for land use development in the Township that received zoning approvals from the Planning or Zoning Board of Adjustment. If the Special Hearing Officer or neutral third-party is appointed to oversee Resolution Compliance, which party bears the costs and expenses of same, and what role does the Township have in reviewing Resolution Compliance and at whose cost?

Mr. Bidlack on behalf of South Brunswick stated he would like to see the post-approval process followed as is normally done under a typical Planning Board application. He reiterated that resolution compliance typically runs through his department and the Township Planning Office. Mr. Bidlack wants to insure that conditions of the approval are being met and that the Applicant is ready to obtain a building permit. Mr. Bidlack characterized following the typical process for post-approval compliance as being the most efficient way to insure that conditions of the Resolution are satisfied and that the development actually gets constructed. (8T30:1-25, 8T31:1-13)

Pulte requests that the SHO or an appointed neutral third party be designated to oversee resolution compliance as the Township and Planning Board have a demonstrated bias in regard to this application.

South Brunswick must ultimately issue building permits for the project, and in the normal course of proceedings, an applicant for development would be required to post performance bonds and guarantees with South Brunswick and inspections would be performed by South Brunswick employees and/or professionals.

The Special Master states:

while this is not a traditional development application, and the Township [is] not the arbiter of whether approval is granted, since the proposal [is] within the confines of the municipality and the Township will be responsible for various actions should the court grant approval, it should have resolution compliance jurisdiction. No third-party should be involved in the process as same would be cumbersome and expensive.

The SHO is in agreement with the Special Master and, as such, South Brunswick shall oversee post-approval resolution compliance. The SHO finds that the South Brunswick Planning and Engineering Departments are familiar with the plans and the proposed development of the site and they have experience in administering post-approval processes for all other development approvals.

L. Zoning

1. Whether the development needs to comply with zoning requirement of the ARRC Ordinance, such as bulk standards, buffers, and setbacks. See Bignell review memo (SB-10) Comments 6C and 6D; Clarke Caton Hintz review memo (SB-5) Comments 5.4, 5.7, 5.11, 5.12 5.13.

The CMO provides “the builder’s site plan shall be deemed a fully conforming as of right application in accordance with proposed zoning regulations the builder shall submit with its site plan submission, which shall be deemed to be the standards applicable to the builder’s proposed site plan. The builders are encouraged to incorporate existing Township standards for similar types of housing as is reasonable practicable.”

Mr. Lange testified that Pulte utilized standards set forth in Urban League v. Mahwah, 207 N.J. Super. 169 (Law Div. 1984). Mr. Lange testified that those standards were found to be appropriate standards for an inclusionary development and Pulte, in this case, meets all of those standards set forth in Urban League v. Mahwah. (1T85:17-24) In addition, Pulte also considered the bulk standards in a similar project developed in Highland Park, New Jersey. Pulte emphasizes that the CMO provides that the zoning regulations the builder shall submit with its site plan submission shall be deemed the standards applicable to the builder’s proposed site plan.

Pulte indicates that the 50 foot buffer ignores the unique characteristics of the property. “[t]he site is not suited to providing a 50 foot perimeter buffer due to the unique characteristics of the property relative to topography and the necessary density.” Exhibit P-69, p. 80. Pulte further contends that imposing a 50 foot buffer requirement would have exclusionary effect by reducing the buildable area and “would dramatically reduce the project yield causing significant hardship and eliminating the project.” Exhibit P-69, p.80. As such a 50 foot buffer is not necessary as the topography and other design features serve as visual buffers. Furthermore, Pulte contends that the surrounding land uses would not be adversely impacted by the proposed development. More specifically, there is a contractor’s yard located to the south. The contractor’s yard would not be visible from the dwelling units due to the topography and change in elevation. (1T67:11-24).

Mr. Lange also addressed the issue of site buffering and stated that the proposed buffering is appropriate in terms of leveraging the existing topographic conditions and the existing wetland conditions

around the site which buffer the site substantially from surrounding uses. (1T208:3-9) Furthermore, Mr. Lange testified that Pulte complies with all bulk standards identified in Urban League v. Mahwah. (1T212:2-4)

The proposed 35 foot buffer of the buildings is a common standard and is reflected in Urban League v. Mahwah as well as in the Highland Park Ordinance referenced herein. (Exhibit P-41) Furthermore, Pulte contends that if the Applicant were required to comply with the standards in the ARRC Zone, this would result in a significant density reduction of approximately 33 units resulting from the increased buffer which would make the project infeasible. Exhibit P-69, p. 47.

Pulte also contends that for example a larger setback requirement for a pump station would be excessive. "The pump station is located contiguous to an existing wetland corridor which precludes offsite development in the area and provides a natural buffer to the facility obviating the need for an excessive setback." Exhibit P-69, p. 53.

The Special Master recommends that given the lack of visibility of the site from adjoining roadways, the context of surrounding uses, as well as the prior history of approvals in regard to this site that the buffering that is currently proposed is more than adequate.

The SHO recommends that pursuant to the CMO, the application is considered to be a fully conforming as of right application. Furthermore, the bulk standards provided by Pulte are to be deemed the standards applicable in regard to the site plan. The SHO finds that the bulk standards conform to the standards in the Urban League v. Mahwah case and in regard to the standards identified in the Borough of Highland Park Ordinance Exhibit P-41 which standards are relevant to a project where a similar product-type is proposed. In addition, the SHO finds that the density of the project is less than what is permitted under the South Brunswick Ordinance and Pulte is proposing a substantial set aside for affordable housing being constructed on site as well as making a substantial financial contribution to South Brunswick for off-site construction of affordable units. Therefore, the bulk standards proposed by Pulte constitute sound planning.

M. Miscellaneous Engineering Issues

1. Whether Pulte needs to provide additional sidewalks pursuant to the requirement of the Township Engineer, in addition to what is shown on the attached redline markup of P-93.

Pulte modified the site plan to add sidewalks in order to improve pedestrian circulation on the site. Pulte added sidewalk at the head in parking spaces along Road A across from Buildings 7 and 8 and provided continuous sidewalk from those parking spaces to the tot lot. (5T.18:19-24, 5T.19:1-25, 5T.20:1-25, 5T.21:1-4) Exhibit P-93. Pulte is also providing additional sidewalk at the multifamily court entrances by Buildings 9, 8, 7, 6, 5, 4 and 1 as set forth in Exhibit P-93, the marked up submission with the open issues and stipulations. South Brunswick and Pulte are in agreement that a de minimis exception would be appropriate to not have a sidewalk along the north side of entrance Road A because there is nothing over there and no reason for pedestrians to walk over there. (4T.162:15) The SHO is in agreement with the Special Master in regard to granting a de minimis exception along one side of Road A and that Pulte provide sidewalks in accordance with P-93 as marked up and submitted with the open issues and stipulations.

M. Miscellaneous Engineering Issues

2. Whether Pulte must comply with CME Technical Review Memo (SB-7), Comments D18 requiring the edge of the design high water for detention basins to be set back 100-ft from existing or proposed dwelling units, or if the proposed design, which complies with RSIS and the associated BMP Manual stormwater safety requirements, is adequate.

Pulte contends that it should not be required to conform to the 100 foot setback as required by Township Code 62-248(b). The proposed residential units are a minimum of 22.3 feet from the stormwater basin. Pulte also contends that the RSIS and associated BMP Manual cover stormwater safety requirements. Pulte contends that the municipality would have to obtain a special area standard to allow this type of requirement. Exhibit P-69, p. 22. Mr. Lange provided testimony during the hearing process that the design of the basin is in compliance with the RSIS. Further, the proposed basin does not pose any public health and safety concerns for proposed dwelling units or adjoining properties.

The Township Engineer on cross-examination acknowledged that there is no engineering reason to require a basin to be a 100 feet from a dwelling unit. Mr. Zielinsky admitted that anything could be designed whereby you could even have a basin right up against the foundation of a building if you designed the foundation and waterproofed it to be completely submerged. (5T.127:17-21) Mr. Zielinsky further

acknowledged that he was not aware of any other municipalities that require a 100 foot setback. (5T.128:24, 5T.129:1-25) Furthermore, Mr. Zielinsky admitted that the RSIS does not require any separation between basins and buildings. (5T.129:12-16)

The Township asserts that the 100 foot requirement is a proper standard in order to protect the health, safety and welfare of the residents.

The Special Master acknowledged the testimony of Mr. Zielinsky that the RSIS does not require any separation between basins and buildings. (5T.129:12-16). As a result, the Special Master recommends that the Township setback requirements related to the stormwater basin are unenforceable and that the basin may be located as designed by Pulte. The Special Master further indicates that a homeowners association shall be responsible for maintenance of the basin with South Brunswick retaining the ability to access the basin. The SHO agrees with the Special Master. The RSIS and BMP Manual cover stormwater safety requirements. The SHO accepts the representations of Mr. Lange that the design of the basin is in compliance with the RSIS and, therefore, does not pose any public health and safety concerns for the proposed dwelling units or adjoining properties. As a result, the SHO finds that Pulte does not have to comply with Township Ordinance 62-2576(b)(viii).

M. Miscellaneous Engineering Issues

3. Whether Pulte must comply with CME Technical Review Memo (SB-7), Comments D19 requiring an area fifteen (15) feet wide with a maximum slope of two-percent (2%) to be constructed on top of the bank surrounding a basin, or whether the proposed design, which complies with RSIS and the associated BMP Manual stormwater safety requirements, is adequate.

Township Code Section 62-2576(b)(iii) sets forth design requirements for stormwater detention basins. Exhibit SB-7, Comment D19. Nevertheless, the RSIS and associated BMP cover stormwater safety requirements. Pulte contends the entire Ordinance is preempted by the RSIS and is not, therefore, applicable. Further, Pulte contends that the Township Engineer, Mr. Zielinsky, acknowledge that the RSIS references the NJDEP stormwater regulations which only requires a 10 foot wide road and that the Township Ordinance is inconsistent with the RSIS. (5T.130:9-17) Mr. Lange opined that the proposed 10 foot wide access road around the basin berm is standard practice and appropriate. Exhibit P-69, p. 23. South Brunswick contends that providing a 15 foot wide area at no more than a 2 percent (2%) slope

completely around the basin insures that both maintenance vehicles and emergency responders can access the area safely and efficiently.

The Special Master has reviewed this issue and has determined that the RSIS and associated BMP Manual cover stormwater safety requirements and not the Township. Exhibit P-69, p. 23. The Special Master, therefore, finds that the Township's requirements relative to the access road are unenforceable and that the access road designed by Pulte is appropriate, provided that a homeowners association is responsible for its maintenance.

The SHO finds that the RSIS and associated BMP Manual cover stormwater safety requirements. As a result, the SHO finds that Pulte should not be required to construct a 15 foot wide area with a maximum slope of 2 percent (2%) at the top of the bank surrounding the basin. The SHO finds that the proposed design complies with the RSIS and the associated BMP Manual stormwater safety requirements.

M. Miscellaneous Engineering Issues

4. Whether Pulte must comply with CME Technical Review Memo (SB-7), Comments D20 requiring the fifteen (15) foot wide top of bank surrounding the basins and the eighteen (18) foot access road to be stabilized with paving block material in accordance with the Township's Standard Detail for fire emergency access lane(s), or if the maintenance road shown on the plans is adequate.

Pulte contends that the RSIS does not contain a requirement that an access road be constructed around the entire perimeter of the basin. The Township Engineer, Mr. Zielinsky admitted that the RSIS does not contain such a requirement and that the RSIS would only require access around the top of the dam. (5T.130:9-25, 5T.131:1-5) Further, Pulte contends that South Brunswick's standard detail is preempted by the RSIS and not applicable. The municipality would have to obtain a special area standard to allow this type of requirement. Exhibit P-69, p. 23.

South Brunswick's concern is if the top bank of the basin is not stabilized with paving block material, then in inclement weather the ground may not be able to support the weight of maintenance vehicles and emergency vehicles. (5T.39:16-22)

The Special Master finds that the RSIS controls the basin access road and that the proposed access road is appropriate. Exhibit P-69, p. 23. The Special Master also found that the access road designed by Pulte is appropriate, provided that a homeowners association is ultimately responsible for its maintenance.

The SHO has reviewed the record and finds that the 15 foot wide top of the bank surrounding the basin and the 18 foot access road complies with the RSIS and, Pulte is not required to stabilize the basin and the access road with paving block material in accordance with the Township standards. Furthermore, the SHO further finds that the homeowners association to be created shall ultimately be responsible for its maintenance.

M. Miscellaneous Engineering Issues

5. Whether Pulte must comply with CME Technical Review Memo (SB-7), Comment D21 and provide an access road eighteen (18) feet wide with a maximum slope of 1 vertical to 4 horizontal for maintenance access to the bottom of the basin, or if the 10 foot wide maintenance road shown on the plans is adequate.

Pulte contends that it should not be required to construct an 18 foot wide access road for maintenance access to the basin and that the proposed maintenance road as depicted on the plans is in compliance with the RSIS. This requirement was requested by the Township Engineer, Mr. Zielinsky, in his review memorandum (Exhibit SB-7), Comment D21. Further, Mr. Zielinsky acknowledged that the RSIS does not contain a requirement that an access road be required to be installed around the entire perimeter of the basin. Further, the RSIS only requires access around the top of the dam. (5T.130:9-2, 5T.131:1-15)

With respect to the requested 1:4 slope, Mr. Zielinsky acknowledged that the RSIS governs the interior slope of basins. N.J.A.C. 5:21-7.8(d)(viii) permits a maximum slope of 1:3. (5T.132:10-17, 5T133:4-7) The Township Engineer further acknowledged Pulte's design complies with the slope requirements of the RSIS. (5T134:12-25) The Township Engineer also admitted that except for the Township Ordinance requirement for an access ramp to the bottom of the basin as well as the setbacks and locations, Pulte's plan complies with the RSIS. (5T134:21-25)

The Special Master finds that the design as proposed by Mr. Lange is in accordance with the RSIS and, as a result, no further modifications are required. The SHO similarly finds that no further modifications are required since the design is compliant with the RSIS.

M. Miscellaneous Engineering Issues

6. Whether Pulte must comply with CME Technical Review Memo (SB-7), Comments D23, which requires that the top of the basin excavation or the toe of the outside slope be set back 50 feet from an adjoining property line of a lot on which there is a residential use. The proposed basin is not in accordance as measured from Lot 66 in Block 86.

South Brunswick contends that pursuant to Township Code Section 62-2576(a)(10),(b)(8) and (d)(1) that the top of the basin excavation or the toe of the outside slope is to be setback 50 feet from an adjoining property line on which there is a residential use. In this instance, there is residential use on adjoining Lot 66 in Tax Block 86. South Brunswick contends that the basin is approximately 10 feet from the adjoining property line and that the proposed setback is to protect the health, safety and quality of life of the residents.

On the other hand, Pulte contends that the location of the basin is consistent with sound planning and utilizes the existing topography and location of the wetlands. In addition, Pulte contends the basin complies with all applicable RSIS and NJDEP requirements. Exhibit P-69, p.24. The Special Master confirms that the basin complies with the RSIS and NJDEP requirements and, as a result, the plans are acceptable as proposed. The SHO similarly finds that the basin complies with RSIS and NJDEP requirements. Therefore, Pulte should not be required to setback the top of the basin 50 feet from the adjoining property lines.

M. Miscellaneous Engineering Issues

7. Whether Pulte has provided adequate details for water and sewer systems including supplemental details and notes as mutually agreed to per Exhibit P-94, or whether additional details must be submitted. See Alaimo Review Memo (SB-12), pages 2-5, "Comments Relating to Various Site Plan Sheets."

The Township Engineer, Mr. Zielinsky, testified in regard to his report identified as Exhibit SB-7 and more specifically Comment F-12. Mr. Zielinsky requested additional details to be provided on the plans. He stated there were five (5) details that he was requesting to be added to the plans. He stated "There is a typical riser connection detail, a water main front detail, concrete encasement detail, drop manhole detail and a pressure to gravity transition chamber detail." He characterized the details as standard details which should be added to the plans. (5T.46:12-25) Pulte contends that they have provided adequate details

for water and sewer systems in order for the SHO to recommend to the Court that preliminary and final site plan approval be granted.

The Special Master recommends that these additional details be provided by Pulte “As this will only facilitate resolution compliance.” The SHO agrees with the recommendation of the Special Master and finds that Pulte shall provide additional details on the plans for the five (5) items referenced herein.

M. Miscellaneous Engineering Issues

8. Whether Pulte must provide on the plans the additional dimensions requested by the Township Engineer or if the plans show adequate dimensions. See CME Technical Review memo (SB-7) Comments A9, A10 and A12. See also P-94.

Pulte contends that they should not be required to provide additional dimensions on the plans as the submitted plans are adequate for site plan approval. Further, Pulte contends there are no specific Ordinance or checklist requirements that mandate additional dimensions be provided. Exhibit P-69, p. 5-6. Further Mr. Lange opined “That the dimensions shown can be used to calculate distances and are acceptable. [Additionally], the plans can be scaled for additional measurements.” Id.

During the course of the hearings, the parties and their professionals had several meetings in order to resolve issues. The Township has agreed that these requests could be eliminated. As such, this issue has been resolved with the elimination of this request.

The Special Master confirms the issue has been resolved. The SHO finds that the issue has been resolved.

N. Miscellaneous Design Issues

1. Whether Pulte must comply with CME Technical Memo (SB-7) Comment E1 and Bignell Review Memo (SB-10) Comment 7D and provide a minimum 0.5 foot-candle lighting intensity in all vehicular roadways and residential parking lots, or if the provided minimum 0.2 foot-candle minimum lighting (in certain areas), which is acceptable per the IESNA standard, is adequate. See testimony from Ms. Goldman at 6T.139:15-20.

2. Whether Pulte must comply with CME Technical Memo (SB-7) comment E2 and Bigness Review Memo (SB-10) Comment 7D and provides a minimum 1.0 foot-candle lighting intensity along the entire length of sidewalks and pedestrian walkways, or if the provided minimum 0.2 foot-candle minimum lighting (in certain areas), which is acceptable per the IESNA standard, is adequate. See testimony of Ms. Goldman at 6T.139:15-20.

Mr. Zielinsky represented that the RSIS does not include standards for lighting and, as a result, the Township Ordinance requirements should be followed. He also admitted that most of the site does provide 0.5 minimum foot-candle lighting intensity, however, multifamily courts do not. (5T.43:12-19)

South Brunswick Code Section 62-208(g)(4) requires that a minimum 1.0 foot-candle lighting intensity along the entire length of sidewalks and pedestrian walkways shall be provided. Pulte proposes to provide only 0.2 foot-candle lighting.

The Township Planner, Ms. Goldman, was asked to offer her opinion on lighting. Ms. Goldman indicated that “My only concern was that I believe Pulte has agreed to do is provide some shielding for the on-site lighting along the property boundary areas, the lights that are closest to the adjacent properties to avoid any light spilling onto the adjacent properties. But otherwise, I did not have any other concerns.” As a follow-up question, Ms. Goldman was asked whether or not she had any concerns regarding Pulte providing for lower foot candle levels than what the municipal ordinance requirements are. Ms. Goldman responded “It is my understanding that the Maser plan complied with the IESMA (sic) standards, safer lighting, which I am okay with.” (6T.139:15-20) The Special Master recommends that Pulte be permitted to proceed with the proposed minimum 0.2 foot candle minimum lighting (in certain areas) (i.e. in the area of the three (3) multifamily courts), however, in regard to n(2) the Special Master recommends that Pulte comply with the Township requirement pursuant to Section 62-208(g)(4) which requires a minimum 1.0 foot-candle lighting intensity along the entire length of sidewalks and pedestrian walkways, where Pulte proposes to provide only 0.2 foot-candle lighting. The Special Master recommends that Pulte comply with

the Township requirement. The SHO agrees with the assessment of the Special Master and Ms. Goldman that 0.2 foot-candle minimum lighting in the area of the three (3) multifamily courts is acceptable. Furthermore, the SHO agrees with the Special Master regarding a minimum 1.0 foot candle lighting intensity along the entire length of sidewalks and pedestrian walkways.

N. Miscellaneous Design Issues

3. Whether the driveways are an adequate size. They must be 20' x 18' deep to count as 3.5 spaces. The proposed driveways are 18 feet wide as amended and are calculated to provide 3 parking spaces. See Bignell Review Memo (SB-10) Comment 7B and P-69.

Pulte has agreed to widen the townhome driveways from 17 feet to 18 feet. (1T.91:19-24) Exhibit P-69, p. 10, 60,73. Pursuant to the RSIS, a minimum driveway width is 9 feet and 18 feet in length for a parking space. Therefore, Pulte contends that the townhome driveways functionally provide parking for two (2) vehicle pursuant to N.J.A.C. 5:21-4.15.

The Township has no objection to the width of the townhome driveways being 18 feet as long as Pulte only calculates the parking as 3 spaces and not 3.5 spaces. The Township is of the opinion under the circumstances that the application would be RSIS compliant.

The Special Master is in agreement with both Pulte and the Township that the application complies with RSIS requirements. The SHO further finds that in accordance with the recommendations of the Special Master that the application complies with RSIS requirements.

N. Miscellaneous Design Issues

4. Whether the pedestrian walkways need to be elevated 6" pursuant to Bignell Review Memo (SB-10) Comment 7B. There is no such requirement in the RSIS.

Pulte contends that the proposed sidewalks will be constructed in accordance with all RSIS and applicable building code requirements. There is no such requirement to elevate the pedestrian walkway 6 inches in the RSIS. Exhibit P-69, P-74. The Township contends that a typical sidewalk will normally be elevated above street grade and have a curb associated with it in order to effect positive drainage to ensure that stormwater does not inundate the sidewalk during storm events. The Township requests as a condition of approval that Pulte confirm that sidewalks will be elevated above street grade with curbs in order to ensure drainage throughout the site as well as to provide protection for pedestrians using sidewalks.

The Special Master found that there are no regulations that require elevated sidewalks and thus the Special Master recommends that Pulte should not be required to elevate the pedestrian walkway 6 inches.

The SHO finds that the proposed sidewalks will be constructed in accordance with all RSIS and all applicable building code requirements. As a result, the SHO finds that there are no regulations that require elevated sidewalks and that Pulte shall not be required to provide same.

N. Miscellaneous Design Issues

5. Whether Pulte is required to comply with Ordinance §62-248(b), Stream Corridor Protection to show the 100-year flood elevation and provide a fifty (50) foot conservation easement from the top of bank or 50' landward from the 100-year flood line or the limit of the NJDEP wetlands, whichever is greater, or whether Pulte's compliance with all applicable NJDEP regulations is adequate. See Bignell Review Memo (SB-10) Comment 8D.

Pulte contends that it should not be required to comply with Township Code 62-248 by showing the 100-year flood elevation or be required to provide a 50 foot conservation easement from the top of the bank. Pulte contends the Ordinance is preempted by the NJDEP which has the authority to regulate stream protection. South Brunswick contends that the Ordinance is designed to protect health, safety and welfare of the residents. The Special Master indicates that the Township Code §62-248 is preempted by the NJDEP and, as such, Pulte is not required to comply with §62-248 of the Township Code. The SHO similarly finds that Township Code 62-248 is preempted by the NJDEP and, as a result, Pulte shall not be required to comply with the Township Code.

N. Miscellaneous Design Issues

6. Whether the proposed aluminum fence for the top of retaining walls of a certain height is appropriate and representative of sound planning. See Clarke Caton Hintz Review Memo (SB-5) Comment 6.4 and P-93.

Pulte is providing fencing on top of the retaining walls for safety purposes. The fence on top of the wall will be a split rail fence with an anti-climb mesh or an aluminum jerith-style fencing. The metal jerith fence, made of black aluminum, is the safe type used along Route 18 to ensure pedestrian safety. (1T.105:10-18) Pulte selected this material for its safety and made sure it was proposing a robust fencing system. (1T.105:19-24) The Township requires Pulte to comply with South Brunswick Code Section 62-1872.

South Brunswick Code Section 62-1872 provides in relevant part “...No fence shall be erected of barbed wire, topped with metal spikes or constructed of any material or in any manner which may be dangerous to persons or animals...”

The Special Master indicates that she has no issue with Pulte’s testimony about the proposed aluminum fence on top of the retaining walls. (1T105:10-18, 1T.105:19-24) However, the Special Master does recommend that Pulte comply with South Brunswick Code Section 62-1872. The SHO finds that Pulte shall comply with South Brunswick Code Section 62-1872 in order to ensure the protection of health, safety and welfare of residents of this community.

N. Miscellaneous Design Issues

7. Whether Pulte has appropriately shielded the light from spill over onto adjacent properties. See Clarke Caton Hintz Review Memo (SB-5) Comment 8.4.

Pulte’s proposed lights are dark sky compliant, with an up-light rating of 0 and color temperature of 3,000K. Exhibit P-69, p. 56. (1T186:11-12) Additionally, all the lights have shielding because there is no up-lighting, they are shining down. (1T.186:22, 1T.187:4) Furthermore, the highest foot candle rating at the property line “is less than the maximum of 0.5 allowed.” Pulte is also proposing approximately 0.4 foot-candles at the property line or less. Furthermore, in many cases it is at 0. (1T.187:8-14) As a result of discussions between Pulte and South Brunswick, Pulte has agreed to provide some shielding for the on-site lighting along the property boundary areas, in order to avoid spill over lighting onto adjoining properties. (6T.139:9-13) The Special Master recommends that Pulte revise its plan to demonstrate shielding for the on-site lighting in order to prevent spill over lighting either in a final submitted plan or in resolution compliance depending on the decision of the SHO. The SHO finds that as part of resolution compliance, that Pulte demonstrate that there will be no spillover lighting onto adjoining properties.

O. Whether the Applicant Needs to Submit Revised Plans Before Resolution Compliance.

1. Whether Pulte must submit further revised plans and documentation of approval or exemption from all outside agencies before action be taken on this application. See Bignell Review Memo (SB-10) Comment 12.

Pulte contends that it should not be obligated to submit any further revised plans or documentation of approval or exemption from all outside agencies before action is taken on this application. Pulte’s submission of Exhibit P-91 (Major Road Left Turn Lane Concept Plan) and Exhibit P-93 (Layout

Modification Exhibit) addressed all the significant changes agreed to over the course of the hearings. In fact, Exhibit P-91 provided a revised design to Major Road to accommodate the Township Engineer's request for a dedicated left hand turn bay into the development within the existing right-of-way, to alleviate any concerns regarding a queue of vehicles waiting to make left turn into the development. Furthermore, Exhibit P-93 included fence details, the board-on-board fence added to the parking area near building 3 inclusive of notations of which type of fence is being installed and the location of such fence. In addition, Exhibit P-93 provides revised refuse locations for COAH units, demonstrates where additional sidewalk is being added, delineates the recreation areas, delineates the relocated parking spaces for the parking COAH units as well providing unit modifications that resulted from moving the very low income units off-site and adding revised parking calculations. Also, Exhibit P-27 is a colored rendering showing the additional landscaping added by Pulte. Pulte, therefore, contends that it has submitted sufficient information for a decision to be made regarding the preliminary and final site plan approval, and any further design or details that must be provided can be addressed through resolution compliance. The Special Master recommends that revised plans be submitted during resolution compliance and that a detailed list addressing each and every plan change be provided. The SHO agrees with the Special Master's recommendation that revised plans be submitted during resolution compliance and that a detailed list addressing each plan change be provided.

CONCLUSION

The Special Master recommends that the Court grant preliminary and final site plan approval. The SHO finds that Pulte's proposed development provides a substantial affordable housing component and that the proposed development can be implemented without substantial negative environmental or planning impact. The SHO further finds that South Brunswick Township has failed to establish that because of environmental or other substantial planning concerns that Pulte's proposed development is clearly contrary to sound land use planning.

NOW, THEREFORE, BE IT RESOLVED the SHO recommends to the Trial Judge that the application of Pulte Homes of NJ, Limited Partnership for property known and designated as Block 86, Lots 63, 65, 67, 68, 69, 70 and 71 on the South Brunswick Township Tax Map which property is generally

located at 7 Major Road in the Township of South Brunswick requesting land use relief be granted and an Order and Judgment be entered as follows:

- A. Preliminary site plan approval be granted by the Court under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-46;
- B. Final site plan approval be granted by the Court under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-50;
- C. De minimis exception from the RSIS pursuant to N.J.A.C. 5:21-3.1; 1) regarding velocity in the storm sewers using design flow; 2) not requiring Pulte to provide a sidewalk along the north side of entrance Road A be granted by the Court; and
- D. Pulte shall be granted a waiver from UHAC requirements which limits the number of one one-bedroom affordable units to 20 percent (20%). Pulte is permitted to construct on-site six (6) one-bedroom affordable units instead of five (5) one-bedroom affordable units.

IT IS FURTHER RESOLVED, that the Findings and Recommendations of the SHO set forth herein be granted by the Court subject to the following terms and conditions:

1. The development of this site shall be implemented in accordance with the plans submitted and further amended in accordance with representations made on the record by Pulte's professionals and any further requirements of the Special Master.
2. The granting of this application is subject to and conditioned upon all of the representations and stipulations being made by or on behalf of the Applicant throughout the hearing process before the Special Hearing Officer as being true and accurate. The Special Hearing Officer notes that it specifically relied upon said stipulations in preparing and submitting the Findings and Recommendations to the Court to grant approval. If any representation or stipulation is false, the Findings and Recommendations for the Court to grant approval is subject to revocation.
3. The Findings and Recommendations by the SHO that the Court grant the approval set forth herein is strictly in accordance with any recommendations set forth on the record before the SHO throughout the entirety of the public hearing process.

4. Pulte will be required to obtain and forward to South Brunswick Township final approvals or letters of no interest from the following governmental agencies:
 - A. Freehold Soil Conservation District;
 - B. South Brunswick Township Soil Placement or Removal Permit;
 - C. Middlesex County Planning Board;
 - D. NJDEP Treatment Works Approval;
 - E. NJDEP Bureau of Safe Drinking Water;
 - F. NJDEP Transition Area Averaging Plan (Permit Plan Revisions), the Transition Area Averaging Plan approval was obtained on November 21, 2019, File No. 1221-04-0027.1;
 - G. NJDEP Well Drilling Permit;
 - H. NJPDES-Construction Activity Stormwater Discharge Authorization; and
 - I. Stormwater Management Maintenance Plan.
5. The following certifications from South Brunswick Township and posted guarantees shall be submitted as a condition granting of final site plan approval:
 - A. Tax Collector;
 - B. Director of Planning; and
 - C. Maintenance and Performance Guarantees.
6. Pulte shall provide will-serve letters from all applicable utility companies as a condition of final site plan approval.
7. Pulte shall prepare a water budget in order to demonstrate that the detention basin pond will have enough water in it throughout the entire 30 year period which shall be subject to the review and approval of the Township Engineer.
8. Pulte shall make a good faith effort to increase the open space/recreation area and shall consult and work with the Special Master. The nature and sufficiency of any increase shall be subject to the review and approval of the Special Master. The supplementation of the

plan to include additional open space/recreational area shall not cause any reduction in the number of market rate or affordable units on the site.

9. Subject to all other applicable rules, regulations, Ordinances and statutes of the Township of South Brunswick, County of Middlesex, State of New Jersey or any other agency having jurisdiction hereunder.
10. Certification that taxes are paid to date of approval.
11. Pulte shall submit designs for the retaining walls to the South Brunswick Township Building Department which demonstrate the structural integrity of the retaining walls.
12. Pulte shall perform additional test pits to verify that all recharge trenches are in suitable soils which shall be subject to the review and approval of the Township Engineer.
13. Pulte shall plant 3 inch to 3½ inch caliper trees along the front entrance which shall be subject to the review and approval of the Special Master.
14. Any and all fees properly due and owing the Township, Special Master and/or Special Hearing Officer shall be paid in advance of building permits being issued. Nothing herein shall prevent Pulte from filing a motion to contest the reasonableness and legality of the Township's and Planning Board's charges to escrow prior to final payment.
15. Pulte shall comply with the provisions set forth in the Stipulations, which is part II in the document attached hereto as Exhibit C.
16. Pulte shall comply with the Special Hearing Officer's determination of the Open Issues which is Part I in the document attached hereto as Exhibit C.

Special Hearing Officer


Richard Briadoro, Esq.

Dated: November 20, 2020

EXHIBIT A

Re: IMO Application of the Township of South Brunswick
Docket No. MID-L-4433-17/MID-L-3878-15

Pulte Homes of NJ, Limited Partnership Site Plan Application
Block 86, Lots 63, 65, 67, 68, 69, 70 & 71

EXHIBITS FOR DIRECT EXAMINATION

TAB	DESCRIPTION	DATE
	APPLICATION EXHIBITS	
1	Pulte Cover Letter Submitting Application	8-13-2019
2	Pulte Application for Development	8-13-2019
3	Business Entity Disclosure Form	7-31-2019
4	W-9 Form	7-31-2019
5	Confirmation from Tax Collector that Taxes are Current	7-29-2019
6	Check in the amount of \$1,600.00 for the Application Fee	
7	Check in the amount of \$7,395.00 for the Escrow Fee	
8	Maser Preliminary and Final Site Plans	7-31-2019
9	Maser Overall Dimension Plan 11x17	7-31-2019
10	Pulte Group Architectural Floor Plans and Elevations for Ironwood, Isleton and Ashton	7-8-2019
11	Maser Boundary and Topographic Survey	11-16-2016
12	Maser Stormwater Management Report	7-2019
13	Maser Stormwater Maintenance Manual	7-2019
14	Maser Environmental Impact Statement	7-2019

15	Maser Traffic Impact Study	7-2019
16	Maser Engineer's Report for Water Demand	7-2019
17	Maser Engineer's Report for Sanitary Sewerage System	7-2019
18	Maser Report of Subsurface Exploration and Infiltration Evaluation	5-20-2019
19	Pulte Application Cover Letter Enclosing Additional Property Owner Signature Pages	8-13-2019
20	Pulte letter to Bidlack enc additional \$100 application fee	9-30-2019
21	Pulte letter to Bryan Bidlack re completeness	10-8-2019
22	Affidavit of Service and Publication	12-5-2019
	MASER EXHIBITS (ENGINEER & PLANNING)	
23	Jeromie Lange CV	
24	Regional Map Exhibit	12-12-2019
25	Overall Aerial Exhibit	12-12-2019
26	Aerial Exhibit	12-12-2019
27	Rendering Additional Landscaping	12-17-2019
28	Major Road Exhibit	12-12-2019
29	Major Road Profile	12-12-2019
30	Zoning Exhibit	7-31-2019
31	Monument Sign Detail	

32	Dimension Plan Exhibit	12-12-2019
33	Sight Triangle Exhibit	12-12-2019
34	Fire Truck Circulation Exhibit	12-12-2019
35	Steep Slope Exhibit	12-12-2019
36	Test Pit Exhibit	12-12-2019
37	Stormwater Facility Exhibit	12-12-2019
38	Layout Modification Exhibit	12-12-2019
38	Mark up/Layout Modification Exhibit	12-19-2019
39	Lighting Plan Exhibit	7-31-2019
40	Intentionally Omitted	
41	Highland Park Ordinance	12-15-2019
42	South Brunswick Sewer Supervisor letter to NJDEP re wastewater discharge	8-1-2016
43	South Brunswick Sewer Supervisor letter to NJDEP re wastewater discharge	6-1-2018
	PULTE EXHIBITS (ARCHITECTURAL)	
44	Clare McCaffrey, AIA (CV)	
45	Condo Rendering	
46	Ashton Rendering	
47	Isleton/Ironwood Rendering	

48	COAH Bedroom Distribution Plan	12-16-2019
49	Condo Elevation Front (Murray Hill, Greenwich, Bowery, Union)	12-16-2019
50	Condo Elevation Rear and Side	12-16-2019
51	Condo Floor Plan Bowery-Union	12-16-2019
52	Condo Floor Plan Murray Hill-Greenwich	12-16-2019
53	COAH Unit Elevations	12-16-2019
54	COAH Unit Floor Plans	12-16-2019
55	Color Packages	
56	Isleton/Ironwood Elevation	12-16-2019
57	Ironwood Floor Plan	12-16-2019
58	Isleton Floor Plan	12-16-2019
59	Overall Bedroom Distribution	12-16-2019
60	Ashton Elevation	12-16-2019
61	Ashton Floor Plan	12-16-2019
	MASER EXHIBITS (TRAFFIC)	
62	Resume of S. Maurice Rached, PE, PTOE	
63	Queue Length Exhibit (AM Peak)	12-10-2019
64	Queue Length Exhibit (PM Peak)	12-10-2019
65	Queue Length Exhibit (Saturday Peak)	12-10-2019

	ADDITIONAL EXHIBITS	
66	COAH Units Master Bedroom Furniture Plan	
67	COAH Unit 1 Bedroom Square Footage	
68	Retaining Wall Photo Exhibit	2-4-2020
69	Maser Response Letter - Response to Township and Planning Board Professional Review Memos	1-27-2020
70	COAH Unit Accessibility Exhibit	
71	Freehold Soil Conservation District Initial Application Review	10-14-2019
	SUPPLEMENTAL SUBMISSION EXHIBITS	
72	Pulte letter to Planning Department enclosing Maser Traffic Impact Study dated December 12, 2019	12-27-2019
73	Pulte letter to Donald Sears enclosing EcolSciences, Inc.'s Supplemental Phase II Investigation Results letter report dated October 18, 2018	1-10-2020
74	Affordable Housing Compliance letter	3-2-2020
75	Pulte's FCC Comment Letter	2-6-2020
76	Pulte Supplemental Submission enclosing Transition Area Permit, Wetlands Waiver, Flood Hazard Approval, Hydrant Flow Testing Report, IESNA Standard, P-27, P-34 and Landscape Plan extra tree exhibit	2-19-2020
77	Pulte submission of redlined Stormwater Maintenance Agreement	2-24-2020
78	Pulte Supplemental Submission with SBC Traffic update, NJDEP LOI, Highland Park Ordinance, ITE Standard, P-71 and FSCD letters	2-27-2020

79	Revised Fire Truck Circulation Exhibit	2-28-20
80	South Brunswick Center – SHO Proposed Findings and Recommendations	2-26-20
81	South Brunswick Center Proposed Resolution	2-13-20
82	Bowery COAH Exhibit Accessibility Exhibit	
83	E-mail from Bisgaier Hoff with attached Phase I Environmental Site Assessment	12-18-19
84	Bisgaier Hoff letter to Special Master re: form of Ordinance	1-14-20
85	Bisgaier Hoff letter re: Isleton/Ironwood Horizontal Offset	3-4-20
86	Affidavit of Service and Publication	4-22-20
87	First Amended Planning Board Resolution with cover transmittal for Baker Development	4-2-08
88	MUTCD Chapter 2C	2009
89	RSIS – N.J.A.C. 5:21-1 et seq.	
90	Access information for May 20, 2020 Hearing	
91	Left Hand Turn Lane Concept Plan	5-20-20
92	Withdrawn	
93	Layout Modification Exhibit	5-29-20
94	Utility Memo from Maser Consulting	5-29-20
95	Letter from Bisgaier Hoff re: Monument Sign	5-22-20
96	Letter from Bisgaier Hoff re: Very-Low Income Units	5-26-20
97	Letter from Bisgaier Hoff re: Wa-Xo-Be Archers, Inc.	5-28-20

EXHIBIT B

**Pulte Homes of NJ, LP, Site Plan Application
Township/Planning Board Exhibits**

SB-1	Bryan Bidlack Resume
SB-2	Bryan Bidlack Review Memo dated November 15, 2019
SB-3	Mary Beth Lonergan Resume
SB-4	Emily Goldman Resume
SB-5	Clarke Caton Hintz Review Memo dated November 12, 2019
SB-6	Kenneth Zielinski Resume
SB-7	CME Review Memo dated November 14, 2019
SB-8	CME Traffic Review Memo dated November 14, 2019
SB-9	Hank Bignell Resume
SB-10	Bignell Review Memo dated November 13, 2019
SB-11	Wayne Simpson Resume
SB-12	Alaimo Review Memo dated November 8, 2019
SB-13	Alaimo Sanitary Sewer Flow Study Report dated April 19, 2018, revised October 19, 2018
SB-14	NJDEP Treatment Works Approval Permit Application
SB-15	NJDEP Statements of Consent
SB-16	NJDEP Engineer's Report for Domestic Treatment Works Approval Applications
SB-17	T&M Tier 2 Screening Report Route 1 (Hard Shoulder Running) dated December 2015
SB-18	Joseph Charmello Resume
SB-19	A) Photo of Major Road Traffic (Wed, 1-24-18, 4:45 pm) B) Photo of Major Road Traffic (Fri, 6-7-19, 4:40 pm)
SB-20	ITE Trip Generation Manual - Land Use: 220 Multifamily Housing (Low Rise)

SB-21	South Brunswick Ord. 2018-28
SB-22	South Brunswick Ord. 2018-30
SB-23	Master Plan Reexamination Report - January 2018
SB-24	Alaimo Map - Kingston and Ridge Road Infiltration and Inflow Study - April 2018
SB-25	Major Road Crash Data Memo dated April 28, 2020
SB-26	Google Maps Route 1 & Major Road (1)
SB-27	Google Maps Route 1 & Major Road (2)
SB-28	Emily Goldman's notations to P-38
SB-29	Pulte Tree Obligation

EXHIBIT C

IMO Application of the Township of South Brunswick
Docket No. MID-L-4433-17/MID-L-3878-15

AvalonBay Communities, Inc. v. Township of South Brunswick, et al.
Docket No. MID-L-4435-17

Pulte Homes of NJ, Limited Partnership Site Plan Application
Block 86, Lots 63, 65, 67, 68, 69 70 & 71

PART I – OPEN ISSUES TO BE RESOLVED BY SPECIAL HEARING OFFICER

A. Traffic / Site Access

1. Whether there is safe and efficient vehicular access to the proposed inclusionary development, including the proposed improvements to Major Road, which include an improvement to the horizontal and vertical geometry of Major Road to improve sight distances, with a right turn out only restriction and the addition of a dedicated left turn lane, and whether the proposed improvements to Major Road are appropriate in light of the current, posted 35 mph speed limit for Major Road.
2. Whether the proposed inclusionary development is considered a permitted use for purposes of evaluating the relevance of the existing traffic conditions in the vicinity of the site, including the operation and levels of service of the Route 1 and Major Road / Sand Hills Road intersection.

B. RSIS Internal Road Classification and Sidewalks

1. Whether the internal streets, which are identified on the site plan as Road A, Road B and Road C, should be classified as Residential Neighborhood Access, or Multifamily Cul-de-sac and Multifamily Court.
2. If the internal streets are classified as Residential Neighborhood Access and the design speed limit for sight distances is 25 mph (see N.J.A.C. 5:21-4.20(b)), whether a de minimus exception should be granted pursuant to N.J.A.C. 5:2-3.1(g) for the sight distance for the left-turn movement from the multifamily courtyard located between buildings 8 and 9 and Road A.

3. If the internal streets are classified as Residential Neighborhood Access and sidewalks are generally required on both sides of the street (see N.J.A.C. 5:21, Table 4.3), whether a de minimus exception should be granted pursuant to N.J.A.C. 5:21-3.1(g). Additionally, whether any other additional sidewalk needs to be provided or what has been proposed on Exhibit P-93 is adequate.

C. Location of Visitor Parking Spaces

1. Whether there are sufficient visitor parking spaces located within a reasonable walking distance of the buildings they are designed to serve pursuant to N.J.A.C. 5:21-4.16(a).

D. Sewer Conveyance Capacity, Ordinance 2018-28 (Exhibit SB-21), Treatment Works Approval and Water

1. Whether there is adequate conveyance capacity as defined by RSIS and NJDEP's regulations for Pulte's proposed inclusionary development.
2. Whether Pulte is required to comply with Ordinance 2018-28 (SB-21) or whether Pulte is only required to make a pro rata financial contribution in the amount of \$16,046.
 - a. Whether the ordinance requires a contribution for off-tract improvements that exceed Pulte's pro rata financial contribution and violates N.J.S.A. 40:55D-42.
 - b. Whether Ordinance 28-2018 (SB-21) is an undue cost generative requirement and violates the Mount Laurel doctrine.
 - c. Whether Pulte is entitled to a credit towards the connection fees, estimated to be in excess of \$1,000,000.00, for any costs expended for improvements to the existing sanitary sewerage system, such as a detailed engineering report/investigative study, and modifications/improvements to the existing sanitary sewer system to eliminate, at a minimum, the project's projected daily wastewater flow into the system, if required to comply with Ordinance 28-2018 against the sanitary sewerage connection fees to be paid for the proposed inclusionary development.

3. Whether there are any preconditions before South Brunswick endorses a Treatment Works Approval application.
 - a. Whether Pulte needs to submit a draft TWA application and/or BWSE application package to the Township.
4. Whether the water system has available capacity for Pulte's proposed inclusionary development, to be determined by NJDEP / Bureau of Water System Engineering at the time of application to that bureau.

E. Architecture

1. Whether additional design elements, such as bay windows, should be added to the front facades of buildings 14, 15, 16, 17 and 18 (the Isleton / Ironwood models).

F. Tree Removal and Replacement

1. Whether Pulte should be required to make a financial contribution to South Brunswick's tree fund for the tree deficiency resulting from the proposed inclusionary development pursuant to South Brunswick Code 118-126.
 - a. If so, what is the amount?
 - b. Township requests the following payment:

Total Required: $366 + 133 = 499$ trees.

Total Provided: 79 shade + 27 evergreen trees + 28 additional evergreens + 21 ornamental + 19 deciduous = 153 trees

Shortfall of 346 trees:

Schedule:

First 50 @ \$181.00 = \$9,050.00

Second 50 @ \$163.00 = \$8,150.00

Next 100 @ \$145.00 = \$14,500.00

Next 100 @ \$128.00 = \$12,800.00

Over 300 @ \$109.00 = $46 \times \$109.00 = \$5,014.00$

Total requested contribution: \$49,514.00

- c. Whether the Township's payment schedule is valid as it has not been codified in an ordinance.
2. Whether such a financial contribution is an undue cost generation requirement and violates the Mount Laurel doctrine.
3. Whether larger caliper trees along the entrance roadway should be provided to enhance the visual environment, in accordance with the testimony of Township Planner Hank Bignell and in accordance with the purposes of the MLUL. If larger caliper trees are provided, how much should each larger caliper tree reduce the amount of tree fund contribution.

G. Stormwater Maintenance Agreement

1. Whether Pulte is required to enter into a Stormwater Maintenance Agreement with the Township, and if so, whether the Stormwater Maintenance Agreement can be in the form as modified by Pulte and submitted by letter dated February 24, 2020 (P-77).

H. Retaining Walls and Steep Slopes

1. Whether the locations and heights of the proposed retaining walls are consistent with sound planning.
 - a. Whether Pulte needs to demonstrate compliance with Ordinances §62-202: Steep Slopes and §62-203: Steep Slope Avoidance and submit an engineer's certificate. See Bignell Review Memo (SB-10) Comment 8E.
2. Whether Pulte must comply with Ordinance Section 62-1871, which requires "no wall or fence more than four feet in height may be erected, except that a wall or fence behind the front yard setback line may be six feet in height," when Pulte is proposing retaining wall up to 29.2 feet high. See Clarke Caton Hintz Review Memo (SB-5) Comment 6.3.
3. Whether longer lasting, more durable fencing should be provided instead of western post fencing, and if so at what locations.

I. Recreation

1. Whether, as amended, the proposed application provides sufficient recreational amenities for the proposed community and whether the proposed recreational amenity areas are representative of sound planning pursuant to the testimony of the Township Planners. See Clarke Caton Hintz Review Memo (SB-5) Comments 5.11 and 5.12. See also Township Planner Hank Bignell testimony and report.

J. Environmental Conditions

1. Whether the Township has jurisdiction to or is pre-empted from commenting on or directing action relative to environmental exploration, investigation, remedial work plan preparation (if required) and remedial work to demonstrate the site is suitable for residential use under all applicable NJDEP statutes and regulations.

K. Resolution Compliance Process

1. Whether the Special Hearing Officer or a neutral third-party should be appointed oversee Resolution Compliance or whether the Township and its Engineering, Construction and Planning Department shall perform Resolution Compliance review, as they would for other applications for land use development in the Township that received zoning approvals from the Planning or Zoning Board of Adjustment. If the Special Hearing Officer or a neutral third-party is appointed to oversee Resolution Compliance, which party bears the costs and expenses of same, and what role does the Township have in reviewing Resolution Compliance and at whose cost?

L. Zoning

- a. Whether the development needs to comply with the zoning requirements of the ARRC Ordinance, such as bulk standards, buffers, and setbacks. See Bignell review memo (SB-10) Comments 6C and 6D; Clarke Caton Hintz review memo (SB-5) Comments 5.4, 5.7, 5.11, 5.12, 5.13

M. Miscellaneous Engineering Issues

1. Whether Pulte needs to provide additional sidewalks pursuant to the requirement of the Township Engineer, in addition to what is shown on the attached redline markup of P-93.
2. Whether Pulte must comply with CME Technical Review Memo (SB-7), Comments D18 requiring the edge of the design high water for detention basins to be set back 100-ft from existing or proposed dwelling units, or if the proposed design, which complies with RSIS and the associated BMP Manual stormwater safety requirements, is adequate.
3. Whether Pulte must comply with CME Technical Review Memo (SB-7), Comments D19 requiring an area fifteen (15) feet wide with a maximum slope of two percent (2%) to be constructed at the top of the bank surrounding a basin, or whether the proposed design, which complies with RSIS and the associated BMP Manual stormwater safety requirements, is adequate.
4. Whether Pulte must comply with CME Technical Review Memo (SB-7), Comments D20 requiring the fifteen (15) foot wide top of bank surrounding the basins and the eighteen (18) foot access road to be stabilized with paving block material in accordance with the Township's Standard Detail for fire emergency access lane(s), or if the maintenance road shown on the plans is adequate.
5. Whether Pulte must comply with CME Technical Review Memo (SB-7), Comment D21 and provide an access road eighteen (18) feet wide with a maximum slope of 1 vertical to 4 horizontal for maintenance access to the bottom of the basin, or if the 10 foot wide maintenance road shown on the plans is adequate.
6. Whether Pulte must comply with CME Technical Review Memo (SB-7), Comments D23, which requires that the top of the basin excavation or the toe of the outside slope be set back 50 feet from an adjoining property line of a lot on which there is a residential use. The proposed basin is not in accordance as measured from Lot 66 in Block 86.

7. Whether Pulte has provided adequate details for water and sewer systems including supplemental details and notes as mutually agreed to per exhibit P-94, or whether additional details must be submitted. See Alaimo Review Memo (SB-12), pages 2-5, "Comments Relating to Various Site Plan Sheets."
8. Whether Pulte must provide on the plans the additional dimensions requested by the Township engineer or if the plans show adequate dimensions. See CME Technical Review Memo (SB-7) Comments A9, A10 and A12. See also P-94.

N. Miscellaneous Design Issues

1. Whether Pulte must comply with CME Technical Memo (SB-7) Comment E1 and Bignell Review Memo (SB-10) Comment 7D and provide a minimum 0.5 foot-candle lighting intensity in all vehicular roadways and residential parking lots, or if the provided minimum 0.2 foot-candle minimum lighting (in certain areas), which is acceptable per the IESNA standard, is adequate. See testimony from Ms. Goldman at 6T:139:15-20.
2. Whether Pulte must comply with CME Technical Memo (SB-7) Comment E2 and Bignell Review Memo (SB-10) Comment 7D and provide a minimum 1.0 foot-candle lighting intensity along the entire length of sidewalks and pedestrian walkways, or if the provided minimum 0.2 foot-candle minimum lighting (in certain areas), which is acceptable per the IESNA standard, is adequate. See testimony from Ms. Goldman at 6T:139:15-20.
3. Whether the driveways are an adequate size. They must be 20' x 18' deep to count as 3.5 spaces. The proposed driveways are 18 feet wide as amended and are calculated to provide 3 parking spaces. See Bignell Review Memo (SB-10) Comment 7B and P-69.
4. Whether the pedestrian walkways need to be elevated 6" pursuant to Bignell Review Memo (SB-10) Comment 7B. There is no such requirement in the RSIS.

5. Whether Pulte is required to comply with Ordinance §62-248(b), Stream Corridor Protection to show the 100-year flood elevation and provide a fifty (50) foot conservation easement from the top of bank or 50' landward from the 100-year flood line or the limit of the NJDEP wetlands, whichever is greater, or whether Pulte's compliance with all applicable NJDEP regulations is adequate. See to Bignell Review Memo (SB-10) Comment 8D.
6. Whether the proposed aluminum fence for the top of retaining walls of a certain height is appropriate and representative of sound planning. See Clarke Caton Hintz Review Memo (SB-5) Comment 6.4 and P-93.
7. Whether Pulte has appropriately shielded the light from spill over onto adjacent properties. See Clarke Caton Hintz Review Memo (SB-5) Comment 8.4.

O. Whether the Applicant Needs to Submit Revised Plans Before Resolution Compliance.

1. Whether Pulte must submit further revised plans and documentation of approval or exemption from all outside agencies before action be taken on this application. See Bignell Review Memo (SB-10) Comment 12.

**PART II - STIPULATIONS OF PULTE HOMES, LLC, TOWNSHIP OF SOUTH BRUNSWICK
AND PLANNING BOARD**

November 14, 2019 Review Letter (Traffic) from David J. Samuel, PE (CME)

- 1. - 2. Informational, no response required.
- 3. Stipulated to. See P-69.
- 4. Stipulated to. See P-69, P-72 and P-78. See also testimony from Mr. Rached at 3T:133-136; 4T:22-25.
- 5. - 8. Stipulated to. See P-69.

November 14, 2019 Review Letter (Technical Review) from David J. Samuel, PE (CME)

- A1. - A3. Stipulated to. See P-69.
- A4. Stipulated to. See P-69., P-78 and P-76.
- A5. - A7 Stipulated to. See P-69.
- A8. Stipulated to. See P-69, P-83 and P-73.
- A11. Stipulated to. See P-69.
- A13. - A32. Stipulated to. See P-69.
- A33. Stipulated to.
- A34 - A39. Stipulated to. See P-69.
- B1. Informational, no response required.
- B3. - B9. Stipulated to. See P-69.
- B10. Stipulated to. See P-94.
- C1. - C8. Stipulated to. See P-69.
- C9. Stipulated to. See P-94.
- D2. - D11. Stipulated to. See P-69.
- D12. Stipulated to. See P-94.
- D13. - D16. Stipulated to. See P-69.
- D17. Stipulated to. See P-69 and P-78.
- D22. Stipulated to. See P-69.
- D24. - D55. Stipulated to. See P-69.
- F1. - F7. Stipulated to. See P-69.

F10. - F11. Stipulated to. See P-69.

F12. Stipulated to. See P-94.

November 15, 2019 Memo from Bryan B. Bidlack

I. – IV. Informational, no response required.

V.A. - V.D. Informational, no response required.

E1. - E9. Stipulated to. See P-69.

E10. Informational, no response required.

E11. - E12. Stipulated to. See P-69. F1. – F17. Stipulated to. See P-69.

G. No response required.

H. Stipulated to. See P-69.

I1. Stipulated to. See P-69 and P-85.

J1. - J5. Stipulated to. See P-69.

Parks 1 – Parks 4 Stipulated to. See P-69.

Recycling 1- Recycling 2 Stipulated to. See P-69.

Recycling 3 – Recycling 4 Stipulated to. See P-69. See also testimony from Mr. Lange at 1T:198-201.

K. - L. No response required.

M. Stipulated to. See P-69. See also testimony from Mr. Lange at 1T:72, 73, 209; 2T:53-55, 57-58; 3T:42-43 and testimony from Mr. Rached at 3T:139, 143; 4T:10-11, 86-87.

N. No response required.

O.A.1. – O.A.2. Stipulated to. See P-69.

November 15, 2019 Memo from Mary Beth Lonergan, PP, AICP and Emily Goldman, PP, AICP, Clarke Caton Hintz

1. - 4. Informational, no response required.

5.1 – 5.3 Stipulated to. See P-69.

5.5 - 5.6 Stipulated to. See P-69.

5.8 – 5.10 Stipulated to. See P-69.

5.13 Stipulated to. See P-93.

5.14 Stipulated to. See P-69.

5.15 - 5.16 No response required.

6.1 – 6.2 Stipulated to. See P-69, P-93

6.5 - 6.6 No response required.

6.7 Stipulated to. See P-93.

6.8 – 6.9 Stipulated to. See P-69.

6.10 Stipulated to subject to the final review of either the Township Engineer or a third-party engineer (whichever is performing Resolution Compliance), and if there is a dispute the SHO should resolve. See P-69.

7.1 – 7.5 Stipulated to. See P-69.

7.6 Stipulated to. See P-69.. See also testimony from Ms. McCaffrey at 3T:74, 80.

7.7 - 7.8 Stipulated to. See P-69.

7.9 Stipulated to. See P-75.

8.1 – 8.3 Stipulated to. See P-69.

8.5 - 8.6 Stipulated to. See P-69.

9.1 - 9.3 Stipulated to. See P-69, P-31 and P-95.

11.1 Stipulated to. See P-69.

11.2 - Stipulated to. See P-69.

11.3 No response required.

12.1 – 12.3 Stipulated to. See P-69.

12.4 Stipulated to. See P-69 and P-84.

12.5 No response required.

12.4 Stipulated to. See P-96 and Ms. Lonergan's testimony at 6T:156:15-160:4.

12.6 - 12.7 Stipulated to. See P-69 and P-74.

12.8 Stipulated to.

12.9 - 12.14 Stipulated to. See P-69 and P-74.

November 13, 2019 Memo from Henry Bignell, PP, Bignell Planning Consultants, Inc.

1. – 5. Informational, no response required.

6.A. – 6.B No response required.

7.A. Stipulated to. See P-69

7.C. No response required.

8.A. No response required.

8.C. Stipulated to. See P-69.

9. Stipulated to. See P-31 and P-95.

10. No response required.

11.A. Stipulated to. See P-69 and P-76.

11.B Stipulated to. See P-69. See also testimony from Mr. Lange at 1T:41-48.

11.C Stipulated to. See P-69. See also testimony from Mr. Lange at 1T:42 and testimony from Ms. McCaffrey at 3T:64.

11.D. Stipulated to. See P-69.

11.E. Stipulated to. See P-69 and P-74.

11.F. – 11.Q. Stipulated to. See P-69.

11.S. - 11.W. Stipulated to. See P-69.

11.Y. Stipulated to. See P-69.

11.AA. Stipulated to. See P-69. See also testimony from Ms. McCaffrey at 3T:83-85.

11.BB– 11.EE Stipulated to. See P-69.

11.FF Stipulated to. See P-69. See also testimony from Ms. McCaffrey at 3T:74, 80.

11.GG – 11.HH. Stipulated to. See P-69.

11.II Stipulated to. See Exhibit P-85. See also testimony from Mr. Lange at 3T:6-10 and testimony from Mr. Rached at 4T:14-15, 17-21.

11.JJ. Stipulated to. See P-69. See also testimony from Mr. Lange at 1T:192-201; 2T:14-15.

11.KK – 11.MM – Stipulated to. See P-69.

11.NN – Stipulated to. See P-69, P-83 and P-73.

11.OO – 11.PP Stipulated to. See P-69.

November 8, 2019 Memo from Wayne D. Simpson, PE, Richard A. Alaimo Associates

a. – r. Stipulated to. See P-69.

Stipulation Regarding Access to the Development From Major Road

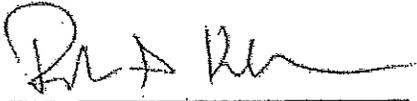
The Applicant agrees to provide a left-turn lane on Major Road for access to the proposed development as depicted on Exhibit P-91.

Additional Stipulations

The parties have stipulated to the location of affordable housing resident parking spaces as being within a reasonable walking distance of the affordable units they are designed to serve. See P-93.

The undersigned hereby agree that the above represents the open issues to be resolved by the Special Hearing Officer and the Stipulations of the parties in the pending builder's remedy application for preliminary and final site plan approval.

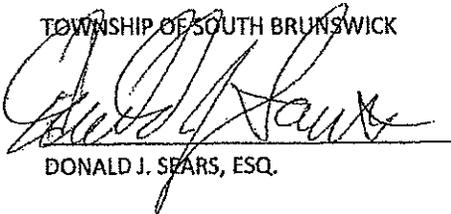
BISGAIER HOFF, LLC
Attorneys for Pulte Homes, LLC



ROBERT A. KASUBA, ESQ.

Dated: June 26, 2020

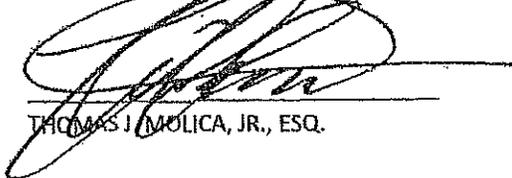
TOWNSHIP OF SOUTH BRUNSWICK



DONALD J. SEARS, ESQ.

Dated: June 26, 2020

VOGEL, CHAIT, COLLINS AND SCHNEIDER, P.C.
Attorneys for Planning Board of the Township of South Brunswick



THOMAS J. MOLICA, JR., ESQ.

Dated: June 26, 2020

MASER
LANDSCAPE ARCHITECTS
1000 W. 10TH AVENUE, SUITE 100
DENVER, CO 80202
TEL: 303.733.1100
WWW.MASERLANDSCAPE.COM

NO. OF SHEETS	16
SHEET NO.	16
PROJECT NO.	19-001
DATE	02/16/2021
SCALE	AS SHOWN
PROJECT NAME	THE HARBOR AT SOUTH HANCOCK
CLIENT	THE HARBOR AT SOUTH HANCOCK
DESIGNED BY	MASER
CHECKED BY	[Signature]
DATE	02/16/2021

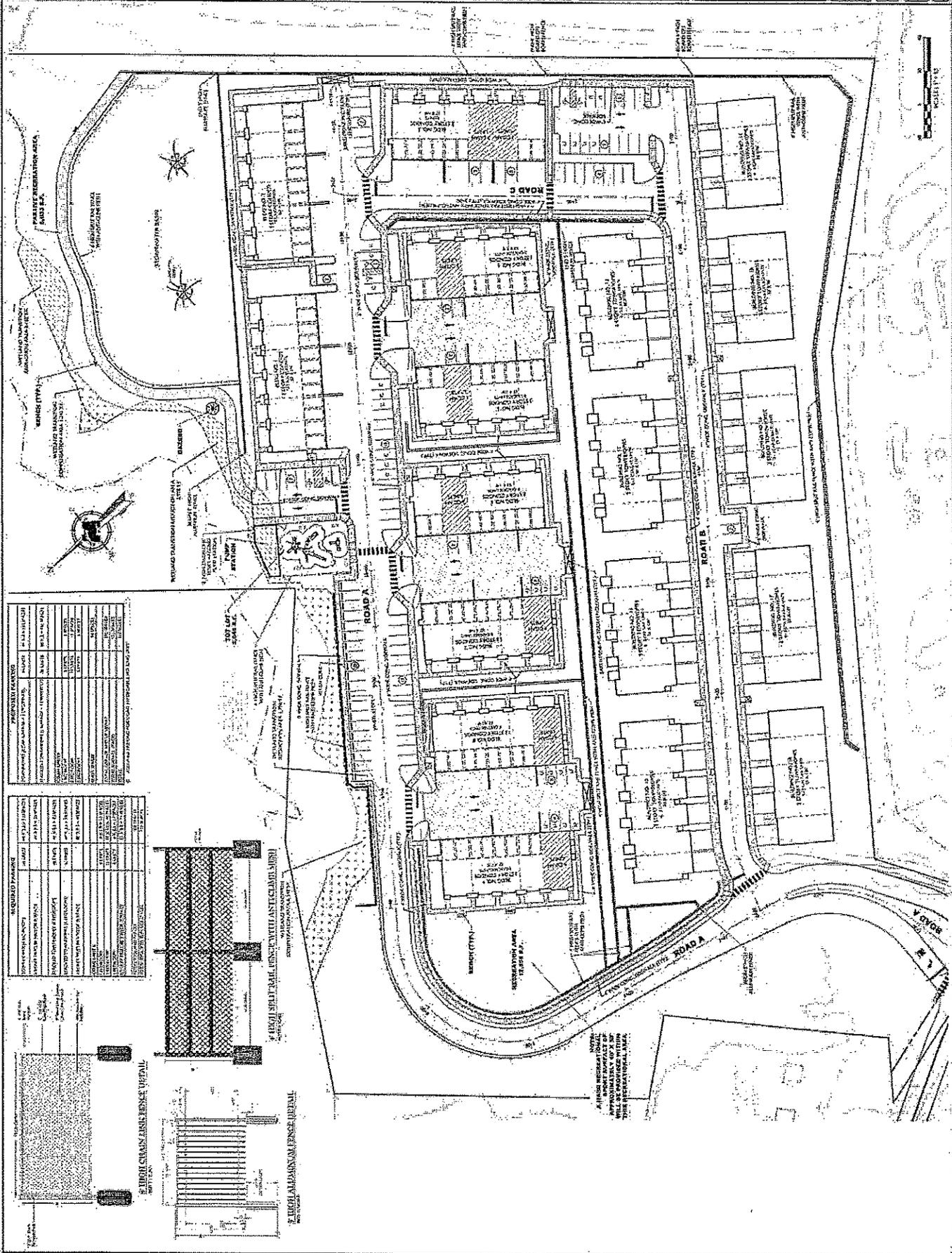
THE HARBOR AT SOUTH HANCOCK

PROJECT NO. 19-001

DATE: 02/16/2021

LANDSCAPE ARCHITECT

NO. 1000 W. 10TH AVENUE, SUITE 100
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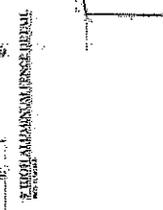
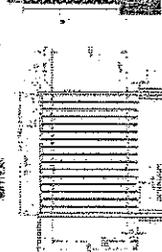
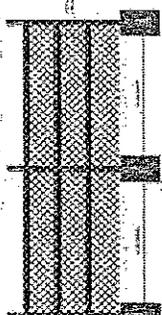


PROPOSED FINISHES

FINISH	LOCATION	NOTES
Concrete	Walkways, Driveways	See Section 05100
Asphalt	Parking Areas	See Section 05200
Grass	Lawns, Open Areas	See Section 05300
Gravel	Drainage Areas	See Section 05400
Stone	Decorative Elements	See Section 05500
Brick	Patios, Walkways	See Section 05600
Wood	Decks, Walkways	See Section 05700
Stucco	Exterior Walls	See Section 05800
Paint	Interior Walls, Ceilings	See Section 05900
Tile	Bathrooms, Kitchens	See Section 06000
Carpet	Offices, Conference Rooms	See Section 06100
Hardwood	Residential Units	See Section 06200
Linoleum	Kitchens, Bathrooms	See Section 06300
Marble	Reception Areas	See Section 06400
Granite	Kitchen Countertops	See Section 06500
Quartz	Kitchen Countertops	See Section 06600
Glass	Partitions, Windows	See Section 06700
Acoustic	Ceiling Tiles	See Section 06800
Drop	Ceiling Tiles	See Section 06900
Plaster	Interior Walls	See Section 07000
Drywall	Interior Walls	See Section 07100
Insulation	Roofs, Walls	See Section 07200
Membrane	Roofs, Foundations	See Section 07300
Grout	Tile, Stone	See Section 07400
Sealant	Joints, Windows	See Section 07500
Adhesive	Tile, Stone	See Section 07600
Fasteners	Roofs, Walls	See Section 07700
Paint	Exterior Walls	See Section 07800
Stain	Wood	See Section 07900
Sealer	Wood	See Section 08000
Finish	Concrete	See Section 08100
Coat	Concrete	See Section 08200
Membrane	Concrete	See Section 08300
Grout	Concrete	See Section 08400
Sealant	Concrete	See Section 08500
Adhesive	Concrete	See Section 08600
Fasteners	Concrete	See Section 08700
Paint	Concrete	See Section 08800
Stain	Concrete	See Section 08900
Sealer	Concrete	See Section 09000
Finish	Concrete	See Section 09100
Coat	Concrete	See Section 09200
Membrane	Concrete	See Section 09300
Grout	Concrete	See Section 09400
Sealant	Concrete	See Section 09500
Adhesive	Concrete	See Section 09600
Fasteners	Concrete	See Section 09700
Paint	Concrete	See Section 09800
Stain	Concrete	See Section 09900
Sealer	Concrete	See Section 10000

REQUIRED FINISHES

FINISH	LOCATION	NOTES
Concrete	Walkways, Driveways	See Section 05100
Asphalt	Parking Areas	See Section 05200
Grass	Lawns, Open Areas	See Section 05300
Gravel	Drainage Areas	See Section 05400
Stone	Decorative Elements	See Section 05500
Brick	Patios, Walkways	See Section 05600
Wood	Decks, Walkways	See Section 05700
Stucco	Exterior Walls	See Section 05800
Paint	Interior Walls, Ceilings	See Section 05900
Tile	Bathrooms, Kitchens	See Section 06000
Carpet	Offices, Conference Rooms	See Section 06100
Hardwood	Residential Units	See Section 06200
Linoleum	Kitchens, Bathrooms	See Section 06300
Marble	Reception Areas	See Section 06400
Quartz	Kitchen Countertops	See Section 06500
Glass	Partitions, Windows	See Section 06700
Acoustic	Ceiling Tiles	See Section 06800
Drop	Ceiling Tiles	See Section 06900
Plaster	Interior Walls	See Section 07000
Drywall	Interior Walls	See Section 07100
Insulation	Roofs, Walls	See Section 07200
Membrane	Roofs, Foundations	See Section 07300
Grout	Tile, Stone	See Section 07400
Sealant	Joints, Windows	See Section 07500
Adhesive	Tile, Stone	See Section 07600
Fasteners	Roofs, Walls	See Section 07700
Paint	Exterior Walls	See Section 07800
Stain	Wood	See Section 07900
Sealer	Wood	See Section 08000
Finish	Concrete	See Section 08100
Coat	Concrete	See Section 08200
Membrane	Concrete	See Section 08300
Grout	Concrete	See Section 08400
Sealant	Concrete	See Section 08500
Adhesive	Concrete	See Section 08600
Fasteners	Concrete	See Section 08700
Paint	Concrete	See Section 08800
Stain	Concrete	See Section 08900
Sealer	Concrete	See Section 09000



NOTE:
A FINISH RECREATION AREA
APPROXIMATELY 100' X
WILL BE PROVIDED WITHIN
THE RECREATION AREA.



COFONE CONSULTING GROUP, LLC

CHRISTINE A. COFONE, PP, AICP
Principal

January 19, 2021

Honorable Michael V. Cresitello, Jr., J.S.C.
Superior Court of New Jersey
Middlesex County Courthouse
56 Paterson Street
P.O. Box 964
New Brunswick, NJ 08903-0964

**RE: I/M/O Township of South Brunswick Docket No. MID-L-4433-17 **
AvalonBay Communities/Pulte Homes of NJ, LP site plan application

Dear Judge Cresitello:

Together with Special Hearing Officer (SHO) Briigliodoro, I have reviewed the comments received from both the Township of South Brunswick as well the office of Bisgaier Hoff, attorney for Plaintiff-Intervenor AvalonBay Communities, Inc. "AvalonBay", both dated December 4th, 2020. The aforementioned responses provide comments/objections to SHO Briigliodoro's November 20, 2020 Proposed Findings and Recommendations. The purpose of this letter is to provide the Court with our collective findings (mine together with SHO Briigliodoro's) relative to the submissions received.

With respect the Bisgaier Hoff Submission four areas of concern were raised and are identified as follows:

1. Application of Sewer Ordinances 2018-28 and 2018-30.

Combined SHO & Special Master Response: We concur with the position that there should be a cap on the repair costs that Pulte is responsible for.

125 Half Mile Road, Suite 200 • Red Bank, New Jersey 07701 • Office: 732.933.2715 • Fax: 732.933.2601 • Cell: 732.439.6400

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CHRISTINE A. COFONE, PP, AICP
Principal

COFONE CONSULTING GROUP, LLC

2. The Requirement to Provide Aluminum Fencing Uniformly Throughout the Development.

Combined SHO & Special Master Response: As the additional cost of \$41,600.00 has now been quantified, and the Township's concern over longevity addressed by the fact the western post fence would be treated lumber and last ten (10) to fifteen (15) years, we take no exception to the installation of the western post fence. Likewise, this will avoid unduly cost generative requirements being imposed on this application.

3. The Recommendation that the Township Oversee Resolution Compliance.

Combined SHO & Special Master Response: While we appreciate the desire to offer independent professional reviews, the Township's professionals and staff have brought a level of familiarity, history and professionalism due to their longstanding relationship with the Township. Likewise, the Township's professionals and staff have continued to provide their comments, even when there were dissenting opinions, in a professional manner. Should this oversight be outsourced, a multiplicity of firms would be required to address and oversee the various disciplines governing this project. Moreover, the learning curve to review the file would be unnecessary and excessive. As such, the recommendation for the Township to oversee and perform resolution compliance remains unchanged.

4. The Requirement to Provide Additional Recreation.

Combined SHO & Special Master Response: It is agreed that beyond working with the Special Master to provide more recreational opportunities within the designated recreational areas at a reasonable cost, Pulte should not be required to provide additional recreational areas within its inclusionary project.

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Principal

With respect to the Township Submission two areas of concern were identified:

- 1. Whether there is safe and efficient vehicular access to the proposed inclusionary development, including the proposed improvements to Major Road, which include an improvement to the horizontal and vertical geometry of Major Road to improve sight distances, with a right turn out only restriction and the addition of a dedicated left turn lane, and whether the proposed improvements to Major Road are appropriate in light of the current, posted 35 mph speed limit for Major Road.**

Combined SHO & Special Master Response: While there may be traffic flow benefits and enhancements which would be realized by a connection to Rt. 1, it is an unnecessary burden to place this requirement on the developer. Further, the developer does not control the land to effectuate this connection at this. Moreover, the Township has approved projects at higher density on the very same site without such a connection. Mr. Rached's testimony was compelling and credible and as such no modifications to SHO Briigliadoro's November 20, 2020 Proposed Findings and Recommendations are being offered.

- 2. Whether the proposed inclusionary development is considered a permitted use for purposes of evaluating the relevance of the existing traffic conditions in the vicinity of the site, including the operation and levels of service of the Route 1 and Major Road / Sand Hills Road intersection.**

Combined SHO & Special Master Response: It is clear from the governing court orders that all applications be deemed "fully conforming applications" and as such shall be considered a permitted use for all purposes, including evaluating traffic conditions.

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CHRISTINE A. COFONE, PP, AICP
Principal

COFONE CONSULTING GROUP, LLC

Should you wish to discuss the enclosed please do not hesitate to reach out.

Very truly yours,

Christine A. Nazzaro-Cofone, PP/AICP
South Brunswick Special Master

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G. WINDSOR ASSOCIATES
DEP NOTICE OF WQMP AMENDMENT

54 N.J.R. 1447(a)

Copy Citation

VOLUME 54, ISSUE 14, JULY 18, 2022

PUBLIC NOTICES

Reporter

54 N.J.R. 1447(a)

- [NJ - New Jersey Register](#)
- [2022](#)
- [JULY](#)
- [JULY 18, 2022](#)
- [PUBLIC NOTICES](#)
- [ENVIRONMENTAL PROTECTION -- WATERSHED AND LAND MANAGEMENT](#)

Agency

ENVIRONMENTAL PROTECTION > WATERSHED AND LAND MANAGEMENT > DIVISION OF WATERSHED PROTECTION AND RESTORATION

Text

Adopted Amendment to the Lower Raritan/Middlesex County Water Quality Management Plan

Take notice that on June 10, 2022, pursuant to the provisions of the New Jersey Water Quality Planning Act, N.J.S.A. 58:11-1 et seq., and the Water Quality Management Planning rules, N.J.A.C. 7:15, the New Jersey Department of Environmental Protection (Department) adopted an amendment to the Lower Raritan/Middlesex County Water Quality Management (WQM) Plan. The amendment, identified as South Ridge Hills--Section 2C (Program Interest No. 435463, Activity No. AMD180007), expands the Middlesex County Utilities Authority (MCUA) Sewage Treatment Plant (STP) sewer service area (SSA) by 4.7 acres to serve a proposed residential development on Block 85, Lot 17.014 (portion), South Brunswick Township, Middlesex County. The proposed project consists of 30 one-bedroom apartments, 52 two-bedroom apartments, and two three-bedroom apartments. As calculated in accordance with N.J.A.C. 7:14A-23.3, the proposed project will generate a projected wastewater flow of 16,800 gallons per day (gpd), to be received by the MCUA STP, New Jersey Pollutant Discharge Elimination System (NJPDES) Permit #NJ0020141.

Preliminary notice was published in the New Jersey Register on February 22, 2022, at 54 N.J.R. 384(a), and a public hearing was held by Middlesex County, as the Designated Planning Agency, on March 30, 2022. No comments were received during the public comment period. This notice represents the Department's determination that the amendment is compliant with the regulatory criteria at N.J.A.C. 7:15, as described below.

In accordance with N.J.A.C. 7:15-3.5(g)6, the Department instructed the applicant to request written statements of consent from South Brunswick Township (Township) and the MCUA. The South

Brunswick Township Manager issued a letter on February 24, 2022, indicating that [page=1448] South Brunswick Township Resolution 2020-206, adopted on June 23, 2020, should be considered the Township's response to the request for a statement of consent for the proposed amendment. The MCUA adopted Resolution WW-3-22-9-R on March 22, 2022, consenting to the proposed amendment. The Middlesex County Board of County Commissioners, as the designated WQM Planning Agency, adopted Resolution 22-677-R on May 5, 2022, approving the proposed amendment.

In accordance with N.J.A.C. 7:15-3.3(b), site specific amendments are limited to proposed alterations to the eligible SSAs needed to address a specific project or activity. N.J.A.C. 7:15-3.5(j)2 requires that site specific amendments proposing to add 100 or more acres or generating 20,000 gpd or more of wastewater flow must update the wastewater treatment capacity analysis prepared in accordance with N.J.A.C. 7:15-4.5(b), to include the proposed project or activity. The proposed project involves less than 100 acres and will generate less than 20,000 gpd of wastewater flow; therefore, update of the wastewater treatment plant capacity analysis is not required.

Pursuant to N.J.A.C. 7:15-4.4(d), the following are not eligible for delineation as SSAs, except as otherwise provided at N.J.A.C. 7:15-4.4(i), (j), (k), and (l): environmentally sensitive areas (ESAs) identified pursuant to N.J.A.C. 7:15-4.4(e), as any contiguous area of 25 acres or larger consisting of any of the following features, alone, or in combination: endangered or threatened wildlife species habitat, Natural Heritage Priority Sites, riparian zones of Category One (C1) waters and their tributaries, or wetlands; coastal planning areas identified at N.J.A.C. 7:15-4.4(f); and ESAs subject to 201 Facilities Plan grant conditions pursuant to N.J.A.C. 7:15-4.4(g). The Department conducted an evaluation of the project site using a GIS shapefile provided by the applicant compared to the Department's GIS data layers available at <http://www.nj.gov/dep/gis/listall.html> and/or other information as noted below, to determine the presence of any such areas, in accordance with N.J.A.C. 7:15-4.4(e), (f), and (g), and made the following findings:

- The Department determined that the expanded SSA does not contain any areas mapped as endangered or threatened wildlife species habitat Rank 3, 4, or 5 on the Department's Landscape Maps of Habitat for Endangered, Threatened or Other Priority Wildlife based on the "Landscape Project Data" Version 3.3 GIS data layers, in accordance with N.J.A.C. 7:15-4.4(e)1.
- The Department determined that the expanded SSA does not contain any areas mapped as Natural Heritage Priority Sites based on the "Natural Heritage Priority Sites" GIS data layer, in accordance with N.J.A.C. 7:15-4.4(e)2.
- The Department determined that the expanded SSA does not contain any C1 waters or 300-foot riparian zones along any C1 waters or upstream tributaries within the same HUC-14 watershed of any C1 waters based on the "Surface Water Quality Standards" GIS data layer, in accordance with N.J.A.C. 7:13-4.1(c)1 and 7:15-4.4(e)3.
- The Department determined that there are wetlands located on the proposed project site based on the "Wetlands 2012" GIS data layer, in accordance with N.J.A.C. 7:15-4.4(e)4; however, pursuant to N.J.A.C. 7:15-4.4(j)3, the applicant has provided a Freshwater Wetlands Letter of Interpretation (LOI)/Line Verification File # 1221-07-0019.1 FWW180001 confirming that there are no wetlands within the expanded sewer service area.

● The Department determined that the expanded sewer service area does not contain any Coastal Fringe Planning Areas, Coastal Rural Planning Areas, or Coastal Environmentally Sensitive Planning Areas mapped on the CAFRA Planning Map based on the "CAFRA Layers" GIS layer, in accordance with N.J.A.C. 7:15-4.4(f).

● The Department determined that there are no 201 Facilities Plan grant conditions applicable to the project site based on the U.S. Environmental Protection Agency (USEPA) list of New Jersey Grantees with ESA Grant Conditions at <http://www.epa.gov/npdes-permits/environmentally-sensitive-area-esa-grant-condition-waiver-program-region-2>, in accordance with N.J.A.C. 7:15-4.4(g).

Pursuant to N.J.A.C. 7:15-4.4(h)1 and 2, the Department considered the land uses allowed in adopted zoning ordinances, future land uses shown in adopted municipal or county master plans, and other local land use objectives. On February 4, 2021, the South Brunswick Township Planning Director/Deputy Township Manager issued a letter stating that the land use of the proposed project is consistent with the land use identified in the South Brunswick Township zoning ordinances and master plan for this site. The Middlesex County Department of Planning notified the Department that it will not confirm or deny consistency of a proposed amendment with the county master plan until it updates its plan, which has been in effect since 1969.

Sewer service is not guaranteed by adoption of this amendment since it represents only one part of the permit process and other issues may need to be addressed. Inclusion in the SSA as a result of the approval of this amendment does not eliminate the need to obtain all necessary permits, approvals, or certifications required by any Federal, State, county, or municipal review agency with jurisdiction over this project/activity.

NEW JERSEY REGISTER

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H. WILSON FARM/JAYNAR
RESOLUTION OF PRELIMINARY
SITE PLAN APPROVAL

RESOLUTION

SOUTH BRUNSWICK PLANNING BOARD

WHEREAS, Jaynar Construction has made an application to the South Brunswick Planning Board, File No. 20-035, for preliminary major subdivision and preliminary site plan approval together with design waivers or exceptions to construct 212 senior affordable housing units, a 180 bed long term care facility and dialysis unit not to contain more than twenty (20) beds, on a 17.74 acre site in the Wilson Farm Redevelopment Area and designated on the Tax Map of the Township of South Brunswick as Block 96.24, Lots 24.023, 24.024, and 24.025; and

WHEREAS, public hearings were held on this matter on March 3, 2021, April 28, 2021, June 23, 2021, and July 7, 2021; and,

WHEREAS, the Applicant submitted the following documents in support of the application:

- **Preliminary Major Subdivision and Site Plan**: dated July 24, 2020, consisting of thirty (30) sheets, prepared by Menlo Engineering;
- **Stormwater Report**: dated July 24, 2020, *ibid.*;
- **Operation and Maintenance Manual**: dated July 24, 2020, *ibid.*;
- **Refuse and Recycling Plan**: dated July 24, 2020, *ibid.*;
- **Engineer's Report for Potable Sewer Service**: dated July 24, 2020, *ibid.*;
- **Engineer's Report for Potable Water Service**: dated July 24, 2020, *ibid.*;
- **Fire Protection Plan**: dated July 24, 2020, consisting of one (1) sheet, *ibid.*;

- **Flood Hazard Plan:** revised through September 3, 2020, consisting of two (2) sheets, prepared by Menlo Engineering;
- **Cross Sections:** dated April 26, 2020, consisting of nine (9) sheets, *ibid.*;
- **Boundary and Topographic Survey:** dated April 2, 2019, consisting of one (1) sheet, prepared by Control Layouts, Inc.;
- **Traffic Impact Analysis:** dated August 13, 2020, prepared by McDonough & Rea Associates, Inc. and revised May 24, 2021;
- **Architectural Plans:** dated August 7, 2020, consisting of eighteen (18) sheets, prepared by Steven S. Cohen, Architect, P.C.;
- **Architectural Plans:** dated July 24, 2020, consisting of five (5) sheets, prepared by Spiezle Architectural Group;
- **Geotechnical Engineering Report:** dated June, 2020, prepared by Geo-Technology Associates, Inc.;
- **Phase I Environmental Site Assessment:** dated February 5, 2020, prepared by Brilliant Environmental Services, LLC;
- **Flood Hazard Verification Approval Letter:** dated September 25, 2020, prepared by NJDEP;
- **Existing Conditions Exhibit:** marked into evidence at the March 3, 2021, meeting as Exhibit “A-1”;
- **Proposed Site Plan Superimposed on Google Aerial Image:** marked into evidence at the March 3, 2021, meeting as Exhibit “A-2”;
- **Apartment Rendering Slide:** marked into evidence at the March 3, 2021, meeting as Exhibit “A-3”;

- **Residential Building Image:** view from the common building to the North, marked into evidence at the March 3, 2021, meeting as Exhibit “A-4”;
- **Residential First Floor Plan:** marked into evidence at the March 3, 2021, meeting as Exhibit “A-5”;
- **Residential Typical Floor Plan:** marked into evidence at the March 3, 2021, meeting as Exhibit “A-6”;
- **Residential BlowUp First Level:** marked into evidence at the March 3, 2021, meeting as Exhibit “A-7”;
- **Residential BlowUp Second Level:** marked into evidence at the March 3, 2021, meeting as Exhibit “A-8”;
- **Residential BlowUp Third Level:** marked into evidence at the March 3, 2021, meeting as Exhibit “A-9”;
- **Residential Elevation:** marked into evidence at the March 3, 2021, meeting as Exhibit “A-10”;
- **Residential Elevation:** marked into evidence at the March 3, 2021, meeting as Exhibit “A-11”;
- **Residential Unit Types:** marked into evidence at the March 3, 2021, meeting as Exhibit “A-12”;
- **Residential BlowUp Façade Entries:** marked into evidence at the March 3, 2021, meeting as Exhibit “A-13”;
- **Residential BlowUp Lot C:** marked into evidence at the March 3, 2021, meeting as Exhibit “A-14”;

- **Long Term Facility Lower Level:** architectural drawings marked into evidence at the March 3, 2021, meeting as Exhibit “A-15”;
- **Long Term Facility Main Level:** architectural drawings marked into evidence at the March 3, 2021, meeting as Exhibit “A-16”;
- **Long Term Facility Second Level:** architectural drawings marked into evidence at the March 3, 2021, meeting as Exhibit “A-17”;
- **Long Term Facility Third Level:** architectural drawings marked into evidence at the March 3, 2021, meeting as Exhibit “A-18”;
- **Long Term Facility Colored Architectural Drawings:** marked into evidence at the March 3, 2021, meeting as Exhibit “A-19”;

WHEREAS, the Applicant presented the following witnesses to testify in support of the application; and

1. A. Joseph Stern and Zev Stern, the Principals of the Applicant, and;
2. Scott Turner, the Applicant’s Professional Engineer, and;
3. John Rea, the Applicant’s Professional Traffic Engineer; and,
4. Steven Cohen, the Applicant’s Licensed Architect; and,
5. Steve Leone, the Applicant’s Licensed Architect.

WHEREAS, after considering the evidence presented in support of the application, several comments from the public, and after considering the reports and comments from the Board’s professionals, the South Brunswick Planning Board made the following findings:

1. The subject property is a trapezoidal lot containing parallel lines, located on Route 27, opposite Barbieri Court. The lot is wooded and vacant. A wetland and stream corridor exists at the rear (south) property line.
2. The Applicant proposes to develop the lot with age restricted affordable housing and a separate skilled nursing facility.
3. The Applicant is proposing to construct two (2) "L" shaped, aged restricted buildings on the central and east portions of the lot. The buildings will be connected by a breezeway and central clubhouse building. The proposed residential dwellings will be three (3) story buildings and contain 212 apartment units.
4. The Applicant is proposing to construct paved parking along the Route 27 frontage of the site. The Applicant is also proposing lighting and landscaping improvements, and a stormwater detention basin behind the apartment buildings. All developments will be performed outside the wetlands and buffer areas on the south rear portion of the site.
5. The Applicant is proposing to construct a three story skilled nursing facility on the west side of the lot. The facility will contain 180 beds and a dialysis facility which will not contain more than twenty (20) beds. The building will be designed with a central corridor and six wings. The Applicant is also proposing paved parking, driveways, and loading area to be located around the building.
6. The Applicant has submitted a subdivision plan that will create three (3) lots. Each lot will be rectangular and will consist of 5 to 6 acres.
7. The Applicant is proposing three (3) separate driveway connections along the Route 27 frontage of the site. The Applicant is willing to install a new signalized intersection at

Barbieri Court, provided all necessary permits and approvals for such signal are obtainable and obtained including but not limited to approval from NJDOT.

8. The Wilson Farm amended redevelopment plan established the need for affordable, age restricted (multi-unit) housing and skilled nursing on this site. The proposed plan is consistent with the goals of the Township's master plan, including the housing element and third round fair housing plan.
9. One of the proposed lots will contain the proposed skilled nursing facility. Two of the proposed lots will serve two multifamily apartment buildings.
10. The proposed redevelopment plan permits 100% affordable one-bedroom apartment dwellings for senior citizens. At least eighty (80%) percent of occupancy shall be reserved exclusively for occupancy by at least one person, 55 years or older. No more than twenty (20%) percent of the units may be set aside and affirmatively marketed to persons younger than 55 years of age. Children less than 19 years old shall not be permitted to permanently reside in these units. A maximum of three (3) market rate units may be designated solely for use by a site superintendant/site manager/on-site employees.
11. Long term care units and medical services are permitted uses under the Redevelopment Plan.
12. The Applicant will require 302 parking spaces. The Applicant is providing 316 shared parking spaces.
13. Mr. Turner, the Applicant's Professional Engineer, testified that he is familiar with the Applicant's proposal. He states that he prepared the submitted plans. Mr. Turner testified that the Applicant is proposing to construct two (2) three-story age restricted buildings containing a total of 212 dwelling units and one (1) three-story skilled nursing

facility consisting of 180 beds and dialysis facility with no more than 20 beds in accordance with the submitted plans.

14. Mr. Turner testified that the skilled nursing facility will occupy the southern portion of the property. He stated that the facility will be served by a right-in/right-out driveway from the north bound lanes of Route 27, south of Barbieri Court, and a full access driveway opposite of Barbieri Court.
15. Mr. Turner testified that the two age restricted apartment buildings will be served by the same full movement driveway, opposite of Barbieri Court. He stated that the Applicant is also proposing a right-in/right-out driveway at the northern end of the property.
16. Mr. Turner testified that 302 parking spaces are required. He stated that the Applicant is providing 318 shared parking spaces. Mr. Turner opined that the provided parking will adequately address the Applicant's need.
17. The use of this site was authorized via an Amended Redevelopment Agreement dated October 22, 2019.
18. The proposed development is compliant with all Township bulk requirements.
19. Mr. Turner testified as to the existing conditions of the site. He stated that the site is located on the east side of New Jersey State Route 27. The property has approximately 1,500 ft. of frontage along Route 27. He testified that the property is wooded and vacant. Mr. Turner noted that the property contains wetlands and a stream currently at the rear of the property.
20. Mr. Turner provided background regarding the development history, with reference to Exhibit A-1, and advised that the site consists of 17.71 acres. He explained the existing conditions at the site. He testified that the property is vacant and has 1,500 ft. of frontage

along the east side of Route 27. Mr. Turner testified that there is a single family residential community located to the north of the site. He also noted that there are commercial and retail uses surrounding the site.

21. Mr. Turner stated that the property contains a water course known as Ten Mile Run. He noted there is a flood plain and a Delaware Raritan Canal Commission 100 ft. buffer requirement. Mr. Turner noted the site's prior use as a farm and testified that it is currently owned by the Township.
22. Mr. Turner testified that the subject zoning standards were established in the Wilson Farm Amended Redevelopment Plan.
23. Mr. Turner, with reference to the proposed preliminary site plan, Exhibit "A-2", reiterated the existing conditions and testified to the Applicant's proposed plan. He testified that the Applicant is seeking subdivision approval and preliminary major site plan approval to subdivide the property into three (3) parcels and to construct three (3) individual buildings. Mr. Turner testified that proposed Lot A, which is located on the westerly side of one property, will contain 5.52 acres and contain a three-story, 180 bed skilled nursing facility. He noted that the skilled nursing facility will contain the proposed dialysis center. Mr. Turner stated proposed Lot B will consist of 6.02 acres and contain one (1) three-story, 111 unit age restricted apartment building. He stated that 110 of the proposed 111 age restricted units will be one-bedroom units, and one (1) of the units will be a three-bedroom manager unit. Mr. Turner testified that proposed Lot C, which will be located on the easterly parcel, will consist of 6.20 acres and will contain one (1) three-story residential building consisting of 101 age restricted apartment units.

One hundred of the age restricted units will be one bedroom units, and one unit will be a three-bedroom manager unit.

24. Mr. Turner testified as to site circulation, advising that proposed Lot A will possess site access from Route 27. He stated the access drive will be right in/right out. Mr. Turner noted the proposed driveway will be located on the most southerly corner of the lot. Mr. Turner testified that the Applicant is proposing to locate 104 parking spaces on Lot A. Mr. Turner explained site circulation and opined that vehicles can safely navigate the lot.
25. Mr. Turner testified that Lot B, the center lot, will also be accessed via Route 27. He stated that the Applicant is proposing to install a full movement access driveway. Mr. Turner advised that Lot B will contain 116 parking spaces. Mr. Turner testified that proposed Lot C will also have access from Route 27 and be serviced via a right in/right out only access drive. He stated proposed Lot C will contain 98 parking spaces of which 87 spaces will be constructed and 11 spaces will be landbanked for future parking needs, if required.
26. Mr. Turner opined that the proposed parking will adequately address the Applicant's needs. He further opined that the vehicles can safely navigate the site. He stated that the sites interconnect and will accommodate a shared parking arrangement.
27. Under Board member questioning, the Applicant agreed to contact the NJDOT and attempt to obtain approval to install a traffic signal at the location. The Applicant advised that the DOT would not agree to the installation of a new traffic signal in the area.
28. Mr. Turner testified as to the proposed stormwater management plan, advising that the Applicant is proposing to construct a conventional stormwater detention basin.

29. The Applicant's engineer agreed, as a condition of approval, to comply with all requirements of the Township Engineer's report regarding construction, maintenance, and installation of the stormwater detention system and basins.
30. Mr. Turner testified as to the lighting and proposed landscaping plan advising same will be installed in accordance with the submitted plans. Mr. Turner advised that lighting design provides for .5 candle minimum with 2 ft. candle average. Mr. Turner advised that the Applicant requires a waiver of the .5 ft. candle minimum standard at the internal property line. The Board afforded the waiver.
31. Mr. Turner testified that the Applicant is also proposing a road widening plan along Route 27. He stated same will be constructed in accordance with all governmental resolutions.
32. Mr. Turner testified that the Applicant requires two (2) waivers. One for the internal lighting, and the second waiver involves providing elevated sidewalks in areas containing 50 or more parking spaces. He testified that such sidewalks would not be utilized. The Board afforded the waivers.
33. Mr. Rea testified that he is familiar with the Applicant's proposal. He stated that the proposal would create an additional eighty three (83) a.m. peak hour incoming traffic trips, which will consist of nineteen (19) trips into the property, and sixty-four (64) trips exiting the property. Mr. Rea opined that there would be no significant change in the level of service at these roadways. He stated that the access driveways operate at a level of service "A". He opined that there would be "very little" delay of traffic.
34. Mr. Rea testified that his findings indicated existing and proposed access and that the driveways and site circulation are efficient. He testified that the driveway performed at a

level of service “A” and “B”. Mr. Rea explained that a level of service “A” indicates that there is only a minimal vehicle delay. Mr. Rea opined that the site access points, site distance, and general circulation are properly designed for both safety and efficiency.

35. Under Board member questioning, Mr. Rea testified that the Manual on Uniform Traffic Control and Devices has eight warrants. Mr. Rea stated that an application of the requirements indicated that the residential development, absent the commercial development, does not warrant a traffic signal. However, he noted that the manual was only intended to be utilized as a “guide.” Mr. Rea opined that a traffic signal at the center driveway would be beneficial and would be an appropriate mechanism to safely control traffic movements into and out of the site.

36. Under Board member questioning, Mr. Rea stated that the signalization of the intersection would allow for left turn movements.

37. On July 7, 2021, Mr. Rea testified that he, the Planning Board engineer and others participated in a meeting with the NJDOT and advocated for a signalized intersection. However, he testified that it was unlikely that N.J. DOT would permit the Applicant to install a signalized intersection allowing access into the subject property. He advised that the N.J. DOT opined that there was insufficient “warrants” to justify a signalized intersection. The Applicant agreed, as a condition of approval, that should the N.J. DOT later permit a signalized intersection, Applicant will install same in the area in accordance with the recommendations of the Board engineer at the Applicant’s sole cost.

38. The Applicant’s Professional Licensed Architects, Mr. Steven Cohen and Mr. Steven Leone, testified that they are familiar with the Applicant’s proposal and, utilizing exhibits

A4 to A19, explained the proposed buildings architecture. They testified that the buildings will be constructed in accordance with the submitted architectural plans.

WHEREAS, after making the above findings of fact, the South Brunswick Township Planning Board made the following conclusions:

1. The Application is straight forward and did not require extensive discussion.
2. Board members find from the testimony presented, subject to the conditions agreed upon, that the Application advanced the general welfare of the community by promoting the availability of affordable housing.
3. Board members find from the testimony presented, subject to the conditions agreed upon, that the Application promoted the creation of affordable housing within the Township and is consistent with the Township's Master Plan.
4. The Applicant agreed, as a condition of approval, to comply with the recommendations contained in the Bignell report dated March 2, 2021, unless modified herein.
5. The Applicant agreed, as a condition of approval, to comply with the recommendations contained in the Bidlack memo dated June 17, 2021, unless modified herein.
6. The Applicant agreed, as a condition of approval, to comply with the recommendations contained in the CME report dated February 25, 2021, unless modified herein.
7. The Applicant agreed, as a condition of approval, that should the N.J. DOT permit a signalized intersection allowing access into the site in the future, to install and construct same at the Applicant's sole cost.
8. The Applicant agreed, as a condition of approval, that the dialysis unit shall not contain more than twenty (20) beds or chairs, subject to limitation based on testimony at final

- approval. The Applicant further agreed that the hours of operation shall be Monday through Saturday from 6:00 a.m. through 11:00 p.m.
9. The Board finds from the testimony presented, subject to the conditions agreed upon by the Applicant and those imposed by the Board, that the site plan is in substantial compliance with N.J.S.A. 40:55D-38, 39, 41 and 50 and the applicable Township Ordinances, and advances sound land use principals. The Board adopts the testimony given by the Applicant's witnesses, specifically that of the Applicant's Planner and Engineer in this regard.
 10. The Board found, for reasons noted herein and on the record, that because of the existing lot area, the site can be subdivided and continue to independently and functionally operate. Furthermore, the Board found that the subdivision plan allowing for cross access easements and cross maintenance easements for the site allows for potential direct street access, adequate vehicle circulation, and provides sufficient parking.
 11. Board members took note of the professionals' comments and recognized that, in accordance with the Board engineer's recommendation, additional information, data, and studies will be required prior to the Applicant seeking final site plan approval. Board members opined that they were presented adequate information to afford preliminary site plan approval.
 12. Board members noted that the Applicant worked closely with Board professionals to develop an efficient circulation plan and modern building.
 13. Board members further find from the testimony presented, subject to the conditions agreed upon, that the proposed application is consistent with the character of the neighborhood.

NOW, THEREFORE, BE IT RESOLVED by the South Brunswick Township Planning Board that the application by Jaynar Construction, File No. 20-035, for preliminary major subdivision and preliminary site plan approval with design waivers to construct 212 senior affordable housing units, a 180 bed long term care facility, and dialysis unit not to contain more than 20 beds, on a 17.74 acre site in the Wilson Development zone and designated on the Tax Map of the Township of South Brunswick as Block 96.24, Lots 24.023, 24.024, and 24.025, be and is hereby granted, subject to the following conditions subsequent:

1. Granting of the requested relief or subdivision approval or the preliminary site plan approval shall not be construed to eliminate any other requirements of the zoning ordinance and/or other requirements of the Board and authorities of the Township of South Brunswick, County of Middlesex, in the State of New Jersey.
2. Any and all fees properly due and owing the Township and/or Planning Board for hearing the application must be paid in advance of building permits being issued.
3. All conditions contained in the Resolution and in the record of the proceedings in this matter, including any agreements made by the Applicant, were essential to the Board's decision to grant the approvals set forth herein. A breach of any such condition or failure by the Applicant to adhere to the terms of any agreement within the time required may result in the automatic revocation of the within.
4. The subdivision of this parcel shall be perfected and implemented in accordance with the requirements of Municipal Land Use Law and as directed by the Planning Board's engineer in connection with the hearing process, unless herein modified.

5. The Applicant shall comply with the requirements of the CME memo dated February 25, 2021. The Applicant will be afforded a design waiver with respect to Paragraphs A5, A8, D2, and E1 of the CME report dated February 25, 2021.
6. The subdivision shall be implemented in accordance with the subdivision plan prepared by Menlo Engineering, dated July 24, 2020, as well as any subsequent revisions thereto as directed by the Planning Board or the Board's engineer in connection with the hearing process, unless herein modified.
7. The Applicant shall comply with the requirements and conditions of the Township's planning memorandum of Bryan Bidlack dated June 17, 2021, unless herein modified.
8. The Applicant shall comply with the requirements of the Redevelopment Plan entered into the Township of South Brunswick and recommended by the Township of South Brunswick Planning Board.
9. The Applicant shall comply with the requirements and conditions of the Bignell planning memorandum dated March 2, 2021, unless modified herein.
10. The Applicant shall comply with the recommendations and requirements of the Board's engineer regarding the installation and construction of the stormwater management system. All improvements to the stormwater management system shall be completed in accordance with the recommendations of the Board's engineer and all applicable governmental regulations.
11. The Applicant shall comply with the recommendations and requirements of the Township engineer and sewer department regarding installation and construction of the required sanitary sewer improvements.

12. The Applicant shall widen the site frontage along Route 27 in accordance with the requirements of all governmental authorities and recommendations of the Board engineer and the submitted plans.
13. The Applicant shall not be responsible for any off tract improvements except as may be expressly set forth in that certain Amended Redevelopment Agreement between Jaynar Construction, Inc. and Township of South Brunswick for Development and Management of an Inclusionary Affordable Housing Complex consisting of a Long Term Care Market Rate Nursing Facility and Senior Affordable Housing, dated January 29, 2020.
14. The within approval is subject to all easements required by the Board. The form of easements, including metes and bounds description, shall be reviewed and approved by the Board attorney and Board engineer.
15. The granting of this application is subject to and conditioned upon the Applicant perfecting this subdivision approval in accordance with Municipal Land Use Law and the map filing or recording laws. If the subdivision is to be perfected by the recording of a subdivision deed, said subdivision deed shall be subject to the review and approval of the Board's engineer and Planning Board attorney prior to recording.
16. The Applicant shall comply with the approved plans relative to building height and size requirements.
17. The Applicant shall provide an appropriate lighting and landscaping plan in accordance with the recommendations of the Board's planner and engineer.
18. The Applicant shall return to the Board for final major subdivision approval.

19. The Applicant shall file, with the Middlesex County Clerk, cross access easements in accordance with the recommendations of the Township attorney. The easements shall also comply with the requirements of the Board Attorney, the Board Engineer, and the Board Planner.
20. The development shall contain no less than 210 one-bedroom age-restricted housing units and 180 skilled nursing beds.
21. The dialysis unit shall contain no more than 20 beds or chairs, subject to limitation based on testimony at final approval.
22. The Applicant shall return to the Board for final site plan approval upon satisfying the requirements of the preliminary site plan approval.
23. The Applicant shall provide the Township for review and subsequently file with the Clerk of Middlesex County appropriate deed restrictions in accordance with such form required by UHAC and/or HMFA regulations, subject to review by the Township Attorney, Engineer, Planner, and Board Attorney. Said deed restriction shall indicate that two proposed residential lots shall be developed to provide affordable housing. The restriction shall conform to the standard requirements of UHAC and HMFA and state that pursuant to the Uniform Housing Controls (“UHAC”). The affordable units shall be restricted for at least thirty (30) years from the date of initial occupancy (“Deed Restriction Period”) to eligible very-low, low and moderate income households. Thereafter the Township’s decision as to when and whether to extinguish affordability controls shall be governed by the applicable UHAC provisions.
24. The Applicant shall provide an Affordable Housing Compliance Chart.

25. The North access driveway and the South access driveway shall be right-in/right-out only. The Center access shall be restricted to no left turns out of the site.
26. The Applicant shall ensure the collection of trash and recyclables after 9:00 a.m. weekdays.
27. The Applicant shall install a traffic signal at the intersection of Barbieri Court should the DOT approve same in the reasonable future.
28. The Applicant shall mill and pave all areas of disturbed roadway resulting from the Applicant's construction and development in accordance with the recommendations of the Township engineer.
29. The Applicant shall return to the Board for final site plan and final subdivision approval for the residential development on this site, and shall also return to the Board for any preliminary and final site plan approval for commercial development.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE COPY OF A RESOLUTION PASSED BY THE PLANNING BOARD FOR THE TOWNSHIP OF SOUTH BRUNSWICK AT A MEETING HELD ON THE 6TH DAY OF OCTOBER, 2021.

Sammy Scimone

NAME	VOTE FOR	VOTE AGAINST	ABSENT	NO VOTE
Alt #1 ADINOLFI	X			
BAIG	X			
BIERMAN	X			
PATEL, T	X			
PATEL, K	X			
LUCK			X	
LUTIN	X			
NATHANSON		X		
PRODROMO	X			
SALVI	X			
WEITZ	X			



I. MANDATORY AFFORDABLE HOUSING SET-ASIDE ORDINANCE



South Brunswick Township

540 Ridge Road
Monmouth Junction, NJ 08852

ORDINANCE 2024-28

Amending and Supplementing Chapter 62, Land Use, of the Code of the Township of South Brunswick Establishing a Mandatory Affordable Housing Set-Aside

WHEREAS, the New Jersey Supreme Court held that “each ... municipality [must] affirmatively ... plan and provide, by its land use regulations, the reasonable opportunity for an appropriate variety and choice of housing, including ... low and moderate cost housing, to meet the needs, desires and resources of all categories of people who may desire to live within its boundaries.” S. Burlington Cty. NAACP v. Mount Laurel, 67 N.J. 141, 179 (1975) (Mount Laurel I); and

WHEREAS, the Township of South Brunswick desires to comply with its constitutional obligation to provide its fair share of very low-, low- and moderate-income housing; and

WHEREAS, on September 18, 2024, the Township and Fair Share Housing Center (“FSHC”), a New Jersey Supreme Court-designated interested party in affordable housing matters, executed a Settlement Agreement that determined the Township’s Prior Round, Third Round, and Fourth Round affordable housing obligations; and

WHEREAS, as part of the Settlement Agreement with FSHC, the Township agreed to adopt an ordinance requiring certain new residential developments to designate a portion of new units developed as affordable units.

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

- I. South Brunswick Code Chapter 62, Land Use, shall be and is hereby amended and supplemented as follows with the addition of the following:

Article IV. Zoning

Division 14. Affordable Housing Ordinance

Sec. 62-2016. Reserved Mandatory Affordable Housing Set-Aside

- (a) A mandatory affordable housing set-aside requirement shall apply beginning with the effective date of this Ordinance to any residential development, including the residential portion of a mixed-use project, that consists of five (5) or more new residential units at a density of six (6) units per acre or higher, or equivalent, that results in whole or in part from:
 - i. A municipal rezoning permitting multi-family residential development where not previously permitted; or
 - ii. Any use variance or a density variance increasing the permissible density at the site pursuant to N.J.S.A. 40:55D-70(d); or
 - iii. The adoption of a new redevelopment plan.
- (b) The affordable housing set-aside shall be twenty percent (20%).

- (c) The following terms shall apply to any residential development subject to the mandatory affordable housing set-aside:
- i. All subdivision and site plan approvals of qualifying development shall be conditioned upon compliance with the provisions of the mandatory affordable housing set-aside.
 - ii. No subdivision shall be permitted or approved for the purpose of avoiding compliance with the mandatory affordable set-aside. A developer may not, for example, subdivide a project into two lots and then plan each of them to produce a number of units below the threshold.
 - iii. In the event the number of affordable housing units to be provided includes a fraction, the number shall be rounded up if the fractional amount is 0.5 or greater. If the fractional amount is less than 0.5, the developer may round up to the nearest whole number, or, if the developer chooses to round down, the developer shall provide a payment in lieu of constructing affordable units for the fraction of a unit less than 0.5. The payment in lieu shall be based on the amounts established in N.J.A.C. 5:97-6.4(c) as updated by the Township through actual affordable housing pro formas.
 - iv. No developer may make a payment in lieu of constructing affordable units on-site, except for fractional units as set forth in Paragraph iii. above.
 - v. All affordable units created shall fully comply with the affordable housing requirements set forth in the Township's Fair Share Ordinance codified in the Township Code at Chapter 62, Article IV, Division 14, except as noted below to comply with the new affordable housing law enacted on March 20, 2024 at P.L. C.2.
 1. Affordable units shall be subject to affordability controls of at least thirty (30) years if the units are for sale, and at least forty (40) years if the units are for rent, from the date of initial occupancy. The affordability controls shall remain unless and until the municipality, in its sole discretion, takes action to extend or release the unit from such controls after at least thirty (30) years or at least forty (40) years, as applicable.
 2. Affordable units shall be affirmatively marketed in accordance with UHAC and applicable law including posting of all affordable units on the New Jersey Housing Resource Center ("HRC") website in accordance with applicable law.
- (d) Nothing in this Ordinance gives any developer the right to any such rezoning, variance, or other relief, or establishes any obligation on the part of the Township to grant such rezoning, variance, or other relief.
- (e) Nothing in this Ordinance precludes the municipality from imposing an affordable housing set-aside in a development not required to have a set-aside pursuant to this Ordinance.
- (f) The provisions of this Ordinance shall not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwellings of five (5) or more.

- (g) This Ordinance shall not impose an obligation on non-residential development, including the non-residential portion of a mixed-use development subject to the State Non-Residential Development Fee Act, N.J.S.A. 40:55D-8.1 *et seq.*
- (h) This Ordinance does not apply to any specific sites or specific zones that were rezoned as part of the Township's court-approved Housing Element and Fair Share Plan, for which density and affordable housing set-aside requirements shall be governed by the specific standards approved.

Secs. ~~62-2016~~ 2017 - 62-2020. - Reserved

- II. Referral to Planning Board. This Ordinance shall be referred to the Township of South Brunswick Planning Board immediately after introduction for its review, which shall transmit to the Township Council its recommendation pursuant to N.J.S.A. 40:55D-26a.
- III. Severability. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect and shall be deemed valid and effective.
- IV. Inconsistencies. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Municipality, the provisions hereof shall be determined to govern, and those inconsistent provisions shall be repealed to the extent of such inconsistency.
- V. Effective Date and Scope. This Ordinance shall take effect upon its passage and as otherwise provided for by law. The provisions of this Ordinance shall be applicable within the entire municipality upon final adoption and shall become a part of the Code of the Township of South Brunswick once completed and adopted.

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 October 16, 2024. It will be considered on final reading and final passage at a meeting of the Township Council of the Township of South Brunswick to be held at the Municipal Building, 540 Ridge Road, Monmouth Junction, New Jersey at 6:00 p.m. on November 6, 2024. At the time of second reading and final passage, any person having an interest therein will be given an opportunity to be heard.

History:

10/16/24

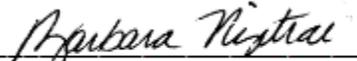
Township Council

INTRODUCED

Next: 11/06/24

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Joseph Camarota, Councilman
SECONDER:	Josephine "Jo" Hochman, Councilwoman
AYES:	Bierman, Camarota, Grover, Hochman, Carley

This is to certify that the foregoing is a true copy of an ordinance Adopted at the South Brunswick Township Council meeting held on November 6, 2024.



Barbara Nyitrai, Township Clerk



J. AFFIRMATIVE MARKETING PLAN

South Brunswick Township
 Prior and Third Round
 AFFIRMATIVE FAIR HOUSING
 MARKETING PLAN For Affordable
 Housing in REGION 3

1. APPLICANT AND PROJECT INFORMATION

(Complete Section I individually for all developments or programs within the municipality.)

1a. Administrative Agent Name, Address, Phone Number Volunteers of America Woodhaven Terrace 100 Woodhaven Drive Monmouth Junction, NJ 08852 (732) 297-4972 WoodhavenTerraces@voa.org		1b. Development or Program Name, Address Deans Apartments/Woodhaven Terrace 1 54 Blackhorse Lane Monmouth Junction, NJ 08852	
1c. Number of Affordable Units: 40 Number of Rental Units: 40 Number of For-Sale Units:	1d. Price or Rental Range From \$661 To \$837	1e. State and Federal Funding Sources (if any)	
1f. <input type="checkbox"/> Age Restricted <input checked="" type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: _____ Occupancy: Circa 1985		
1h. County Hunterdon, Middlesex, Somerset		1i. Census Tract(s): Township of South Brunswick Block 90.04 Lot 54.01	
1j. Managing/Sales Agent's Name, Address, Phone Number Community Realty Management Talisha Miller-Exec. Property Manager 732-297-4972 100 Woodhaven Drive Monmouth Junction, NJ 08852			
1k. Application Fees (if any):			

1a. Administrative Agent Name, Address, Phone Number BUCKINGHAM PLACE/Brandywine 155 Raymond Road Princeton, NJ 08540 732-329-8888		1b. Development or Program Name, Address Buckingham Place / Brandywine 155 Raymond Road Princeton, NJ 08540	
1c. Number of Affordable Units: 23	1d. Price or Rental Range From \$49/day	1e. State and Federal Funding Sources (if any)	

Number of Rental Units: 23	To \$59/day	Medicaid
Number of For-Sale Units:		
If. <input checked="" type="checkbox"/> Age Restricted <input type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: Occupancy: Circa 2002	
1h. County Hunterdon, Middlesex, Somerset	1i. Census Tract(s): Township of South Brunswick Block 13.01 Lot 97	
1j. Managing/Sales Agent's Name, Address, Phone Number Dir. of Marketing and Community Relations 155 Raymond Road Princeton, NJ 08540 732-329-8888		
1k. Application Fees (if any):		

1a. Administrative Agent Name, Address, Phone Number South Brunswick Community Development Corp. Karen Scalera, Administrator 3424 Route 27 Kendall Park, NJ 08824 732-355-9009		1b. Development or Program Name, Address Charleston Place I 3424 Route 27 Kendall Park, NJ 08824	
1c. Number of Affordable Units: 54 Number of Rental Units: 54 Number of For-Sale Units:	1d. Price or Rental Range From 30% of income To 30% of income	1e. State and Federal Funding Sources (if any) HUD	
If. <input checked="" type="checkbox"/> Age Restricted <input type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: Occupancy: 3/1/1981		
1h. County Hunterdon, Middlesex, Somerset	1i. Census Tract(s): Township of South Brunswick Block 95.03 Lot 75.07		
1j. Managing/Sales Agent's Name, Address, Phone Number Karen Scalera, Administrator 732-355-9009 South Brunswick Community Dev. Corp. 3424 Route 27 Kendall Park, NJ 08824			
1k. Application Fees (if any):			

1a. Administrative Agent Name, Address, Phone Number South Brunswick Community Development Corp. Karen Scalera, Administrator 3424 Route 27 Kendall Park, NJ 08824 732-355-9009		1b. Development or Program Name, Address Charleston Place II 3424 Route 27 Kendall Park, NJ 08824	
1c. Number of Affordable Units: 30 Number of Rental Units: 30 Number of For-Sale Units:	1d. Price or Rental Range From 30% of income To 30% of income	1e. State and Federal Funding Sources (if any) HUD	
1f. <input type="checkbox"/> Age Restricted <input type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: Occupancy:		
1h. County Hunterdon, Middlesex, Somerset		1i. Census Tract(s): Township of South Brunswick Block 95.03 Lot 75.07	
1j. Managing/Sales Agent's Name, Address, Phone Number Karen Scalera, Administrator 732-355-9009 South Brunswick Community Dev. Corp. 3424 Route 27 Kendall Park, NJ 08824			
1k. Application Fees (if any):			

1a. Administrative Agent Name, Address, Phone Number South Brunswick Community Development Corp. Karen Scalera, Administrator 3424 Route 27 Kendall Park, NJ 08824 732-355-9009		1b. Development or Program Name, Address CIL Woods 100 Woods Lane Monmouth Junction, NJ 08852	
1c. Number of Affordable Units: 16 Number of Rental Units: 16 Number of For-Sale Units:	1d. Price or Rental Range From 30% of income To 30% of income	1e. State and Federal Funding Sources (if any) HUD	
1f. <input type="checkbox"/> Age Restricted <input checked="" type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: Occupancy: 10/1/1999		
1h. County Hunterdon, Middlesex, Somerset		1i. Census Tract(s): Township of South Brunswick Block 84.04 Lot 42.0432	
1j. Managing/Sales Agent's Name, Address, Phone Number Karen Scalera, Administrator 732-355-9009 South Brunswick Community Dev. Corp. 3424 Route 27 Kendall Park, NJ 08824			

1k. Application Fees (if any):

1a. Administrative Agent Name, Address, Phone Number Di Shonay Pittman Affordable Housing Administrative Agent/MHL Township of South Brunswick 540 Ridge Road 1 PO Box 190 Monmouth Junction, NJ 08852 732-329-4000 ext.7220 dpittman@sbtnj.net		1b. Development or Program Name, Address Deans Pond Crossing Monmouth Junction, NJ 08852	
1c. Number of Affordable Units: 20 Number of Rental Units: Number of For-Sale Units: 20	1d. Price or Rental Range From \$92,840 To \$175,024	1e. State and Federal Funding Sources (if any)	
1f. <input type="checkbox"/> Age Restricted <input checked="" type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: Occupancy: 12/18/2000		
1h. County Hunterdon, Middlesex, Somerset	1i. Census Tract(s): Blocks 30.08 Lots 2.02,16.01,16.02 30.09 7.01,7.02 30.10 16.01-16.02, 61.01- 61.02 30.11 8.01,8.02 30.12 12.01,12.02 30.13 1.01,1.02 30.14 1.01,1.02 10.06 1.01,1.02		
1j. Managing/Sales Agent's Name, Address, Phone Number Di Shonay Pittman Affordable Housing Administrative Agent/MHL Township of South Brunswick 540 Ridge Road 1 PO Box 190 Monmouth Junction, NJ 08852 732-329-4000 ext.7220 dpittman@sbtnj.net			
1k. Application Fees (if any): No application fee but the Township does charge sellers a re-sale fee of 1.75% of sales price.			

1a. Administrative Agent Name, Address, Phone Number Di Shonay Pittman Affordable Housing Administrative Agent/MHL Township of South Brunswick 540 Ridge Road 1 PO Box 190 Monmouth Junction, NJ 08852		1b. Development or Program Name, Address Monmouth Walk Monmouth Junction, NJ 08852	
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732-329-4000 ext.7220 dpittman@sbtnj.net		
Ic. Number of Affordable Units: 43 Number of Rental Units: Number of For-Sale Units: 43	1d. Price or Rental Range From \$81,369 To \$186,361	1e. State and Federal Funding Sources (if any)
If. <input type="checkbox"/> Age Restricted <input checked="" type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: Occupancy: 9/8/1990	
1h. County Hunterdon, Middlesex, Somerset	1i. Census Tract(s): Township of South Brunswick Block 41 Lots 17-21. 47-52, 76-79, 88-91, 12629, 138-141. 201-20-- 249-252. 261-263	
1j. Managing/Sales Agent's Name, Address, Phone Number Di Shonay Pittman Affordable Housing Administrative Agent/MHL Township of South Brunswick 540 Ridge Road 1 PO Box 190 Monmouth Junction, NJ 08852 732-329-4000 ext.7220 dpittman@sbtnj.net		
1k. Application Fees (if any): No application fee but the Township does charge sellers a re-sale fee of 1.75% of sales price.		

1a. Administrative Agent Name, Address, Phone Number Di Shonay Pittman Affordable Housing Administrative Agent/MHL Township of South Brunswick 540 Ridge Road 1 PO Box 190 Monmouth Junction, NJ 08852 732-329-4000 ext.7220 dpittman@sbtnj.net		1b. Development or Program Name, Address Nassau Square Kendall Park, NJ 08824	
Ic. Number of Affordable Units: 49 Number of Rental Units: Number of For-Sale Units: 49	1d. Price or Rental Range From \$86,091 To \$199,500	1e. State and Federal Funding Sources (if any)	
If. <input type="checkbox"/> Age Restricted <input checked="" type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: Occupancy: 12/26/1989		
1h. County Hunterdon, Middlesex, Somerset	1i. Census Tract(s): Township of South Brunswick Blocks 93.09 & 93.13 Lots 4-5, 19-20, 35, 50-51.57- 58, 65-66, 73-74.81. And 1 1-12, 36-37, 61,68-69, 149.154-156.160- 162		
1j. Managing/Sales Agent's Name, Address, Phone Number			

Di Shonay Pittman Affordable Housing Administrative Agent/MHL Township of South Brunswick 540 Ridge Road 1 PO Box 190 Monmouth Junction, NJ 08852 732-329-4000 ext.7220 dpittman@sbtanj.net
1k. Application Fees (if any): No application fee but the Township does charge sellers a re-sale fee of 1.75% of sales price.

1a. Administrative Agent Name, Address, Phone Number South Brunswick Community Development Corp. Karen Scalera, Administrator 3424 Route 27 Kendall Park, NJ 08824 732-355-9009		1b. Development or Program Name, Address Oak Woods 700 Woods Lane Monmouth Junction, NJ 08852	
1c. Number of Affordable Units: 73 Number of Rental Units: 73 Number of For-Sale Units:	1d. Price or Rental Range From 30% of income To 30% of income	1e. State and Federal Funding Sources (if any) HUD	
1f. <input checked="" type="checkbox"/> Age Restricted <input type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: _____ Occupancy: 12/31/2001		
1h. County Hunterdon, Middlesex, Somerset		1i. Census Tract(s): Township of South Brunswick Block 84.04 Lot 42.0431/2	
1j. Managing/Sales Agent's Name, Address, Phone Number Karen Scalera, Administrator 732-355-9009 South Brunswick Community Dev. Corp. 3424 Route 27 Kendall Park, NJ 08824			
1k. Application Fees (if any):			

1a. Administrative Agent Name, Address, Phone Number Di Shonay Pittman Affordable Housing Administrative Agent/MHL Township of South Brunswick 540 Ridge Road 1 PO Box 190 Monmouth Junction, NJ 08852 732-329-4000 ext.7220 dpittman@sbtanj.net		1b. Development or Program Name, Address Regal Point Regal Drive Monmouth Junction, NJ 08852	
1c. Number of Affordable Units: 5 Number of Rental Units:	1d. Price or Rental Range From \$83,706	1e. State and Federal Funding Sources (if any)	

Number of For-Sale Units: 5	To \$141,316	
1f. <input type="checkbox"/> Age Restricted <input checked="" type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: Occupancy: 3/24/1989	
1h. County Hunterdon, Middlesex, Somerset	1i. Census Tract(s): Township of South Brunswick Block 87.02 Lots 22 to 71	
1j. Managing/Sales Agent's Name, Address, Phone Number Di Shonay Pittman Affordable Housing Administrative Agent/MHL Township of South Brunswick 540 Ridge Road 1 PO Box 190 Monmouth Junction, NJ 08852 732-329-4000 ext.7220 dpittman@sbtnj.net		
1k. Application Fees (if any): No application fee but the Township does charge sellers a re-sale fee of 1.75% of sales price.		

1a. Administrative Agent Name, Address, Phone Number Di Shonay Pittman Affordable Housing Administrative Agent/MHL Township of South Brunswick 540 Ridge Road 1 PO Box 190 Monmouth Junction, NJ 08852 732-329-4000 ext.7220 dpittman@sbtnj.net		1b. Development or Program Name, Address Southridge/Southridge Woods 113 Northumberland Way Monmouth Junction, NJ 08852	
1c. Number of Affordable Units: 124 Number of Rental Units: 124 Number of For-Sale Units:	1d. Price or Rental Range From \$783 To \$1,320	1e. State and Federal Funding Sources (if any)	
1f. <input type="checkbox"/> Age Restricted <input checked="" type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: Occupancy: 11/1/1995		
1h. County Hunterdon, Middlesex, Somerset	1i. Census Tract(s): Township of South Brunswick Block 85.06 Lot 17.014		
1j. Managing/Sales Agent's Name, Address, Phone Number Southridge Woods Rental Office, 732-438-1500 113 Northumberland Way Monmouth Junction. NJ 08852			
1k. Application Fees (if any): No application fee but the Township does charge owner a re-rental fee.			

1a. Administrative Agent Name, Address, Phone Number Di Shonay Pittman	1b. Development or Program Name, Address Woodhaven Jones Drive
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Affordable Housing Administrative Agent/MHL Township of South Brunswick 540 Ridge Road 1 PO Box 190 Monmouth Junction, NJ 08852 732-329-4000 ext.7220 dpittman@sbtnj.net		Princeton, NJ 08540	
1c. Number of Affordable Units: 80 Number of Rental Units: 80 Number of For-Sale Units:	1d. Price or Rental Range From \$652 To \$1,287	1e. State and Federal Funding Sources (if any)	
1f. <input type="checkbox"/> Age Restricted <input checked="" type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: Occupancy: 11/29/1991		
1h. County Hunterdon, Middlesex, Somerset		1i. Census Tract(s): Township of South Brunswick Block 96.05 Lot 127	
1j. Managing/Sales Agent's Name, Address, Phone Number Woodhaven at South Brunswick Rental Agent 732-329-6807 1401 Jones Drive Princeton, NJ 08540			
1k. Application Fees (if any): No application fee but the Township does charge owner a re-rental fee of \$75.00 per unit.			

1a. Administrative Agent Name, Address, Phone Number Di Shonay Pittman Affordable Housing Administrative Agent/MHL Township of South Brunswick 540 Ridge Road 1 PO Box 190 Monmouth Junction, NJ 08852 732-329-4000 ext.7220 dpittman@sbtnj.net		1b. Development or Program Name, Address Summerfield Blossom Circle Dayton, NJ 08810	
1c. Number of Affordable Units: 69 Number of Rental Units: Number of For-Sale Units: 69	1d. Price or Rental Range From \$65,567 To \$180,218	1e. State and Federal Funding Sources (if any)	
1f. <input type="checkbox"/> Age Restricted <input checked="" type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: Occupancy: 7/16/1998		
1h. County Hunterdon, Middlesex, Somerset		1i. Census Tract(s): Township of South Brunswick Block 31.08 Lots 101-104,113-116,210-213,401-404,412-415,501-504,710-713,801-804,812-815,901-904,1001-1004,1101-1103,1112-1115,1201-1203,1401-1404,1413-1416,1506-1509,1608-1611	
1j. Managing/Sales Agent's Name, Address, Phone Number			

Di Shonay Pittman Affordable Housing Administrative Agent/MHL Township of South Brunswick 540 Ridge Road 1 PO Box 190 Monmouth Junction, NJ 08852 732-329-4000 ext.7220 dpittman@sbtnj.net
1k. Application Fees (if any): No application fee but the Township does charge sellers a re-sale fee of 1.75% of sales price.

1a. Administrative Agent Name, Address, Phone Number Piazza & Associates, Inc. Princeton Forrestal Village 201 Rockingham Row Princeton, NJ 08540 609-786-1100 https://www.piazzanj.com/affordable-housing/		1b. Development or Program Name, Address American Properties Schalks Crossing Road .	
1c. Number of Affordable Units: 72 Number of Rental Units: Number of For-Sale Units: 72	1d. Price or Rental Range From To	1e. State and Federal Funding Sources (if any)	
1f. <input type="checkbox"/> Age Restricted <input checked="" type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: 120 days prior to first occupancy Occupancy:		
1h. County Hunterdon, Middlesex, Somerset		1i. Census Tract(s):	
1j. Managing/Sales Agent's Name, Address, Phone Number			
1k. Application Fees (if any):			

1a. Administrative Agent Name, Address, Phone Number TBD		1b. Development or Program Name, Address AVB/Pulte Major Road	
1c. Number of Affordable Units: 27 Number of Rental Units: Number of For-Sale Units: 27	1d. Price or Rental Range From To	1e. State and Federal Funding Sources (if any)	
1f. <input type="checkbox"/> Age Restricted	1g. Approximate Starting Dates Advertising: 120 days prior to first occupancy Occupancy:		

<input checked="" type="checkbox"/> Non-Age Restricted	
1h. County Hunterdon, Middlesex, Somerset	1i. Census Tract(s):
1j. Managing/Sales Agent's Name, Address, Phone Number	
1k. Application Fees (if any):	

1a. Administrative Agent Name, Address, Phone Number CGP&H 249 South River Road, Suite 301 Cranbury, NJ 08512-3633 609 664 2769 https://www.affordablehomesnewjersey.com/		1b. Development or Program Name, Address KHov/Bellemead 913-927 Ridge Road	
1c. Number of Affordable Units: 30 Number of Rental Units: Number of For-Sale Units: 30	1d. Price or Rental Range From To	1e. State and Federal Funding Sources (if any)	
1f. <input type="checkbox"/> Age Restricted <input checked="" type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: 120 days prior to first occupancy Occupancy:		
1h. County Hunterdon, Middlesex, Somerset		1i. Census Tract(s):	
1j. Managing/Sales Agent's Name, Address, Phone Number			
1k. Application Fees (if any):			

1a. Administrative Agent Name, Address, Phone Number TBD		1b. Development or Program Name, Address PPF/Matrix Route 130 and Friendship Road	
1c. Number of Affordable Units: 98 Number of Rental Units: 83 Number of For-Sale Units: 15	1d. Price or Rental Range From To	1e. State and Federal Funding Sources (if any)	
1f. <input type="checkbox"/> Age Restricted <input checked="" type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: 120 days prior to first occupancy Occupancy:		

1h. County Hunterdon, Middlesex, Somerset	1i. Census Tract(s):
1j. Managing/Sales Agent's Name, Address, Phone Number	
1k. Application Fees (if any):	

1a. Administrative Agent Name, Address, Phone Number CGP&H 249 South River Road, Suite 301 Cranbury, NJ 08512-3633 609 664 2769 https://www.affordablehomesnewjersey.com/		1b. Development or Program Name, Address Princeton Orchards 210 Griggs Drive	
1c. Number of Affordable Units: 46 Number of Rental Units: 46 Number of For-Sale Units:	1d. Price or Rental Range From To	1e. State and Federal Funding Sources (if any)	
1f. <input type="checkbox"/> Age Restricted <input checked="" type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: 120 days prior to first occupancy Occupancy:		
1h. County Hunterdon, Middlesex, Somerset	1i. Census Tract(s):		
1j. Managing/Sales Agent's Name, Address, Phone Number			
1k. Application Fees (if any):			

1a. Administrative Agent Name, Address, Phone Number Piazza & Associates, Inc. Princeton Forrestal Village 201 Rockingham Row Princeton, NJ 08540 609-786-1100 https://www.piazzanj.com/affordable-housing/		1b. Development or Program Name, Address SBC Northumberland Way and Black Horse Lane	
1c. Number of Affordable Units: 336 Number of Rental Units: 336 Number of For-Sale Units:	1d. Price or Rental Range From To	1e. State and Federal Funding Sources (if any)	
1f. <input type="checkbox"/> Age Restricted	1g. Approximate Starting Dates Advertising: 120 days prior to first occupancy Occupancy:		

<input checked="" type="checkbox"/> Non-Age Restricted	
1h. County Hunterdon, Middlesex, Somerset	1i. Census Tract(s):
1j. Managing/Sales Agent's Name, Address, Phone Number	
1k. Application Fees (if any):	

1a. Administrative Agent Name, Address, Phone Number Piazza & Associates, Inc. Princeton Forrestal Village 201 Rockingham Row Princeton, NJ 08540 609-786-1100 https://www.piazzanj.com/affordable-housing/		1b. Development or Program Name, Address SBC Northumberland Way and Black Horse Lane	
1c. Number of Affordable Units: 24 Number of Rental Units: 24 Number of For-Sale Units:	1d. Price or Rental Range From To	1e. State and Federal Funding Sources (if any)	
1f. <input checked="" type="checkbox"/> Age Restricted <input type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: 120 days prior to first occupancy Occupancy:		
1h. County Hunterdon, Middlesex, Somerset		1i. Census Tract(s):	
1j. Managing/Sales Agent's Name, Address, Phone Number			
1k. Application Fees (if any):			

1a. Administrative Agent Name, Address, Phone Number TBD		1b. Development or Program Name, Address RDG/TG Acquisitions Route 1	
1c. Number of Affordable Units: 32 Number of Rental Units: 32 Number of For-Sale Units:	1d. Price or Rental Range From To	1e. State and Federal Funding Sources (if any)	
1f. <input type="checkbox"/> Age Restricted	1g. Approximate Starting Dates Advertising: 120 days prior to first occupancy Occupancy:		

<input checked="" type="checkbox"/> Non-Age Restricted	
1h. County Hunterdon, Middlesex, Somerset	1i. Census Tract(s):
1j. Managing/Sales Agent's Name, Address, Phone Number	
1k. Application Fees (if any):	

1a. Administrative Agent Name, Address, Phone Number TBD		1b. Development or Program Name, Address Wilson Farm/Jaynar 3614-3688 Route 27	
1c. Number of Affordable Units: 210 Number of Rental Units: 210 Number of For-Sale Units:	1d. Price or Rental Range From To	1e. State and Federal Funding Sources (if any)	
1f. <input checked="" type="checkbox"/> Age Restricted <input type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: 120 days prior to first occupancy Occupancy:		
1h. County Hunterdon, Middlesex, Somerset		1i. Census Tract(s):	
1j. Managing/Sales Agent's Name, Address, Phone Number			
1k. Application Fees (if any):			

1a. Administrative Agent Name, Address, Phone Number Di Shonay Pittman Affordable Housing Administrative Agent/MHL Township of South Brunswick 540 Ridge Road 1 PO Box 190 Monmouth Junction, NJ 08852 732-329-4000 ext.7220 dpittman@sbtnj.net		1b. Development or Program Name, Address Windsor Associates Major Road and Northumberland Way	
1c. Number of Affordable Units: 13 Number of Rental Units: 13 Number of For-Sale Units:	1d. Price or Rental Range From To	1e. State and Federal Funding Sources (if any)	
1f. <input type="checkbox"/> Age Restricted	1g. Approximate Starting Dates Advertising: 120 days prior to first occupancy Occupancy:		

<input checked="" type="checkbox"/> Non-Age Restricted	
Ih. County Hunterdon, Middlesex, Somerset	Ii. Census Tract(s):
Ij. Managing/Sales Agent's Name, Address, Phone Number	
Ik. Application Fees (if any):	

Ia. Administrative Agent Name, Address, Phone Number Di Shonay Pittman Affordable Housing Administrative Agent/MHL Township of South Brunswick 540 Ridge Road 1 PO Box 190 Monmouth Junction, NJ 08852 732-329-4000 ext.7220 dpittman@sbtnj.net		Ib. Development or Program Name, Address Cambridge Crossing Route 522 Monmouth Junction, NJ 08852	
Ic. Number of Affordable Units: 8 Number of Rental Units: Number of For-Sale Units: 8	Id. Price or Rental Range From \$72,951 To	Ie. State and Federal Funding Sources (if any)	
If. <input type="checkbox"/> Age Restricted <input checked="" type="checkbox"/> Non-Age Restricted	Ig. Approximate Starting Dates Advertising: Occupancy: Circa 2016-2017		
Ih. County Hunterdon, Middlesex, Somerset		Ii. Census Tract(s): Township of South Brunswick Block 84, Lots 4.01, 6, 24	
Ij. Managing/Sales Agent's Name, Address, Phone Number Di Shonay Pittman Affordable Housing Administrative Agent/MHL Township of South Brunswick 540 Ridge Road 1 PO Box 190 Monmouth Junction, NJ 08852 732-329-4000 ext.7220 dpittman@sbtnj.net			
Ik. Application Fees (if any):			

Ia. Administrative Agent Name, Address, Phone Number Di Shonay Pittman Affordable Housing Administrative Agent/MHL Township of South Brunswick 540 Ridge Road 1 PO Box 190 Monmouth Junction, NJ 08852 732-329-4000 ext.7220 dpittman@sbtnj.net		Ib. Development or Program Name, Address East Meadows Estates: 5051 Beech Ct. 2151 Ash Ct. M-7 Quincy Circle 43 Beechwood Ct.7482 Elm Ct. 4231 Bayberry Ct.	
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1c. Number of Affordable Units: 6			1d. Price or Rental Range		1e. State and Federal Funding Sources (if any)	
Number of Rental Units:			From \$109,375			
Number of For-Sale Units: 6			To			
1f. <input type="checkbox"/> Age Restricted <input type="checkbox"/> Non-Age Restricted			1g. Approximate Starting Dates			
			Advertising:		Occupancy: Circa 2016	
1h. County Hunterdon, Middlesex, Somerset			1i. Census Tract(s):			
1j. Managing/Sales Agent's Name, Address, Phone Number						
Di Shonay Pittman Affordable Housing Administrative Agent/MHL Township of South Brunswick 540 Ridge Road 1 PO Box 190 Monmouth Junction, NJ 08852 732-329-4000 ext.7220 dpittman@sbtmj.net						
1k. Application Fees (if any):						

1a. Administrative Agent Name, Address, Phone Number			1b. Development or Program Name, Address			
Di Shonay Pittman Affordable Housing Administrative Agent/MHL Township of South Brunswick 540 Ridge Road 1 PO Box 190 Monmouth Junction, NJ 08852 732-329-4000 ext.7220 dpittman@sbtmj.net			Sassman 5-61 Fresh Ponds Rd.			
1c. Number of Affordable Units: 1		1d. Price or Rental Range		1e. State and Federal Funding Sources (if any)		
Number of Rental Units:		From				
Number of For-Sale Units: 1		To				
1f. <input type="checkbox"/> Age Restricted <input checked="" type="checkbox"/> Non-Age Restricted		1g. Approximate Starting Dates				
		Advertising:		Occupancy: Circa 2015		
1h. County Hunterdon, Middlesex, Somerset			1i. Census Tract(s): Township of South Brunswick Block 31.01 lot 27.13			
1j. Managing/Sales Agent's Name, Address, Phone Number						
Di Shonay Pittman Affordable Housing Administrative Agent/MHL Township of South Brunswick 540 Ridge Road 1 PO Box 190 Monmouth Junction, NJ 08852 732-329-4000 ext.7220 dpittman@sbtmj.net						

1k. Application Fees (if any):

1a. Administrative Agent Name, Address, Phone Number Ciel of Princeton 4331 US-1 South Monmouth Junction, NJ 08852 609-375-0172		1b. Development or Program Name, Address Ciel of Princeton 4331 US-1 South Monmouth Junction, NJ 08852 609-375-0172	
1c. Number of Affordable Units: 15 Number of Rental Units: 15 Number of For-Sale Units:	1d. Price or Rental Range From \$49/day To \$59/day	1e. State and Federal Funding Sources (if any) Medicaid	
1f. <input checked="" type="checkbox"/> Age Restricted <input type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: Occupancy: Circa 2021		
1h. County Hunterdon, Middlesex, Somerset		1i. Census Tract(s): Township of South Brunswick Block 98 Lot 3.06	
1j. Managing/Sales Agent's Name, Address, Phone Number Ciel of Princeton 4331 US-1 South Monmouth Junction, NJ 08852 609-375-0172			
1k. Application Fees (if any):			

1a. Administrative Agent Name, Address, Phone Number RPM 77 Park Street Montclair, NJ 07042 Tel: (973) 744.5410 Email: info@rpmdev.com		1b. Development or Program Name, Address RPM Henderson Rd.	
1c. Number of Affordable Units: 107 Number of Rental Units: 107 Number of For-Sale Units:	1d. Price or Rental Range From To	1e. State and Federal Funding Sources (if any) LIHTC	
1f. <input type="checkbox"/> Age Restricted <input checked="" type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: 120 days prior to first occupancy Occupancy: 2025		
1h. County Hunterdon, Middlesex, Somerset		1i. Census Tract(s): Township of South Brunswick Block 90.03 Lot 12.011	
1j. Managing/Sales Agent's Name, Address, Phone Number			

1k. Application Fees (if any):

(Sections II through IV should be consistent for all affordable housing developments and programs within the municipality. Sections that differ must be described in the approved contract between the municipality and the administrative agent and in the approved Operating Manual.)

II. RANDOM SELECTION

2. Describe the random selection process that will be used once applications are received.

An initial deadline date, no less than 45 days after the start of the marketing process, will be established. All of the preliminary applications received by South Brunswick Township on or before the initial deadline date shall be deemed received on that date.

2. A drawing (random selection) will be held under the direction of South Brunswick Township to determine the priority order of the pre-qualified applications received on or before the initial deadline date.
3. South Brunswick Township will include all of its eligible applicants for the respective types of low and moderate income units in the pool of applicants for each random selection that is held for the affordable units.
4. In order to ensure an adequate supply of qualified applicants, the advertising phase will continue until there are at least ten (10) pre-qualified applicants for each low and moderate income unit available, or until all of the low and moderate income units within the development have been rented/sold.
5. Final applications will be mailed by South Brunswick Township to an adequate number of prequalified applicants, in priority order, for each available low and moderate income unit. The final application will require the applicants to supply documents to verify their identity and household composition as well as their income and assets.
6. Completed final applications will be returned to South Brunswick Township. The Administrative Agent for the Township will make a determination as to their eligibility for a low or moderate income unit.
7. South Brunswick Township will, as part of its application process, require a Pre-Qualification Letter for a mortgage from an eligible Financial Institution.
8. Approved applicants will be forwarded to the Developer for the execution of a sales agreement.
9. Closing documents will be provided by the Township and shall comply with the regulations.

III. MARKETING

3a. Direction of Marketing Activity: (indicate which group(s) in the housing region are least likely to apply for the housing without special outreach efforts because of its location and other factors). Based on demographic data from the 2010 census, this table provides a comparison of race and ethnic origin between the Housing Region 3 and the Township of South Brunswick. Overall, the municipality has a significantly lower percentage of Hispanics (9.6%) than Region 3. Therefore, we will reach out to this group and others in the Affirmative Marketing of the property.

The U. S. Census Data 2010:

Subject	RACE								
	Total population	Race alone or in combination with one or more Other races:							
		White	Black or African American	American Indian and Native	Asian	Native Hawaiian and Other Pacific Islander	Some Other Race	Hispanic or Latino (Of any race)	Not Hispanic or Latino
Hunterdon co.	128,349	117,264	3,451	167	4,181	37	1,570	6,722	121,627
Middlesex Co.	809,858	474,589	78,462	2,777	173,293	251	56,569	148,975	660,883
Somerset Co.	323,444	226,608	28,943	556	45,650	94	13,360	42,091	281,353
Total Region 3	1,261,651	818,461	110,856	3,500	223,124	382	71,499	197,788	1,063,863
% Region 3	100%	64.9%	8.8%	0.3%	17.7%		5.7%	15.7%	84.3%
So. Brunswick Twp	43,417	22,611	3,348	72	15,592	8	658	2,624	40,793
% So. Brunswick	100%	52.1%	7.7%	0.2%	35.9%	0.0%	1.5%		94.0%
Difference		-12.8%	-1.1%	-0.1%	18.2%			-9.6%	9.6%

[1] In combination with one or more of the other races listed. The six numbers may add to more than the total population, and the six percentages may add to more than 100 percent because individuals may report more than one race.

3b. Commercial Media (required) Check all that apply

	DURATION & FREQUENCY OF OUTREACH	NAMES OF REGIONAL NEWSPAPER S	CIRCULATION AREA
TARGETS PARTIAL COAH REGION 3			
Daily Newspaper			
X	One display ad for 4 consecutive weeks, beginning at the start of the affirmative marketing process.	Home News Tribune	Middlesex, Somerset, Union
X	One weekend day at start of Affirmative Marketing	Courier News	Somerset and Hunterdon
X	One weekend day at start of Affirmative Marketing	Trenton Times	Mercer, Middlesex
Weekly Newspaper			
X	One weekday at start of Affirmative Marketing	Hunterdon County Democrat / Hunterdon Observer	Hunterdon

X	One weekday at start of Affirmative Marketing	North/South Brunswick Sentinel	M Middlesex
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	One weekday at start of Affirmative Marketing	Princeton Packet	Middlesex, Somerset
X	One weekday at start of Affirmative Marketing	Messenger-Gazette	Somerset

FM Radio

X	One weekday at start of Affirmative Marketing	WBGO 88.3	North Jersey
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3c. Other Publications (such as neighborhood newspapers, religious publications, and organizational newsletters) (Check all that apply)

	NAME OF PUBLICATIONS	OUTREACH AREA	RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE
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TARGETS ENTIRE REGION 3

Monthly

X	One weekday at start of Affirmative Marketing	Sino Monthly	North Jersey/NYC area	Chinese-American
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Weekly

X	One weekday at start of Affirmative Marketing	Reporte Hispano	Central Jersey	Spanish-Language
X	One weekday at start of Affirmative Marketing	Desi NJ	Central Jersey	South Asian

3d. Employer Outreach (names of employers throughout the housing region that can be contacted to post advertisements and distribute flyers regarding available affordable housing) Check all that apply)

DURATION & FREQUENCY OF OUTREACH	NAME OF EMPLOYER/COMPANY	LOCATION
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Hunterdon County

One Announcement at Start of Affirmative Marketing	Hunterdon Medical Center	2100 Wescott Drive Flemington, NJ 08822
One Announcement at Start of Affirmative Marketing	Foster Wheeler	Perryville Corporate Park Clinton, NJ , 08809
One Announcement at Start of Affirmative Marketing	Chubb Insurance Co.	202 Halls Mill Rd Whitehouse Station, NJ 08889

X	One Announcement at Start of Affirmative Marketing	Exxonmobil Research & Engineering	1545 US Highway 22 E Annandale, NJ 08801
	One Announcement at Start of Affirmative Marketing	New York Life	110 Cokesbury Rd, Lebanon

Middlesex County			
X	One Announcement at Start of Affirmative Marketing	Colgate Palmolive	909 River Rd Piscataway, NJ (08854-5596
X	One Announcement at Start of Affirmative Marketing	Amerada Hess Corporation	405 Main St. Woodbridge, NJ 07095
	One Announcement at Start of Affirmative Marketing	Amerada Hess Corporation	679 Convery Blvd. Perth Amboy, NJ 08861
	One Announcement at Start of Affirmative Marketing	Web Craft	1980 Us Highway I, North Brunswick. NJ 08902
X	One Announcement at Start of Affirmative Marketing	Bristol-Myers Squibb	I Squibb Dr, New Brunswick. NJ
X	One Announcement at Start of Affirmative Marketing	Merrill Lynch & Company	800 Scudders Mill Rd, Plainsboro
X	One Announcement at Start of Affirmative Marketing	Johnson & Johnson	I Johnson & Johnson Plaza, New Brunswick
X	One Announcement at Start of Affirmative Marketing	Prudential Insurance Company	44 Stelton Rd # 130, Piscataway
X	One Announcement at Start of Affirmative Marketing	Robert Wood Johnson University Hospital	I Robert Wood Johnson PI, New Brunswick, N.J 08901
X	One Announcement at Start of Affirmative Marketing	Raritan Bay Medical Center	530 New Brunswick Ave. Perth Amboy, NJ 08861
	One Announcement at Start of Affirmative Marketing	St. Peter's University Hospital	254 Easton Ave, New Brunswick
X	One Announcement at Start of Affirmative Marketing	Telcordia Technology	444 Hoes Ln, Piscataway
X	One Announcement at Start of	J.F.K. Medical Center	65 James Street Edison, NJ 08818

	Affirmative Marketing		
	One Announcement at Start of Affirmative Marketing	Target	4196 US Highway I Monmouth Junction, NJ 08852
	One Announcement at Start of Affirmative Marketing	Dow Jones & Company	4300 Rt. I Monmouth Junction, NJ 08824
	One Announcement at Start of Affirmative Marketing	Siemens AG	755 College Rd E. Princeton
X	One Announcement at Start of Affirmative Marketing	Silverline Building Products	207 Pond Ave. Middlesex, NJ 08846
	One Announcement at Start of Affirmative Marketing	Pierre's Restaurant	582 Georges Rd. Monmouth Junction, NJ 08852
	One Announcement at Start of Affirmative Marketing	AT&T	I Highway Ter. Edison
X	One Announcement at Start of Affirmative Marketing	Stop & Shop	24 Summerfield Blvd. Ste. 101 Dayton N.J 08810
X	One Announcement at Start of Affirmative Marketing	Engelhard Corporation	101 Wood Ave S. Metuchen

Somerset County			
	One Announcement at Start of Affirmative Marketing	AT&T	1414 Cambell St Rahway
	One Announcement at Start of Affirmative Marketing	ABC Limousine	574 Ferry St Newark
	One Announcement at Start of Affirmative Marketing	Bloomberg LP	1350 Liberty Ave Hillside
	One Announcement at Start of Affirmative Marketing	Emcore Corp	14 World's Fair Drive, Somerset, NJ 08873
X	One Announcement at Start of Affirmative Marketing	Ethicon Inc	1515 West Blancke Street Bldgs 1501 and 1525 Linden. NJ
X	One Announcement at Start of Affirmative Marketing	Fedders Co	27 Commerce Drive Cranford, NJ
	One Announcement at Start of Affirmative Marketing	ICI Americas Inc.	10 Finderne Ave Bridgewater, NJ 08807
	One Announcement at Start of Affirmative Marketing	ITW Electronic Component Packaging	95 Commerce Drive Somerset, NJ 08873
	One Announcement at Start of Affirmative Marketing	Johnson & Johnson	I Merck Drive PO Box 2000 (RY60-200E) Rahway. NJ
	One Announcement at Start of Affirmative Marketing	Tekni-Plex Inc.	1 12 Church St. Flemington. NJ 08822
X	One Announcement at Start of Affirmative Marketing	Ortho-Clinical Diagnostics Inc	1001 US 202 Raritan, NJ 08869
	One Announcement at Start of Affirmative Marketing	Hooper Holmes Inc	170 Mount Airy Rd. Basking Ridge, NJ 07920

3e. Community Contacts (names of community groups/organizations throughout the housing region that can be contacted to post advertisements and distribute flyers regarding available affordable housing)

Name Of Group/Organization	Address	Outreach Area	Racial/Ethnic Identification of Readers Audience	Duration & Frequency of Outreach
South Brunswick Community Development Corporation	3424 State Route 27	Township	All	One notice at start of marketing
Abundant Life Christian Center	2245 US Highway 130 Ste 101 Dayton, NJ 08810	Region	All	One notice at start of marketing
St. Augustine Roman Catholic Church	45 Henderson Rd. Kendall Park. NJ 08824	Region	All	One notice at start of marketing

Puerto Rican Action Board	300 Holliman Blvd. New Brunswick. NJ 08901	Region	Hispanic	One notice at start of marketing
ARC of Middlesex County	219 Black Horse Lane, Suite I North Brunswick, NJ 08902	Region	Special Needs	One notice at start of marketing
Triple C Housing Inc.	I Distribution Way Monmouth Junction, NJ 08852	Region	Special Needs	One notice at start of marketing
Prince of Peace	2344 US Highway 130 Dayton. NJ 08810	Region	All	One notice at start of marketing
Islamic Society of Central Jersey	4145 Route I South PO Box 628 Monmouth Junction. NJ 08852	Region	All	One notice at start of marketing
All Nations Mission Church	12 Stults Rd. Ste. 1 10 Dayton. NJ 08810	Region	All	One notice at start of marketing
Delta Community Supports	Gwynedd Hall, Suite 400 1777 Sentry Parkway West Blue Bell, PA 19422	Region	Special Needs	One notice at start of marketing
St. Cecilia's Roman Catholic Church	10 Kingston Lane Monmouth Junction, NJ 08852	Region	All	One notice at start of marketing
Brooks Crossing School	50 Deans Rhode Hall Rd. Monmouth Junction, NJ 08852	Township	All	One notice at start of marketing
Indian Fields School	359 Ridge Rd. Dayton, N.J 08810	Township	All	One notice at start of marketing
Greenbrook School	23 Roberts St. Kendall Park, NJ 08824	Township	All	One notice at

				start of marketing
Brunswick Acres School	41 Kory Drive Kendall Park, NJ 08824	Township	All	One notice at start of marketing
Crossroads South Middle School	195 Major Rd. Monmouth Junction, NJ 08852	Township	All	One notice at start of marketing
Brooks Crossing at Dean School	848 Georges Rd. Monmouth Junction, NJ 08810	Township	All	One notice at start of marketing
Indian Fields at Dayton Elementary School	310 Georges Rd. Dayton, NJ 08810	Township	All	One notice at start of marketing
Crossroads North Middle School	635 Georges Rd. Monmouth Junction, NJ 08852	Township	All	One notice at start of marketing
Constable School	29 Constable Rd. Kendall Park, NJ 08824	Township	All	One notice at start of marketing
Cambridge School	35 Cambridge Rd. Kendall Park, NJ 08824	Township	All	One notice at start of marketing
Monmouth Junction School	630 Ridge Rd. Monmouth Junction, NJ 08852	Township	All	One notice at start of marketing
South Brunswick High School	750 Ridge Rd. Monmouth Junction, NJ 08852	Township	All	One notice at start of marketing
South Brunswick Board of Ed.	29 Constable Rd. Kendall Park, NJ 08824	Township	All	One notice at start of marketing

Hunterdon Social Services	PO Box 2900 Community Services Blvd. Flemington, NJ 08822	Region	All	One notice at start of marketing
United Way Hunterdon	4 Walter Foran Blvd. Suite 104 Flemington, NJ 08822	Region	All	One notice at start of marketing
Salvation Army	433 State St. Perth Amboy, NJ 08861	Region	All	One notice at start of marketing
Franklin Township Municipal Building	475 DeN10tt Lane Somerset, NJ 08873	Region	All	One notice at start of marketing

Middlesex County Administration Building	75 Bayard St New Brunswick. NJ 08903	Region	All	One notice at start of marketing
The Salvation Army	287 Handy St. PO Box 269 New Brunswick, NJ 08901	Region	All	One notice at start of marketing
Somerset Administration Building	20 Grove St. PO Box 3000 Somerville, NJ 08876	Region	All	One notice at start of marketing
Fair Share Housing Center	510 Park Boulevard Cherry Hill, NJ 08002	Region	All	One notice at start of marketing
Latino Action Network	PO Box 943 Freehold. NJ 07728	Region	Hispanic	One notice at start of marketing
Metuchen/Edison NAACP	127 Newman Street Metuchen, NJ 08840	Region	Black	One notice at start of marketing
Perth Amboy NAACP	4326 Harbor Beach Blvd. #775 Brigantine, NJ 08203	Region	Black	One notice at start of marketing
Plainfield Area NAACP	4326 Harbor Beach Blvd. #775 Brigantine, NJ 08203	Region	Black	One notice at start of marketing
Supportive Housing Association of New Jersey	185 Valley Street South Orange, NJ 07079	Region	Special Needs	One notice at start of marketing
New Brunswick NAACP	PO Box 235 New Brunswick, NJ 08903	Region	Black	One notice at start of marketing
Somerset Community Action Program (SCAP)	PO Box 189 Somerset. NJ 08875	Region	All	One notice at start of marketing
Civic League of Greater New Brunswick	47 Throop. #49 New Brunswick, NJ 08901	Region	Black, other minorities	One notice at start of marketing
New Jersey State Conference of the NAACP	13 East Front Street Trenton. NJ 08608	Region	Black	One notice at start of marketing
So. Brunswick Twp Website		Township	All	Ongoing
https://www.nj.gov/njhrc/		State	All	Ongoing

Applications for affordable housing for the above units will be available at the following locations:		
4a. County Administration Buildings and/or Libraries for all counties in the housing region (list county building, address, contact person) Check all that apply		
<input checked="" type="checkbox"/>	Middlesex County Administration Bldg	75 Bayard Ln, New Brunswick, NJ 08903
<input checked="" type="checkbox"/>	Somerset County Admin. Bldg	20 Grove Street, Somerville, NJ 08876
<input checked="" type="checkbox"/>	County Of Hunterdon	State Highway 12 Flemington, NJ 08822-2900
<input checked="" type="checkbox"/>	Somerset County Library Headquarters	Vogt Drive, Bridgewater, NJ 08807
<input checked="" type="checkbox"/>	Hunterdon County Library Headquarters	State Highway 12, Flemington, NJ 08822
4b. Municipality in which the units are located (list municipal building and municipal library, address, contact person)		
Township of South Brunswick Municipal Building 540 Ridge Road, Monmouth Junction, NJ 08852		
South Brunswick Library — South Brunswick Senior Center — South Brunswick Parks and Recreation		
Di Shonay Pittman Affordable Housing Administrative Agent/MHL Township of South Brunswick 540 Ridge Road 1 PO Box 190 Monmouth Junction, NJ 08852 732-329-4000 ext.7220 dpittman@sbtjn.net		

V. CERTIFICATIONS AND ENDORSEMENTS

I hereby certify that the above information is true and correct to the best of my knowledge. I understand that knowingly falsifying the information contained herein may affect the (select one: Municipality's COAH substantive certification or DCA Balanced Housing Program funding or HMFA UHORP/MONI funding).	
<u>Di Shonay Pittman</u>	
Name (Type or Print)	
<u>Administrative Agent/MHL / South Brunswick Twp.</u>	
Title/Municipality	
<u>Di Shonay Pittman</u>	<u>11/1/24</u>
Signature	Date