



Township of Freehold
OFFICE OF THE PLANNING BOARD
One Municipal Plaza, Freehold, NJ 07728

REGULAR MEETING AGENDA
April 16, 2020

Reports and Attachments

- Pg. 2-47 Area in Need of Redevelopment Report – Freehold Mall (dated: 3/24/2020)
- Pg. 48-51 Addendum to 3/24/2020 Area in Need of Redevelopment Report – Freehold Mall
- Pg. 52-127 Resolution for O-20-7: An Ordinance Amending Chapter 190 (Land Use), Article XI (Zones and Schedule of Requirements) and Article XIII (Zoning Regulations) and Article XX (Affordable Housing Regulations)

Area in Need of Redevelopment Report

Freehold Mall (Burlington Coat Factory)

3681 U.S. Route 9

(Block 50, Lot 25)

For a Determination of Suitability to be Designated an “Area in Need of Redevelopment” in Accordance with N.J.S.A. 40A:12A-1 et seq.

TOWNSHIP OF FREEHOLD
Monmouth County New Jersey



2015 Aerial Map – source NJDEP

Prepared: March 24, 2020

Area in Need of Redevelopment Report

Freehold Mall (Burlington Coat Factory)

3681 U.S. Route 9

(Block 50, Lot 25)



2015 Aerial Map – source NJDEP

Prepared by:

A handwritten signature in black ink, reading 'T. Andrew Thomas'.

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Prepared: March 24, 2020

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Area in Need of Redevelopment Report

Freehold Mall (Burlington Coat Factory)

3681 U.S. Route 9

(Block 50, Lot 25)

Introduction and Purpose

On February 25, 2020, the Freehold Township Committee adopted Resolution R-20-49 (See Appendix 1) authorizing the Township Planning Board to undertake a preliminary investigation and public hearing to determine whether the Freehold Mall (Burlington Coat Factory) located at 3681 U.S. Route 9 (northbound) (Block 50, Lot 25) within the Township, herein referred to as the “Study Area” meets the statutory criteria for designation as a “redevelopment area,” in accordance with the Local Redevelopment and Housing Law, (N.J.S.A. 40A:12A-1 et seq.). The Township Committee determined that the redevelopment area determination would authorize the Township to use all the powers provided by law for use in the redevelopment area, including the use of eminent domain, thus designating the property a “Condemnation Redevelopment Area.”

On March 19, 2020 in accordance with Resolution R-20-49 of the Township Committee, the Planning Board authorized an investigation of the site and a report by the Township Planning Board as to whether the Study Area meets the criteria for an area in need of redevelopment pursuant to N.J.S.A. 40A:12A-5. (See Appendix 1). The Planning Board authorized its planning consultant, Thomas Planning Associates to assist the Board in undertaking the required investigation and report.

This report provides an analysis of current conditions of the proposed redevelopment Study Area including a review of land uses, zoning and master plan policies, building and site conditions, environmental conditions, and tax and building records. The statutory criteria for redevelopment are then applied to these findings to determine whether they warrant a redevelopment designation. Lastly, the overall conclusions are presented regarding the Study Area as a potential redevelopment area and the next steps to be undertaken by the Township Committee.

Several maps are included in the report including: an aerial map showing the boundaries and location of the Study Area shown as Appendix 2; the applicable Tax Map shown as Appendix 3; a regional context map shown as Appendix 4; the existing land uses of the site and surrounding area shown as Appendix 5; a zone map of the site shown as Appendix 6, and an N.J.D.E.P. map showing environmental conditions shown as Appendix 7.

Statutory Process and Authority

Under the New Jersey Local Redevelopment and Housing Law (LRHL) municipalities are empowered to determine whether an area is in need of rehabilitation or redevelopment, to adopt a redevelopment plan, and to implement redevelopment projects. The redevelopment statute requires a multi-step process in order for a municipal

governing body and planning board to exercise these powers lawfully. This process is outlined in the seven steps below:

1. The governing body must authorize the planning board, by resolution, to undertake an investigation of the delineated area to determine whether it meets the criteria set forth in section 5 of the LRHL.
2. The planning board must then prepare a map showing the boundaries of the Study Area and the location of the various parcels therein.
3. The planning board must conduct a preliminary investigation and hold a duly noticed public hearing in order to discuss the findings of the investigation and to hear persons who are interested in or would be affected by the contemplated action. The results and recommendations of the hearing are then referred to the governing body in the form of a planning board resolution.
4. Upon receipt of the recommendation from the planning board, the governing body may act to adopt a resolution designating the area in question, or any part thereof, as an area in need of redevelopment.
5. Upon designation, the planning board or governing body then prepares a redevelopment plan, which establishes the land development goals and objectives of the municipality and outlines the actions to be taken to accomplish these goals and objectives.
6. The redevelopment plan, after a public hearing and review by the planning board, is referred to the governing body.
7. Upon receipt of the redevelopment plan from the planning board, the governing body may act to adopt the plan by ordinance. The adopted redevelopment plan may become an amendment to the municipality's zoning district map and zoning ordinance or may be treated as an overlay to existing zoning.

Upon completion of this public planning process a municipality is able to exercise the powers granted under the Redevelopment Statute. These powers include:

- Acquiring property (including by exercise of eminent domain, if necessary).
- Clearing an area, installing, constructing or reconstructing streets, facilities, utilities and site improvements.
- Negotiating and entering into contracts with private redevelopers or public agencies for the undertaking of any project or redevelopment work.
- Making loans to redevelopers to finance any project or redevelopment work.

- Entering buildings and/or property to conduct investigations or make surveys; contracting with public agencies for relocation of residents, industry or commerce.
- Making plans for voluntary repair or rehabilitation of buildings.
- Enforcing laws, codes and regulations relating to use and occupancy; repairing, rehabilitating, demolishing or removing buildings.
- Exercising other powers, including the power to do all things necessary or convenient to carry out its plans.

This report meets the requirement listed under Step 3, above, for a preliminary investigation and provides the Planning Board and Township Committee with the necessary information to determine the appropriateness of a redevelopment designation for the properties within the Study Area.

Location of Study Area

Appendix 2 and 3 show the boundaries of the Study Area as required by the Redevelopment Law. Per Township resolution R-20-49, the area of preliminary investigation consists of the entire Freehold Mall site (also known as the Burlington Coat Factory site) shown as Block 50, Lots 25. It is located along U.S. Route 9 northbound as identified on the official Freehold Township Tax Map No. 24 and contains a total of 25.58 acres.

Block	Lot	Site Address	Acres	Land Use	Owner
50	25	3681 U.S. Route 9	25.58	Strip shopping center (several tenants including Burling Coat Factory)	Freehold Shopping, LLC, ETAL 295 Madison Ave. 2nd Floor New York, NY 10017

The Study Area is located in the central portion of Freehold Township just south of Freehold Borough and across Route 9 from the Bank of America building. Access to the property is from Route 9 and also an interconnection to the Freehold Savings and Loan Bank property located on adjacent lot 25.03 to the south and the South Freehold Shopping Center. The regional location of the Study Area is in central Freehold Township as shown in Appendix 4.

The Study Area contains four individual commercial buildings, the sizes of which are noted in the table below:

Bldg.	Approx. Building Size (sq. ft.) (1)
1	6,000 s.f.
2	23,300 s.f.
3	44,420 s.f.
4	147,314 s.f.
Total	221,034 s.f.

(1) Approximate building size is estimated from aerial photography

The Study Area contains a 296-vehicle parking area within the west central portion of the main parking area that is leased to the Township as a “Park and Ride” facility. Residents of the Township may purchase a parking permit for the facility and utilize covered bus stops located adjacent to the Park and Ride along Route 9 with service to New York City and northern New Jersey.

The Study Area also contains a former Texaco gasoline service station which has been removed and which was located at the northwest corner of the site.

Existing Land Uses, Master Plan and Zoning Designations

Existing Land Uses

The existing land uses of the Study Area includes a strip retail shopping center comprised of four individual buildings containing retail, personal services, restaurant and automotive repair and several vacant storefronts. The Study Area also contains a vacant area in the northwestern corner of the site which was the location of a former Texaco gasoline service station. The specific uses at the Study Area are shown in the table below. A map of the Study Area showing the existing land uses is also shown on an Existing Land Use Map in Appendix 5.

The area that is adjacent and north and east of the Study Area contains single family houses on approximately 9,000 s.f. lots. To the west and south of the site along U.S. Route 9 are other business uses including the Freehold Savings Bank site immediately adjacent to and south of the site.

Building or Area	Description	Existing Land Uses
Building 1	Freestanding building - north end of site	Vitamin Shoppe
Building 2	Freestanding building - north end of site	Jersey Strong - gym
Building 3	Freestanding building - north end of site - smaller portion of the L-shaped building	Pearl Vision
		Terrace Bagel and Café
		Vacant (larger space)
		Freehold Grand Buffet
		Rt. 9 Farmers Market
Building 4	Freestanding building - western portion of site - larger portion of the L-shaped building	Burlington Coat Factory
		Vacant
		Urgent Care
		Vacant
		Freehold Music
		Vacant
		Leslies Pool Supplies
		Vacant (double space)
		Stylish Nails
		Firestone Complete Auto Care
Vacant Area	Northwestern corner of site	Former Texaco gas station
Parking Area	East central portion of site	Freehold “Park and Ride”

Prepared: January 28, 2020 - site investigation by Thomas Planning Associates

Vacancy rates among the existing buildings on site are very high and have been high for many years. The current vacancy rate at the time of the site investigation is more than 29 percent and includes some of the larger spaces within the buildings.

Master Plan

Freehold Township adopted its Master Plan on March 20, 1985. The Land Use Plan Element has been amended and revised several times since that date with the last amendment occurring on August 4, 2016.

The current Master Plan designation for the Study Area is B-10 - Highway Development 10 Acres. The site has been designated B-10 since the 1985 Master Plan adoption.

The B-10 designation of the Master Plan includes the following:

“Highway Development B-10 business areas constitute the major type of business and commercial development within the Township. The principal focus of the B-10 development areas is U.S. 9 which extends from the northwestern corner of the Township from Manalapan Township west of Freehold Borough then southeasterly into Howell Township. The B-10 areas identify major shopping centers including Pond Road, Freehold Mall, South Freehold Shopping Center and others.”

The Planning Board last adopted its Reexamination Report August 21, 2014. There were no recommended changes in the Reexamination Report for the Study Area.

Zoning

The current zoning for the Study Area is B-10 Highway Development 10 Acres. The Study Area was originally zoned B-10 in the early 1980s. The zone has been amended to permit additional uses as defined by the North American Industrial Classification System (NAICS) as noted below. The boundaries of the Study Area and surrounding area are shown in Appendix 6, Zoning Map.

The permitted uses in the B-10 Zone include the following:

- (1) Office buildings for professional, executive, engineering or administrative purposes.
- (2) Retail stores and shops, provided that no exterior storage or sales of building materials shall be permitted.
- (3) Personal service establishments.
- (4) Restaurants, cafes and coffee shops. Fast-food restaurants shall not be located nearer than 3,000 feet from one another, except that this provision shall not apply to fast-food restaurants located within shopping centers. Family-style restaurants without liquor licenses with video interactive games and/or child entertainment centers with or without video interactive games shall be permitted subject to the following design standards:
 - (a) Minimum floor area devoted to an individual family style restaurant or child entertainment center use: 2,500 square feet.
 - (b) Minimum floor area for each restaurant where two or more family-style restaurants are located in the same building: 2,500 square feet.
 - (c) Minimum number of seats is 125.
 - (d) No separate take-out service area is permitted.
 - (e) No drive-up windows are permitted.
 - (f) Video interactive devices, video games, and children entertainment uses in conformance with Chapter 75, Article II, § 75-19, provided that the area used for such uses shall not reduce the minimum required restaurant floor area and shall not exceed 25% or 1,000 square feet of the total floor area of a family-style restaurant, whichever is less.
 - (g) In any child entertainment center the area which contains video interactive games shall not exceed 7,500 square feet and the total area devoted to food service and party rooms shall not exceed 20% of the total floor area of the child entertainment center.

- (5) Shopping centers comprised only of uses permitted in this zone.
- (6) Wholesale business and distributors.
- (7) Passenger bus stations.
- (8) Research laboratories and light industries for the manufacture of products which may be produced without the creation of objectionable or detrimental effects on any other properties, subject to the performance requirements and specifications as hereinafter set forth in this chapter.
- (9) Horse racetracks, horse racecourses, and premises wherein pari-mutuel wagering is permitted by the state.
- (10) Municipal facilities.
- (11) Extension and commercial schools.
- (12) Public utility installations.
- (13) Fitness and recreational sports centers (NAICS 713940). [Added 6-17-2008 by Ord. No. O-08-11]
- (14) Bowling centers (NAICS 713950). [Added 6-17-2008 by Ord. No. O-08-11]
- (15) Other indoor recreational facilities including dancing schools, gymnastic and cheerleading centers, miniature golf, target golf, archery centers, skateboard parks and similar types of indoor recreational activities and/or instruction. [Added 6-17-2008 by Ord. No. O-08-11]

The bulk standards for the B-10 Zone are summarized in the following table with an indication if the Study Area conforms to each of the standards:

**STUDY AREA CONFORMANCE TO
B-10 ZONING STANDARDS**

Requirement	Standard	Site	Study Area Conforms (Yes/No)
Minimum Lot Area	10 Acres	25.58 Acres	Yes
Minimum Lot Frontage	1,000 ft.	+/- 1,597 ft.	Yes
Minimum Lot Depth	500 ft.	+/- 1,000 ft.	Yes
Maximum Lot Coverage – All Buildings	15%	+/- 19.8%	No
Maximum Lot Coverage – All Impervious Surfaces	60%	+/- 81%	No
Maximum Floor Area Ratio	0.15	+/- 0.19	No
Maximum Building Height (Feet)/Stories	35 ft./2 Story	1 Story	Yes
Front Yard Setback	100 ft.	+/- 100 Ft. Building 1; greater than 100 Ft. other buildings	Yes
Side Yard Setback	100 ft.	+/- 50 ft.	No
Rear Yard Setback	100 ft.	+/- 55 ft.	No
Minimum Width Buffer Zone	75 ft.	0 ft. along eastern side of property	No

As shown in the table above the Study Area does not conform with many of the B-10 Zone bulk standards.

State Planning Area

The New Jersey State Development and Redevelopment Plan was adopted March 1, 2001. The entire Study Area is contained within the Suburban Planning Area (PA2).

In the Suburban Planning Area, the State Plan intentions and goals are to:

- provide for much of the state's future development;
- promote growth in Centers and other compact forms;
- protect the character of existing stable communities;
- protect natural resources;
- redesign areas of sprawl;
- reverse the current trend toward further sprawl; and
- revitalize cities and towns

The developed character of the Study Area and its location in Planning Area 2 make it suitable for concentrating commercial development within this area. The State Plan policies and goals are consistent with the Township Zoning and Master Plan designations for the area as discussed above.

Smart Growth Planning Areas

The New Jersey Smart Growth Law, P.L. 2004, c. 89 (the "SGL"), was signed into law by Governor James McGreevey on July 9, 2004 to encourage redevelopment in previously developed areas by establishing an expedited permitting process for projects in designated geographic "smart growth areas."

The definition of "Smart Growth Areas" was defined as follows:

"Smart growth area" means an area designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), a designated center, or a designated growth center in an endorsed plan; a smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6); a growth area designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to section 7 of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-8); an urban enterprise zone designated pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et al.); an area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) and as approved by the Department of Community Affairs; or similar areas designated by the Department of Environmental Protection.

The New Jersey Department of State, Office of Planning Advocacy prepared a map dated August 8, 2019 showing "Smart Growth Areas" within the state of New Jersey. The Freehold Mall Study Area is within a designated "Smart Growth Area."

Description Of Existing Study Area Conditions And Property Evaluations

Improvement to Land Ratio (ILR)

One of the indicators used to measure the economic productivity of a property is the ratio of the assessed value of the improvements on the property to the value of the land. The assessed values of land and improvements for a particular property are found in local property tax records. Improvement to Land Ratio (ILR) is the value of the improvement(s) on a parcel divided by the value of the land of that parcel. An ILR lower than 1 indicates a situation where an owner may redevelop the property because the improvement(s) value is worth less than the land value. Reasons why a property may have a low ILR are the building(s) on the property may be old or dilapidated, or the structure(s) may be small relative to the size of the parcel. An ILR can also be low because the value of the land has risen at a

faster rate over time in relation to the improvements. Usually, the reason why an ILR is low is a combination of these and other factors.

The “improvement-to-land ratio” metric can provide a general indicator of productivity and evidence of substandard conditions. Typically, economically successful areas have a ratio of 2:1 or greater. Ratios of 1:1 or less provide evidence of underutilized, substandard or dilapidated buildings. Ratios less than 2:1 but greater than 1:1 may or may not indicate a substandard condition. There are some caveats when reviewing this data including uses that contain large open areas with comparatively small buildings may have low ratios but still be successful and viable businesses.

Assessed Value (Land + Improvements) = Total	Improvement to Land Ratio (ILR)
(\$16,627,000 + \$8,210,400) = \$24,837,400	0.49 or 1:2 ratio

Source: Freehold Township Tax Assessment Data - 2020

The ILR figure of 0.49 (1:2 ratio) indicates strong evidence of the relatively low value of existing buildings on the property and may indicate substandard, underutilized or dilapidated buildings. This is consistent with the age of the buildings and high vacancy rates.

Environmental Conditions

Environmental conditions in the Study Area were analyzed in order to document the potential presence of critical features and any natural constraints on development. A site inspection and the Geographic Information System (GIS) data from the NJDEP NJ-GeoWeb was reviewed for this analysis. There were no environmental conditions found at the Study Area including freshwater wetlands, steep slopes, critical habitat or stream corridors. There was, however, a known contaminated site and an area of groundwater contamination resulting from the former Texaco gasoline station that was previously located at the northwestern corner of the site behind the present Vitamin Shoppe building. The Texaco station building was removed and the area is currently vacant. A map showing the location and extents of the known contaminated site and groundwater contamination area is located in Appendix 7. Also, the NJDEP database description of the site contamination is located in the Appendix 7.

Property / Building Evaluation

The buildings on the site contain approximately 221,000 square feet. The main portion of the Shopping Center including the Burlington Coat Factory was constructed in 1963. The other buildings were constructed between 1970 and 1979. Access to the buildings and parking area is from Route 9 with additional access to adjacent commercial properties to

the south. The main building is oriented in an L-shaped pattern at the rear of the property and is set back from Route 9 approximately 675 feet at its furthest point. Loading areas are located at the rear of the building adjacent to the residential uses.

The buildings have an unusual building orientation and the two freestanding buildings to the north do not have a consistent relationship to the main building. The two northerly freestanding buildings are not oriented toward the street. There is also a freestanding sign located in the middle of the parking lot for these two buildings

The exteriors of the buildings are in generally fair condition albeit they are between 40 and 50 years in age. The façade of the buildings are outdated and contain signage that is inconsistent with the other parts of the building.

The parking lot has been recently repaved and is in good condition throughout.

The Park and Ride is conveniently located on the site and near the bus stop on Route 9 and appears to be well utilized by commuters, however, it is located in the center of the main parking area for the commercial uses.

The vacant area where the former Texaco gas station was located has no relationship to the site since it is located behind one of the northerly freestanding buildings. As previously stated this portion of the site is a known contaminated site.

Site Photos

- Photos 1 through 4 show the front of the main building to the rear (east) of the site including the Burlington Coat Factory front.
- Photos 5 and 6 show the other front portion of the main building which creates the bottom of the L- shape located at the north end of the site.
- Photos 7 and 8 show the front portion of the two other freestanding buildings at the northwest corner of the site.
- Photo 9 shows the freestanding sign for the site along Route 9.
- Photo 10 shows the freestanding sign in the interior parking lot advertising for the two northerly buildings.
- Photo 11 shows the N.J. Transit bus stop along Route 9 and the adjacent Park and Ride parking area.



Photo 1 – Burlington Coat Factory



Photo 2 – Freehold Music Center, Urgent Care, Leslie's Pool Supplies, Vacant storefronts



Photo 3 – Vacant storefront



Photo 4 – Tom + Chee Restaurant (vacant) Firestone and Bridgestone Tire Store, Nail Salon



Photo 5 – Pearle Vision, Terrace Bagel and Café, and Vacant Storefront



Photo 6 – Freehold Grand Buffet and Rt. 9 Farmers Market



Photo 7 – Vitamin Shoppe



Photo 8 – Jersey Strong Freehold - gym



Photo 9 – Freehold Mall freestanding sign



Photo 10 – Freestanding Sign – interior parking lot of site



Photo 11 – N.J. Transit bus stop along U.S. Route 9 and Park and Ride parking area

Consideration of Conditions For An Areas In Need Of Redevelopment

For an area to be found to be in need of redevelopment, existing conditions must meet at least one of the eight criteria that are specified under N.J.S.A. 40A:12A-5. These include:

- a. The generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent, or possess any of such characteristics, or are so lacking in light, air, or space, as to be conducive to unwholesome living or working conditions.
- b. The discontinuance of the use of buildings previously used for commercial, manufacturing, or industrial purposes; the abandonment of such buildings; or the same being allowed to fall into so great a state of disrepair as to be untenable.
- c. Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital.
- d. Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community.
- e. A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real property therein or other conditions, resulting in a stagnant or not fully productive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare.
- f. Areas, in excess of five contiguous acres, whereon buildings or improvements have been destroyed, consumed by fire, demolished or altered by the action of storm, fire, cyclone, tornado, earthquake or other casualty in such a way that the aggregate assessed value of the area has been materially depreciated.
- g. In any municipality in which an enterprise zone has been designated pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) the execution of the actions prescribed in that act for the adoption by the municipality and approval by the New Jersey Urban Enterprise Zone Authority of the zone development plan for the area of the enterprise zone shall be considered sufficient for the determination that the area is in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) for the purpose of granting tax exemptions within the enterprise zone district pursuant to the provisions of P.L.1991, c.431 (C.40A:20-1 et seq.) or the adoption of a tax abatement and exemption ordinance pursuant to the provisions of P.L.1991, c.441

(C.40A:21-1 et seq.). The municipality shall not utilize any other redevelopment powers within the urban enterprise zone unless the municipal governing body and planning board have also taken the actions and fulfilled the requirements prescribed in P.L.1992, c.79 (C.40A:12A-1 et al.) for determining that the area is in need of redevelopment or an area in need of rehabilitation and the municipal governing body has adopted a redevelopment plan ordinance including the area of the enterprise zone.

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

In addition to these criteria, the Redevelopment Statute states:

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

Application of the Statutory Criteria to the Redevelopment Study Areas Properties

The Study Area has been evaluated based upon a number of items including existing land uses, environmental conditions, vacancy rates, zoning, master plan, state plan designation, physical characteristics, exterior building conditions, conformance to zoning regulations and review of building layout and circulation. A summary of the property analysis is presented below along with an assessment with respect to the eight redevelopment criteria to determine which, if any, are met.

The Freehold Mall site has several contributing factors to be considered for an area in need of redevelopment including:

- A faulty building arrangement including the building clusters having no relationship to one another
- High vacancy rates
- Obsolete and improperly located signage
- Poor visibility to portions of the buildings due to its distance from the roadway and building configuration. Several of the uses can't be seen from the roadway.
- Portions of the site have been vacant for greater than 10 years including the former Texaco gas station which is listed by the NJDEP as a known contaminated site with groundwater contamination. This area is not likely to be redeveloped due to its location behind one of the freestanding buildings on the site.

- Buildings in the Study Area do not meet current zoning standards, particularly with respect to excessive land coverage and lack of buffering and setback to existing residential uses.

These factors all contribute to the overall obsolete conditions of the site and the impact on the general welfare of the Township.

As presented the site is part of a state “Smart Growth Area” due to its presence in Suburban Planning Area 2. A portion of the property also contains a “park and ride” facility which makes it ideally suited as a potential transit oriented property.

It is anticipated that the site will continue to deteriorate in the future without a major re-design and /or redevelopment of buildings, signage and buffering in accordance with Township land use and building design standards.

Based upon this analysis the present conditions of the Freehold Mall are detrimental to the health, safety, and welfare of the Township and demonstrate that the evidence necessary for criterion “c”, “d” and “h” of the Redevelopment Law have been met.

In summary, the investigation of the Study Area has identified the requisite conditions prescribed under N.J.S.A. 40A:12A5d and other mitigating factors that are sufficient to designate the Freehold Mall property (Block 50, Lot 25) as an Area in Need of Redevelopment with condemnation.

Subsequent Procedural Steps

Upon receipt of this Preliminary Investigation, the Planning Board is required to hold a public hearing. Notices for the hearing are required to be published in the Township newspaper of record once each week for two consecutive weeks and a copy of the notice is required to be mailed to the last owner of record of each property within the proposed Redevelopment Area.

Once the hearing has been completed, the Planning Board can make a recommendation to the Township Committee that the delineated area, or any part, should or should not be determined to be a Redevelopment Area. The Township Committee may then adopt a resolution determining that the delineated area, or portion, is a Redevelopment Area. Notice of such a determination is then sent to each objector, if any, who has sent in a written protest. The next part of the process is the creation of a Redevelopment Plan to guide development within the delineated area.

Preparation of a Redevelopment Plan

A Redevelopment Plan is the second and primary planning document in the redevelopment process. A Redevelopment Plan is required to be adopted by ordinance by the Township Committee before any redevelopment or site improvements are initiated. Under N.J.S.A. 40A-7a, a Redevelopment Plan is required to address the following:

1. The plan relationship to local objectives as to appropriate land uses, density of population, and improved traffic and public transportation, public utilities, recreational and community facilities and other public improvements.
2. Proposed land uses and building requirements in the project area.
3. Adequate provisions for temporary and permanent relocation, as necessary, of residents in the project area.
4. Identification of any property within the Redevelopment Area which is proposed to be acquired.
5. The relationship of the plan to the master plans of contiguous municipalities, the master plan of the county in which the municipality is located, and the State Development and Redevelopment Plan.
6. Pursuant to N.J.S.A. 40A:12A-7c, the Redevelopment Plan must also describe its relationship to pertinent municipal development regulations.

APPENDIX

Appendix 1 - Resolutions

Appendix 2 - Aerial Map

Appendix 3 - Tax Map

Appendix 4 - Regional Location Map

Appendix 5 - Existing Land Use Map

Appendix 6 - Zone Map (portion)

Appendix 7 - NJDEP Map and Database

Appendix 1 - Resolutions



Resolution of the Township of Freehold

Monmouth County, New Jersey

No: R-20-49

Date of Adoption: February 25, 2020

TITLE: RESOLUTION AUTHORIZING THE PLANNING BOARD TO
DETERMINE IF BLOCK 50, LOT 25 IS A PROPERTY IN NEED OF
REDEVELOPMENT

- - - R E S O L U T I O N - - -

WHEREAS, Block 50, Lot 25 (the “Property”) is the Freehold Mall property located on Route 9 in the Township owned by Freehold Shopping, LLC; and

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et. seq. sets forth the specific procedure for establishing an area in need of redevelopment; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-6, prior to the Township Committee’s determination whether a particular study area qualifies as an area in need of redevelopment, the Township Committee must authorize the Township Planning Board, by Resolution, to undertake the preliminary investigation to determine whether the area meets the criteria of a redevelopment area as set forth in N.J.S.A. 40A:12A-5; and

WHEREAS, the Township Committee has determined that the Planning Board should undertake such a preliminary investigation and hearing to determine that the Property qualifies under the Local Redevelopment and Housing Law as an area in need of redevelopment; and

WHEREAS, N.J.S.A. 40A:12A-6(a) further provides that, in making such a determination, the Resolution authorizing the Planning Board to undertake the preliminary investigation shall state if the redevelopment area determination shall authorize the municipality to use all the powers provided by the legislature for use in a redevelopment area, including the power of eminent domain; and

WHEREAS, the Township Committee has determined that the redevelopment area determination should authorize the Township of Freehold to use all its powers provided by the legislature for use in the redevelopment area, including the use of eminent domain, thus designating the Property a “Condemnation Redevelopment Area” under N.J.S.A. 40A:12A-6(a).

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Freehold, that the Township Planning Board be and is hereby directed to conduct the necessary investigation including the holding of a public hearing to determine whether or not the Property is or is not an area in need of redevelopment under the criteria set forth in N.J.S.A. 40A:12A-1 et. seq.

BE IT FURTHER RESOLVED that the Planning Board is directed that the redevelopment area determination shall authorize the Township to use all the powers provided by the legislature for use in redevelopment, including the power of eminent domain.

BE IT FURTHER RESOLVED that the Planning Board shall submit its findings and recommendations to the Township Committee in the form of a Resolution with supporting documentation.

BE IT FURTHER RESOLVED that a copy of this Resolution, certified by the Township Clerk to be a true copy, be forwarded to the following:

1. Freehold Township Planning Board
2. Freehold Shopping, LLC
3. The Ten-X Offices, 575 Fifth Avenue, 20th Floor, New York, NY 10017

No. R-20-49

VOTE OF THE TOWNSHIP COMMITTEE							
COMMITTEEMAN	I	S	Y	N	NV	AB	
Mr. Ammiano						X	
Mr. Cook	X		X				
Mrs. Fasano			X				
Mr. Walker		X	X				
Mayor Preston			X				
I-Introduced By S-Seconded By X- Indicates Vote NV- Not Voting AB- Absent							

PLANNING BOARD OF THE TOWNSHIP OF FREEHOLD

RESOLUTION

Mr. Ammiano offered the following Resolution and moved its adoption which was seconded by Mr. Preston. :

WHEREAS, the Planning Board of the Township of Freehold requires the services of a planning consultant to prepare a preliminary investigation report pertaining to a proposed redevelopment area; and

WHEREAS, the Township Committee of the Township of Freehold has adopted a Resolution requesting that the Planning Board undertake a preliminary investigation pursuant to N.J.S.A. 40A:12A-6; and

WHEREAS, pursuant to the aforesaid provision of the Local Redevelopment and Housing Law, the Freehold Township Committee has authorized the Planning Board to undertake a preliminary investigation to determine whether the property known as Lot 25 in Block 50 on the tax map of the Township of Freehold located on Route 9 and known as the "Freehold Mall" property meets the criteria for a redevelopment area pursuant to N.J.S.A.40A:12A-5; and

WHEREAS, the Planning Board at its annual reorganization meeting has previously appointed Thomas A. Thomas, P.P. of Thomas Planning Associates, L.L.C. as a planning consultant to the Planning Board;

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Freehold that Thomas Planning Associates, L.L.C. be and is hereby authorized and directed to perform a study and review of Lot 25 in Block 50 and to prepare a report to the Planning Board as to whether the aforesaid property meets the criteria for an area in need of redevelopment pursuant to N.J.S.A. 40A:12A-5:

BE IT FURTHER RESOLVED that in preparing its report, Thomas Planning Consultants shall address those issues as set forth in N.J.S.A.48:12A-6, including recommendations with respect to whether the redevelopment determination should authorize the Township to use all of those powers provided by the Legislature for use in redevelopment area other than the use of eminent domain or whether the redevelopment determination should authorize the municipality to utilize all such powers, including the power of eminent domain.

BE IT FURTHER RESOLVED that certified copies of this Resolution shall be provided by the Planning Board Secretary to the following:

1. Thomas Planning Associates, L.L.C.
2. Freehold Shopping, L.L.C., owner of Lot 25 in Block 50
3. Freehold Township Committee

ROLL CALL

YES: Mayor Preston, Mr. Ammiano, Mr. Bazzurro, Mr. Coburn, Mr. Gatto, Ms. Jahn, Mr. Shortmeyer, Ms. Kurtz and Mr. Levy.

NO:

ABSENT:

Mr. Bruno, Mr. Kash and Mr. Asadi.

ABSTAINED:

DISQUALIFIED:

DATED:

March 19, 2020

I HEREBY CERTIFY that the foregoing is a true copy of a Resolution which was passed by the Freehold Township Planning Board at its meeting held on March 19, 2020.



Robert Shortmeyer, Secretary

Appendix 2 - Aerial Map



AERIAL MAP STUDY AREA

Freehold Mall

Block 50, Lot 25

U.S. Route 9 - Freehold Township

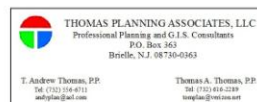


Site



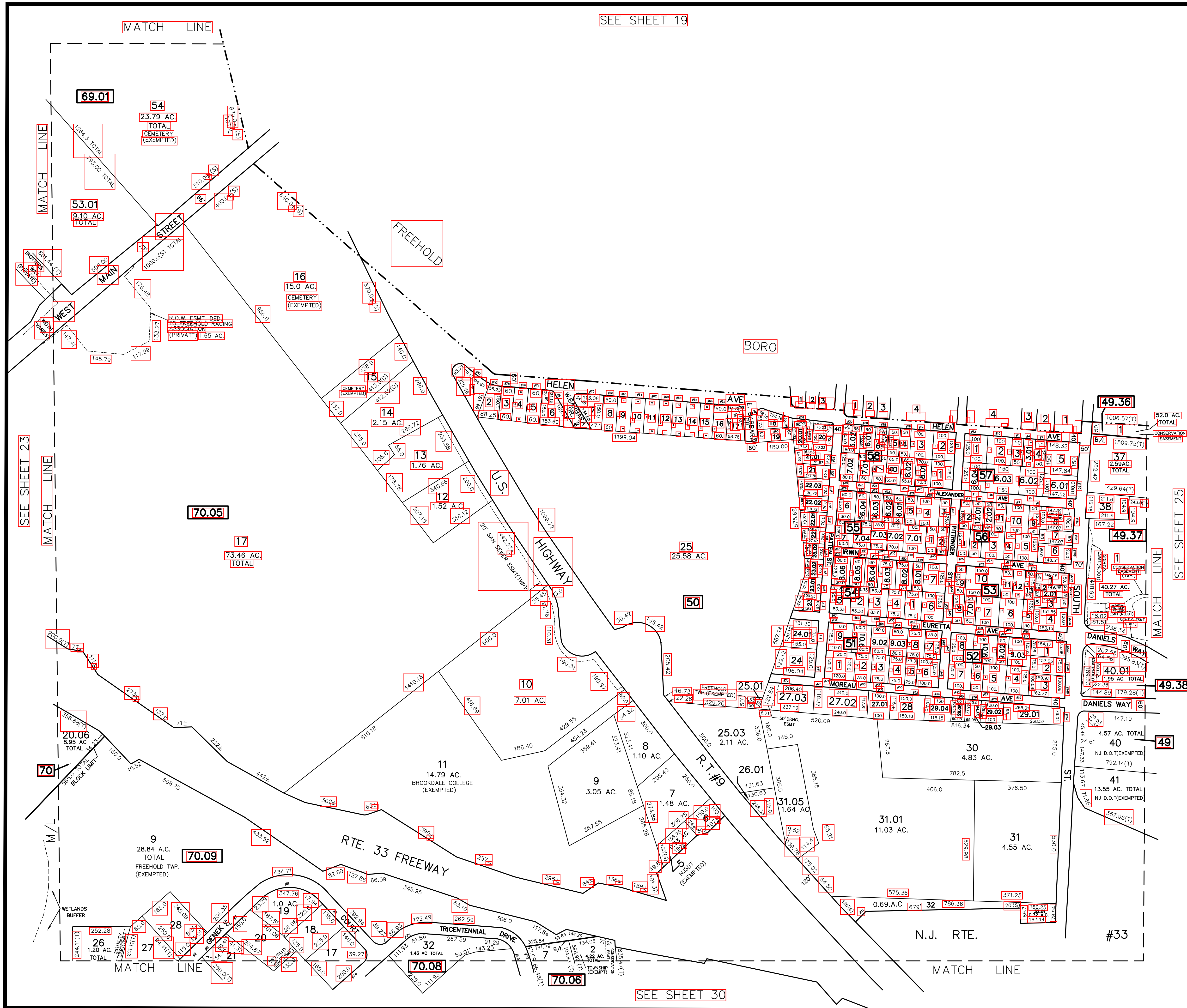
Prepared: March 23, 2020

Sources: NJDEP GIS data; NJDOT GIS data.
This map was developed using New Jersey Department of Environmental Protection Geographic Information System digital data, but this secondary product has not been verified by NJDEP and is not state-authorized.



Appendix 3 - Tax Map

REVISIONS		
DATE	NAME	LIC. NO.
3/6/17	TIMOTHY P. WHITE	24GB04257000



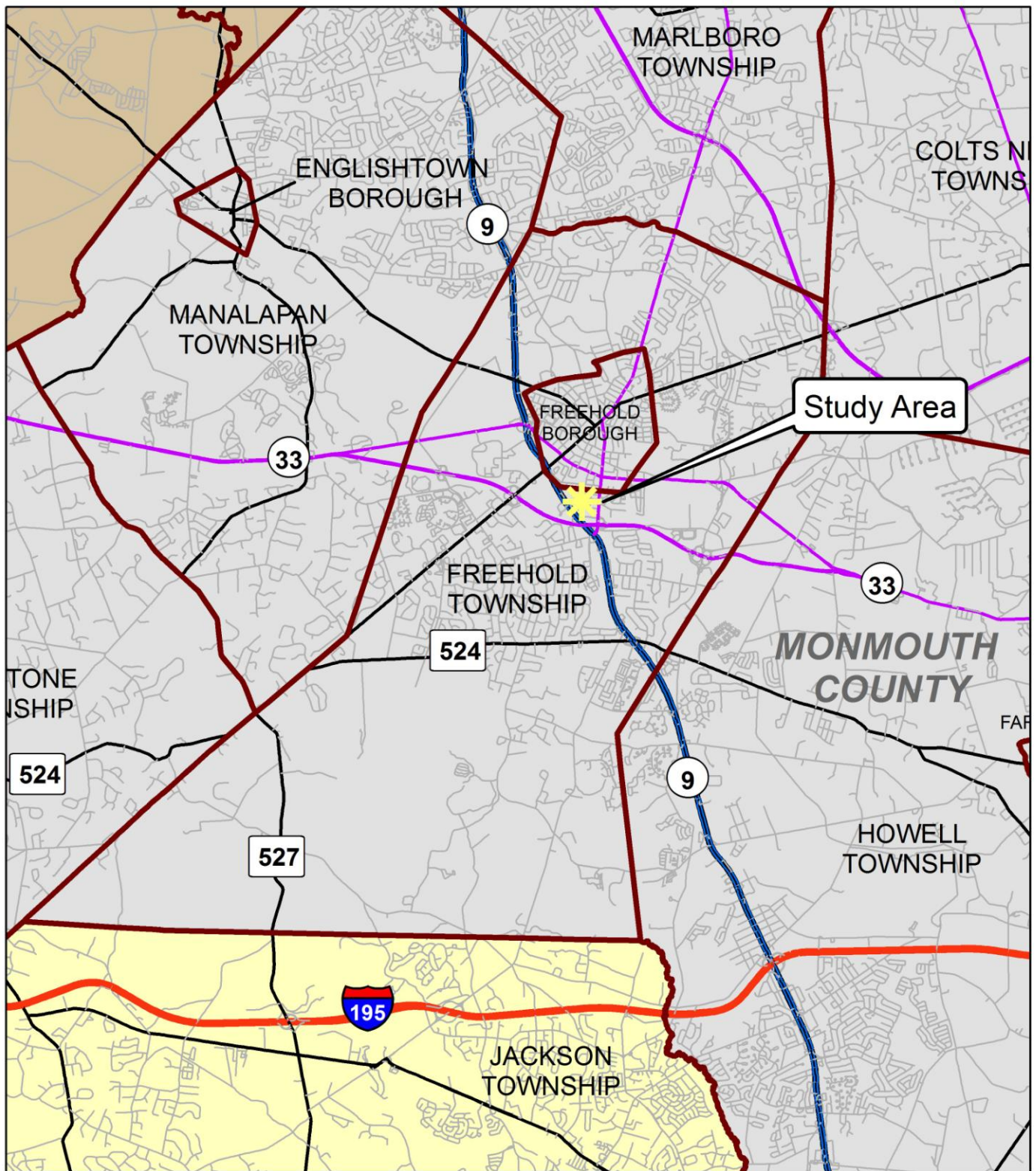
TM
ASSOCIATES
11 TINDALL ROAD
MIDDLETOWN, NJ 07748
TEL 732-671-6400
FAX 732-671-7365
NEW JERSEY BOARD OF
PROFESSIONAL ENGINEERS AND
LAND SURVEYORS
CERTIFICATE OF AUTHORIZATION
24GA27987500

TAX MAP
TOWNSHIP OF FREEHOLD
MONMOUTH COUNTY, NEW JERSEY
SCALE: 1"= 200' JANUARY, 2008
JOSEPH M. MAVURO, P.E., P.L.S.
1 MUNICIPAL PLAZA
FREEHOLD, NEW JERSEY 07728

THIS MAP HAS BEEN DRAWN USING COMPUTER AIDED
DRAFTING/DESIGN (CAD/D) AND COORDINATE GEOMETRY.

THIS MAP IS A COPY OF THE ORIGINAL MAP
PREPARED BY WILLIAM HELD, P.E. & P.L.S.
DATED MARCH 1962. THE ORIGINAL MAP IS
ON FILE IN THE ENGINEER'S OFFICE.

Appendix 4 - Regional Location Map



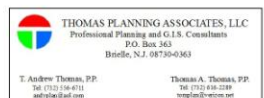
REGIONAL LOCATION STUDY AREA

Freehold Mall
Block 50, Lots 25
U.S. Route 9 - Freehold Township

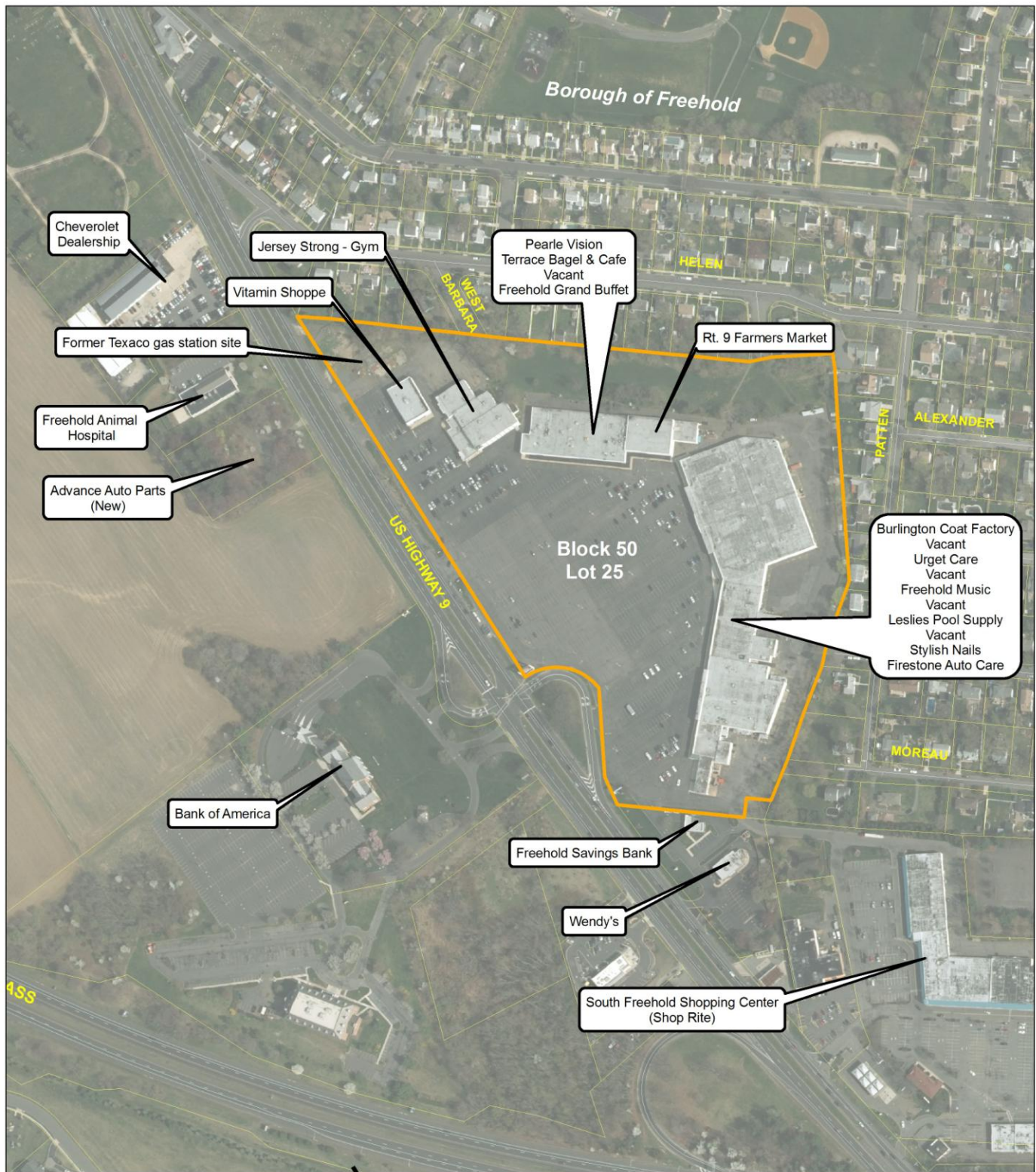
Sources: NJDEP GIS data; NJDOT GIS data.
This map was developed using New Jersey
Department of Environmental Protection Geographic
Information System digital data, but this secondary
product has not been verified by NJDEP and is
not state-authorized.

0 0.5 1 2
Miles

Prepared: March 23, 2020



Appendix 5 - Existing Land Use Map



EXISTING LAND USE MAP STUDY AREA

Freehold Mall

Block 50, Lot 25

U.S. Route 9 - Freehold Township

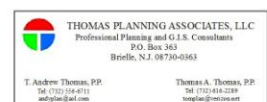


— Site

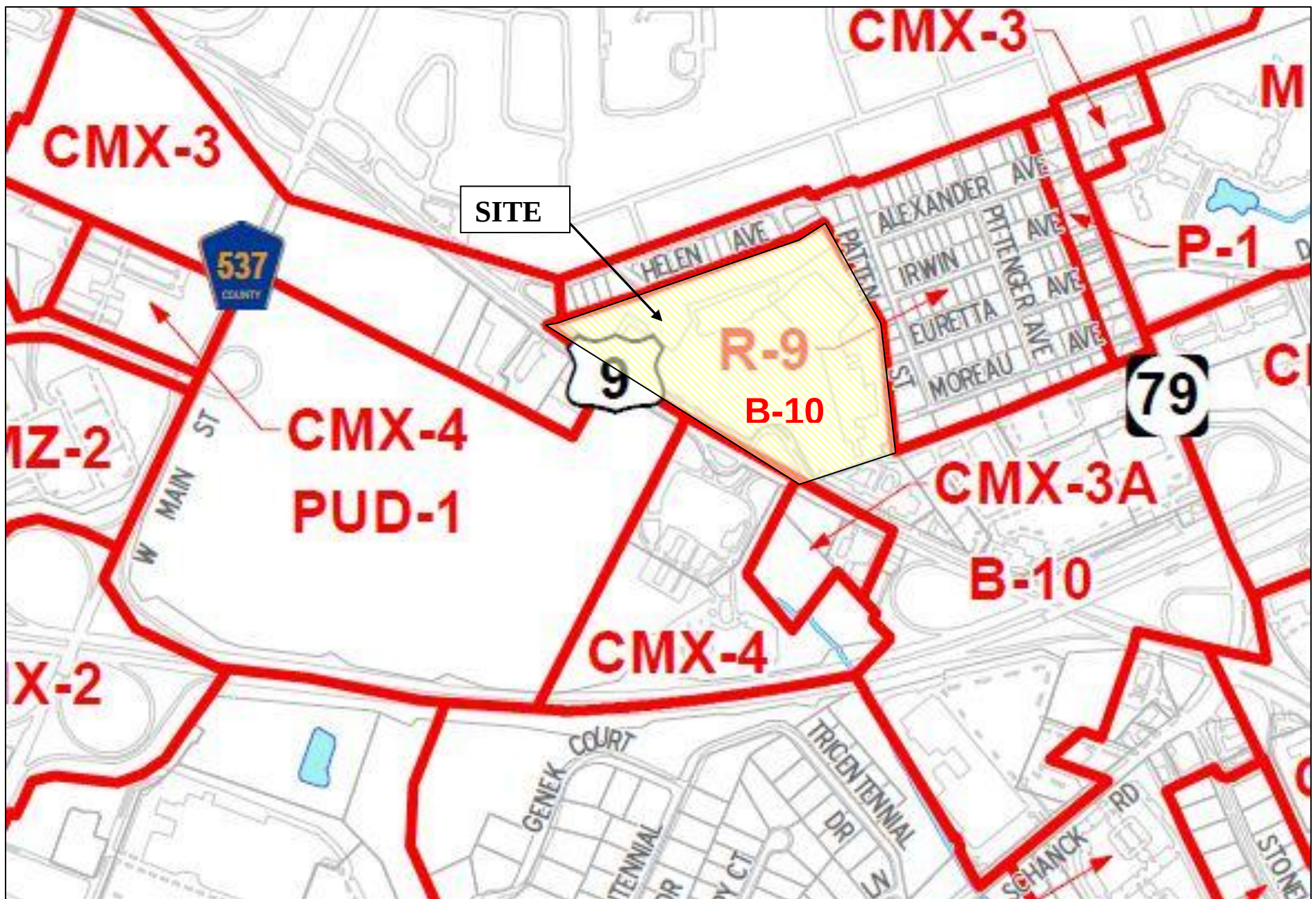
0 50 100 200 300 400 Feet

Prepared: March 23, 2020

Sources: NJDEP GIS data; NJDOT GIS data.
This map was developed using New Jersey
Department of Environmental Protection Geographic
Information System digital data, but this secondary
product has not been verified by NJDEP and is
not state-authorized.



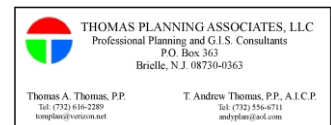
Appendix 6 - Zone Map (portion)



ZONING MAP
Freehold Mall
Block 50, Lot 25

U.S. Route 9 – Freehold Township

Prepared: January 28, 2020 Not to Scale



Appendix 7 - NJDEP Map and Database

Details of " Groundwater Contamination Areas (CEA) "

Attribute	Value
Preferred ID	016147
Subject Item ID	31779
Activity Number	LSR110001
Case Tracking Number	0
Name	Red Star Texaco
CEA Name	Red Star Texaco
Address	Route 9 & Craig Rd
Block / Lot	50-25
Municipality	Freehold Twp
County	Monmouth
Program	LSRP
Established Date	8/1/2017 12:00:00 AM
CEA Description	CEA extends to the south beyond site boundaries, beneath the Route 9 highway and includes the right-of-way of the Route 9. CEA delineated by ground water data.
Restriction Depth (ft)	50.00
Duration (yrs)	15
Well Restriction Area (WRA)	Yes
Groundwater Classification	II-A
Geologic Formation	Hornerstown Fm,Tinton Fm
Ground Water Flow Direction	Southeast
Benzene	Yes
Methyl Tertiary Butyl Ether (MTBE)	
t-Butyl Alcohol (TBA)	
Trichloroethene (TCE)	
Tetrachloroethene (PCE)	
Chloroform	
Carbon tetrachloride	
Vinyl chloride	
Naphthalene	

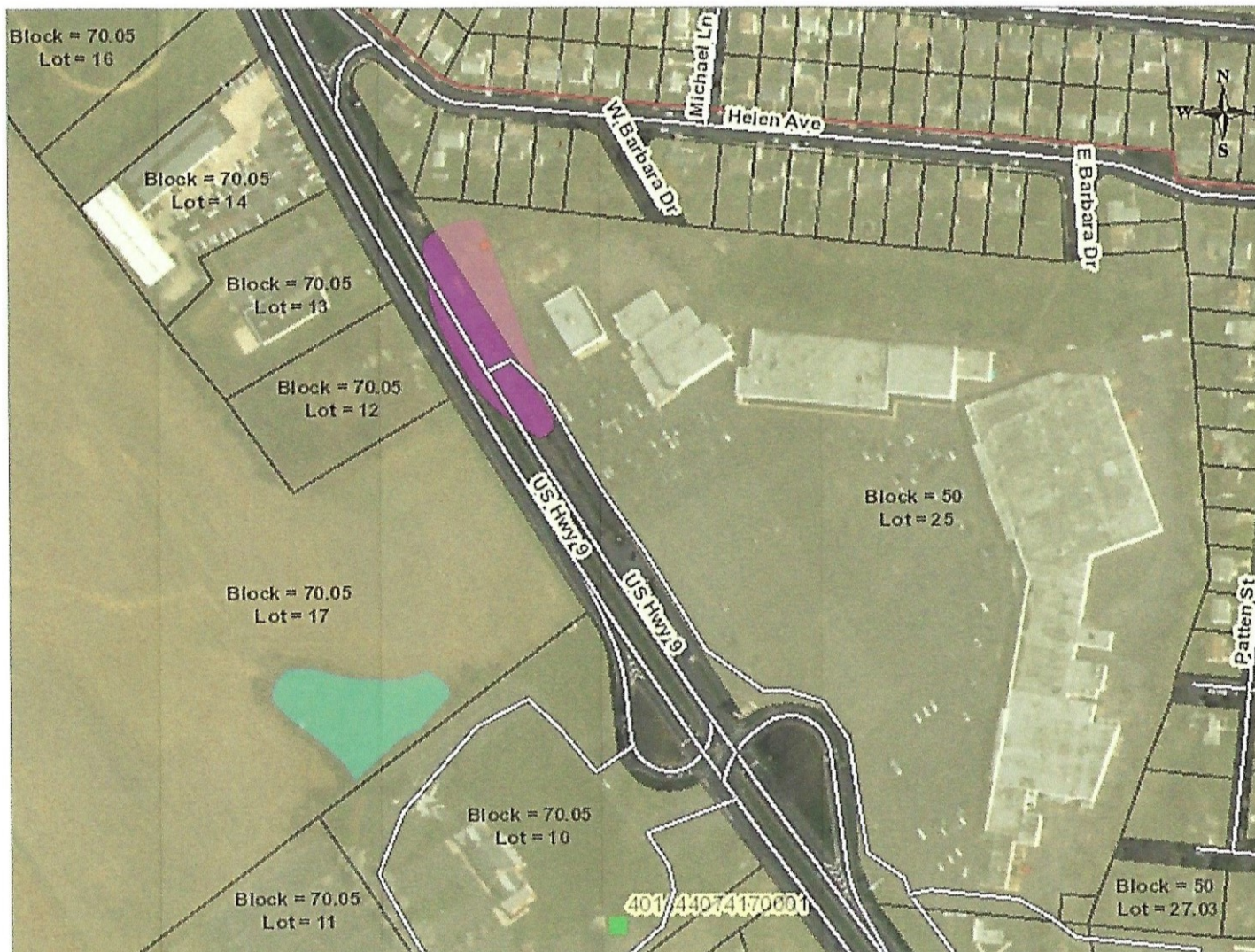
Benzo[a]pyrene	
Lead (Pb)	
Arsenic	
Chromium	
Cadmium	
Mercury	
Tentatively Identified Compounds (TICs)	Yes
Volatile Organics (VOs)	Toluene, Xylenes (total)
Base/Neutrals (BNs)	
Metals	
Pesticides	
Polychlorinated Biphenyls (PCBs)	
Dioxin	
Radionuclides	
Free Product	
Historic Fill	No
Other Contaminants	
Acres	1.07527
Perimeter (ft.)	969.42463223

Details of " Known Contaminated Sites List "

Attribute	Value
NJEMS Site ID	4,647.00
Preferred ID	016147
PI Name	RED STAR TEXACO
Address	RT 9 & CRAIG RD
Municipality	Freehold Twp
County	Monmouth
ZIP Code	07728
COMU Code	1316
Lead Program	LSRP
Site Status	Active
Status Dt	8/11/2011 12:00:00 AM
Remedial Level	C2
LSRP Fee Category	LSRP 2-10 CAOC
CEA Status	Ongoing
CEA Established	8/1/2017 12:00:00 AM
Deed Notice Status	
Deed Notice Filed	
Eng Control Status	
Eng Control Implemented	
National Priority List Status	
NPL Listing	
Unknown Source	No
Site Category	A
X Coordinate	552,512.00
Y Coordinate	515,269.00
Coordinate	NJ State Plane (NAD83) - USFEET
Dataload Date	1/27/2020 12:00:00 AM

FREEHOLD MALL

Block 50, Lot 25 - U.S. Route 9



LEGEND

Applications/NJGW_Base_Layers

- Roads NJ (Centerlines) (1:4999 to 1:999 scale)
- Municipalities
- Parcels Data (Block and Lot)
- Counties
- MidAtlantic States Boundary

Applications/NJGW_Environmental_Monitoring

- EPA - STORET Water Quality Monitoring Stations
- USGS NWIS Water Monitoring Stations
- Brownfield Development Area (Outline)
- Brownfield Development Area (Block and Lots)

Applications/NJGW_Sites_and_Facilities

- Autobody Shops
- Dry Cleaners
- Gas Stations
- Known Contaminated Sites List
- Groundwater Contamination Areas (CEA)

Applications/NJGW_Land

- Wetlands (2012)

Addendum
to March 24, 2020
Area in Need of Redevelopment Report
Freehold Mall (Burlington Coat Factory)
3681 U.S. Route 9
(Block 50, Lot 25)

For a Determination of Suitability to be Designated an “Area in Need of Redevelopment” in Accordance with N.J.S.A. 40A:12A-1 et seq.

The following addendum to the March 24, 2020 “Area in Need of Redevelopment Report” provides a description of the rear of the site including several photos. Page 12 provides additional text as underlined and pages 16a, 16b and 16c include the photos.

Prepared: April 6, 2020

the south. The main building is oriented in an L-shaped pattern at the rear of the property and is set back from Route 9 approximately 675 feet at its furthest point. Loading areas are located at the rear of the building adjacent to the residential uses.

The buildings have an unusual building orientation and the two freestanding buildings to the north do not have a consistent relationship to the main building. The two northerly freestanding buildings are not oriented toward the street. There is also a freestanding sign located in the middle of the parking lot for these two buildings

The exteriors of the buildings are in generally fair condition albeit they are between 40 and 50 years in age. The façade of the buildings are outdated and contain signage that is inconsistent with the other parts of the building.

The rear of the buildings shows a poor layout including haphazard trash/dumpster locations and parking, damage to the building and poor or inconsistent fencing along the buffer area.

The parking lot has been recently repaved and is in good condition throughout.

The Park and Ride is conveniently located on the site and near the bus stop on Route 9 and appears to be well utilized by commuters, however, it is located in the center of the main parking area for the commercial uses.

The vacant area where the former Texaco gas station was located has no relationship to the site since it is located behind one of the northerly freestanding buildings. As previously stated this portion of the site is a known contaminated site.

Site Photos

- Photos 1 through 4 show the front of the main building to the rear (east) of the site including the Burlington Coat Factory front.
- Photos 5 and 6 show the other front portion of the main building which creates the bottom of the L- shape located at the north end of the site.
- Photos 7 and 8 show the front portion of the two other freestanding buildings at the northwest corner of the site.
- Photo 9 shows the freestanding sign for the site along Route 9.
- Photo 10 shows the freestanding sign in the interior parking lot advertising for the two northerly buildings.
- Photo 11 shows the N.J. Transit bus stop along Route 9 and the adjacent Park and Ride parking area.
- Photos 12 -19 show the rear of the building along the east and north sides.



Photo 12 – Rear of building – east side



Photo 13 – Rear of building – east side behind Burlington Coat Factory



Photo 14 – Rear of building on northeast corner behind Burlington Coat Factory



Photo 15 – Rear of building - north side



Photo 16 – Rear of building – east side



Photo 17 – Rear of building – east side



Photo 18 – Rear of building – north side



Photo 19 – Rear of building – behind Vitamin Shoppe

ORDINANCE NO. O-20-7
TOWNSHIP MEETING DATE: APRIL 27, 2020

AN ORDINANCE AMENDING CHAPTER 190, LAND USE, ARTICLE XI, ZONES AND SCHEDULE OF REQUIREMENTS; ARTICLE XIII, ZONE REGULATIONS; ARTICLE XX – AFFORDABLE HOUSING REQUIREMENTS WHICH INCLUDES DEVELOPMENT FEES AND AFFORDABLE HOUSING MANDATORY SET-ASIDE, OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF FREEHOLD, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY

BE IT ORDAINED by the Mayor and Township Committee of the Township of Freehold, County of Monmouth, and State of New Jersey as follows:

I

PURPOSES: The purposes of this Ordinance are to amend Chapter 190, Land Use, Article XI, Zone and Schedule of Requirements, §190-98, Zoning Map to rezone designated parcels and create the following new zoning districts and overlay zones: (1) ML-3 – Moderate and Low Income Housing Zone -3 DU/Acre; (2) ML-12 – Moderate and Low Income Housing Zone – 12,500 s.f.; (3) HD-2 High Density zone; (4) MU-1 Mixed Use Overlay -1; (5) MU-2 Mixed Use Overlay-2; (6) Mixed Use Overlay -3; (7) FSX - Flex Space zone; (8) PAC-3A Planned Adult Community -3A zone. Article XIII, Zone Regulations will be revised to create zoning regulations for the new zones. Chapter XX Affordable Housing Regulations will be repealed in its entirety and replaced with a revised Chapter XX, Affordable Housing Regulations to address the requirements of The Fair Housing Act and The Uniform Housing Affordability Controls (UHAC) regarding compliance with the Township’s Affordable Housing Obligations. Chapter XX also incorporates the Development Fee Ordinance and Affordable Housing Mandatory set-aside requirements.

Note: Additions are underlined and deletions are shown with ~~strikethroughs~~.

II

Article XI, Zones and Schedule of Requirements, §190-97, Zones, is hereby amended with the following new zones as indicated:

§ 190-97 Zones.

For the purpose of this chapter, the Township is divided into the following classes of zones:

R-R	Rural Residential Zone
R-E	Rural Environmental Zone
RR/PAC	Rural Residential/Planned Adult Community Zone
R-120	Residential 120,000 square feet

R-80	Residential Zone
R-60	Residential Zone
R-40	Residential Zone
R-40/P	Residential/Professional Office Zone
R-25	Residential Zone
R-20	Residential Zone
R-15	Residential Zone
R-12	Residential Zone
R-9	Residential Zone
High Density	Garden Apartment/Townhouse Zone
<u>HD-2</u>	<u>High Density Zone</u>
PC	Planned Community Zone
PAC-3	Planned Adult Community-3 Zone
<u>PAC-3A</u>	<u>Planned Adult Community-3A Zone</u>
PAC-4	Planned Adult Community-4 Zone
PAC-AHO	Planned Adult Community-Affordable Housing Overlay Zone
PUD	Planned Unit Development Zone (Approved)
PUD-1	Planned Unit Development-1 Zone
MH	Mobile/Manufactured Housing Zone (Approved)
MLC-6	Moderate- and Low-Income Housing Contribution Zone
<u>ML-3</u>	<u>Moderate and Low Income Housing Zone – 3 DU/Acre</u>
ML-7	Moderate- and Low-Income Housing Zone - 7 DU/Acre
ML-8	Moderate- and Low-Income Housing Zone - 8 DU/Acre
<u>ML-12</u>	<u>Moderate and Low Income Housing Zone – 12,500 s.f</u>
<u>MU-1 Overlay</u>	<u>Mixed Use Overlay – 1</u>
<u>MU-2 Overlay</u>	<u>Mixed Use Overlay – 2</u>
<u>MU-3 Overlay</u>	<u>Mixed Use Overlay – 3</u>
LTW	Lake Topanemus Watershed District
LTW-40	Lake Topanemus Watershed - 40 District
B-2	Commercial Zone
B-10	Highway Development Zone
HMUD	Highway Mixed Use Development Zone
CMX-2	Corporate Multi-Use Development Zone
CMX-3	Corporate Multi-Use Development Zone
CMX-3/A	Corporate Multi-Use Development Zone
CMX-4	Corporate Multi-Use Development Zone
CMX-10	Corporate Multi-Use Development Zone
HC	Historical Commercial Zone
H-1	Hospital Zone
P-1	Professional Office Zone
P-2	Professional Office Zone
LI	Light Industrial Zone
LI-3	Light Industrial Zone
<u>FSX</u>	<u>Flex Space Zone</u>

M-1	Industrial Zone
M-2	Industrial Zone
ROL	Research/Office/Laboratory Zone
R	Recreational Zone
RMZ-1	Regional Mall Zone
RMZ-2	Regional Mall - Ancillary Retail/Service
RMZ-2A	Regional Mall - Hotel/Conservation Center Zone
RMZ-3	Regional Mall - Ancillary Retail Service/Use Zone
VC	Village Center
SC	Scenic Roadway Corridor Overlay Zone

III

Article XI, Zones and Schedule of Requirements, §190-98, Zoning Map, is hereby amended with the following Blocks and Lots being rezoned from the “Current Zoning District” either “to” or “and” the “New Zoning District / Overlay” as specified in the table below and as shown in Appendix A:

Zoning Map Revisions

Tax Sheet	Block	Lots	Location	Approx. Acres	Current Zoning District		New Zoning District / Overlay
28, 29	72	88	Three Brooks Road	22.4	LI-3	to	ML-3 - Moderate and Low Income Housing Zone - 3 DU/Acre
42, 43, 44, 45	91	20.01 (part), 22	Monmouth Road / Siloam Road	126.0	R-E and R-40	to	ML-12 - Moderate and Low Income Housing Zone - 12,500 S.F.
13, 14	41.01 41	5.03 5.04, 5.05, 5.06	Colts Neck Road (Rt. 537)	15.7	HD - High Density	To	HD-2 High Density Zone
37	80	4,5,6,7	U.S Route 9 - northbound	10.6	CMX-3	and	MU-1- Mixed Use Overlay - 1
24	70.05	10	U.S Route 9 - southbound	7.0	CMX-4	and	MU-2- Mixed Use Overlay - 2
11	65.01	16 (part), 17	U.S Route 9 - northbound	7.0	CMX-10 and CMX-3A	and	MU-3- Mixed Use Overlay - 3
36, 37	71	8 (rear part)	U.S Route 9 - southbound	27.3	PAC-3	and	FSX - Flex Space Zone (Option B)
36, 37	71	8 (rear part)	U.S Route 9 - southbound	6.4	PAC-3	and	PAC-3A - Planned Adult Community - 3A Zone (Option B)
36, 37	71	8 (front portion)	U.S Route 9 - southbound	19.3	CMX-3	N/A	CMX-3 (no change to zoning designation; addition to permitted uses subsection)

IV

Article XI, Zones and Schedule of Requirements, §190-101, Schedule of Area, Yard and Bulk requirements, is hereby amended to add the following zones to Schedule C Schedule of Area, Yard and Building Requirements:

HD-2 High Density Zone (see §190-138.1)
PAC-3A Planned Adult Community Zone (Option B) (see §190-140.2A)
ML-3 Moderate and Low Income Housing Zone – 3 DU Acre (see §190-141.1)
ML-12 - Moderate and Low Income Housing Zone - 12,500 S.F. (see §190-142.1)
MU-1- Mixed Use Overlay – 1 (See§190-14.2)
MU-2- Mixed Use Overlay – 2 (See§190-14.3)
MU-3- Mixed Use Overlay – 3 (See§190-14.4)
FSX - Flex Space Zone (Option B) (See §190-153.1)

V

Article XIII, Zoning Regulations, is hereby amended to add new section §190-138.1, HD-2 - High Density Zone as follows:

§ 190-138.1 HD – 2 (High Density Zone)

- A. Purpose. The purpose of the HD-2 High Density Zone is to provide a realistic opportunity for the construction of housing for persons and families of low and moderate incomes as required by the New Jersey Supreme Court’s decision in In re Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (“Mount Laurel IV”), and in accordance with the Fair Housing Act, P.L. 1975, c. 222 (N.J.S.A. 52:270-301 et seq.) and in accordance with the “Settlement Agreement” dated November 8, 2019 in the matter of Freehold Township Docket No. MON-L-6026-08.
- B. Applicability. This overlay zone shall apply to the “tract area” known as Block 41.01, Lot 5.03 and Block 41, Lots 5.04, 5.05 and 5.06 as shown on Sheets 13 and 14 the official Tax Map of Freehold Township.
- C. Resolution of conflicting provisions. Notwithstanding the provisions of any other ordinance to the contrary, the provisions of this section shall apply to development within the HD - 2 High Density Zone.
- D. Permitted uses:
- (1) Garden Apartments
- E. Permitted accessory uses.

- (1) A single toolshed or similar storage building not exceeding 192 square feet in building area
- (2) Fences in accordance with §190-165.
- (3) Signs in accordance with §190-182.
- (4) Outdoor barbecue structures.
- (5) Shelters for domestic pets, provided that the building area does not exceed 15 square feet.
- (6) Essential utilities.
- (7) On-site offices for leasing, management and maintenance operations.
- (8) Outdoor gathering and sitting areas, such as gazebos.
- (9) Outdoor, enclosed waste collection and recycling areas.
- (10) Services/Amenity spaces for residents including lobbies, computer room, recreation area, library and similar types of facilities and services.

F. Area, yard and building requirements.

- (1) Shall meet all Area, Yard and Building Requirements in Schedule C for the High Density (HD) Zone with the following exceptions:
 - (a) Minimum tract area: 10 acres of land.
 - (b) Maximum permitted number of units: Maximum permitted number of units for the tract area is 272 units which includes at least 30 affordable units pursuant to Subsection I.
 - (c) Not less than 30 percent of the gross area shall be devoted to open green space
 - (d) Building Height
 - [1] Existing garden apartment buildings at the time of adoption of the HD – 2 (High Density Zone) – two (2) stories and 30 feet.
 - [2] All new buildings – three (3) stories and 40 feet.

G. Public utilities. The development shall have access to public utilities, including sanitary sewer and potable water facilities.

H. Parking requirements:

- (1) Shall be in accordance with applicable N.J.A.C. 5:21 Residential Site Improvement Standards (RSIS) parking standards.
- (2) Parking shall be provided within close proximity to each building which it serves. Parking spaces shall be designated and located within a 300 foot radius of the building it serves.

- (3) Site plan submission to the Planning Board shall provide the parking area for each building.

I. Low and moderate income housing requirements

- (1) At least 30 percent of all new garden apartment units shall be affordable to low and moderate income households. At least 13 percent of all low- and moderate-income rental units shall be affordable to very low-income households, which very low-income units shall be part of the low-income requirement.
- (2) The low, very low and moderate income units may be located in existing or new buildings, at the developers' option.
- (3) All development shall comply with Article XX, Affordable Housing, et seq. at the end of this Chapter.
- (4) Affordable units shall be restricted, regulated and administered consistent with the Township Affordable Housing Regulations, the Uniform Housing Affordability Controls rules (N.J.A.C. 5:80-26.1 et seq.) and the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.), including the Fair Housing Act's definition of very low-income households and all other provisions of the Township Affordable Housing Ordinance. Units shall be income restricted for a period of at least thirty (30) years from date of initial occupancy and controls may be extended at the sole discretion of the Township.

J. Municipal cooperation. Freehold Township, and its various departments and professional staff, shall consider an application to the Township Planning Board in a manner that eliminates unnecessary cost generating features, consistent with NJAC 5:93-10.1 and 10.2. However, in no respects shall a burden of a private development be placed upon the taxpayers for legitimate features that are necessary to the health, safety and welfare of the public, as a result of this development.

VI

Article XIII, Zoning Regulations, is hereby amended to add new section §190-140.2A, (PAC-3A) Planned Adult Community-3A Zone as follows:

§ 190-140.2A (PAC-3A) - Planned Adult Community-3A.

- A. Purpose: The PAC-3A Planned Adult Community-3A Zone is established in accordance with an amended settlement agreement in the matter of Land Bank Freehold, L.L.C., v. the Township of Freehold Docket No.: MON-L-6026-08 of the Superior Court of New Jersey Law Division: Monmouth County. The PAC-3A Zone applies to the rear portion of Block 71, Lot 8 (rear portion) as stipulated in the First Amendment to Settlement Agreement dated November 8, 2019 and shall be for the “Plan B” option as stipulated in the Agreement. The PAC-3A Zone shall permit only age-restricted housing units consisting of multifamily attached housing units and community amenities as provided for herein, subject to the following standards and requirements which shall expire one (1) year from the date of the adoption of this Section:
- B. General tract requirements.
- (1) The minimum gross tract area for a planned adult community shall be 5 acres.
 - (2) The maximum gross density for the residentially zoned PAC-3A tract area is 20.0 dwelling units per acre.
 - (3) The development shall be serviced by public water supply and public sanitary sewer facilities.
 - (4) The development shall have primary access and egress from U.S. Route 9 via easement, right of way or access drive. Such access may be supplemented by one or more controlled and limited emergency accessways from U.S. Route 9.
 - (5) Not more than 30 percent of the entire tract shall be covered by buildings.
 - (6) Not more than 70 percent of the entire tract shall be covered by impervious surface.
 - (7) Residential units shall be age-restricted in accordance with the requirements of this section.
- C. Permitted uses:
- (1) Multifamily age-restricted housing attached units.
 - (2) Recreation buildings and facilities for residents of the PAC-3A zone.

- (3) Maintenance building and equipment storage yard for PAC-3A zone related services.
- D. Multifamily building requirements. Multifamily buildings shall conform to the following schedule:
 - (1) Setback requirements:
 - (a) Building to roadway: 15 feet.
 - (b) Building to parking area: 10 feet.
 - (c) Building to boundary of tract: 50 feet.
 - (2) Maximum building height: 40 feet and three (3) stories.
 - (3) Multifamily housing unit buildings abutting existing residential housing units shall provide a twenty-five-foot planted buffer/screening area along the property abutting the existing residential housing units. The planted buffer shall be deed restricted as a planted buffer and the planted buffer/screening area shall be maintained by the condominium homeowners' association or by the apartment owner/management company as applicable. The planted buffer area may be a separate lot or lots.
- E. Recreation and common elements. A planned adult community shall provide developed and undeveloped open space and common recreational and community facilities for the exclusive use of its residents, in accordance with the following standards:
 - (1) Not less than 25 percent of the gross tract area shall be devoted to common open space, and such common open space shall be restricted, owned and maintained by a homeowners' association or, if rental units, by the apartment owner/management company. The common open space may include man-made ponds. All critical areas on the site, including wetlands, wetland transitional areas, floodplains and the like, shall be encompassed within the common open space provided.
 - (2) Within the common open space, facilities shall be included for outdoor recreational use. These facilities shall include, as a minimum, a tennis court or a Bocce court and their related improvements, such as parking, lighting and ancillary buildings, and may also include, by way of illustration and not limitation, picnic areas and, walking, jogging and bicycle paths, shuffleboard and horseshoe courts and similar types of facilities. Such facilities within the common open space shall not be included in the impervious surface calculation.
 - (3) A homeowners' association administrative area or leasing office within the community clubhouse or within a separate building shall be permitted.
 - (4) A community maintenance and storage facilities shall be permitted. Such facilities shall be landscaped. Outdoor storage areas shall be fenced and visually screened with trees and shrubs.

- (5) Perimeter setback requirements. No buildings or structures, other than roadways, access drives, walking, jogging and bicycle paths, walkways, entrance gatehouses, walls, fences, drainage facilities, utility structures and residential decks and/or patios with at least one wall contiguous with the principal building shall be located within 50 feet of any exterior tract boundary, and the outer 20 feet of the perimeter setback shall be designated as a landscape/conservation easement. Where the outer 20 feet of the nonroadway perimeter setback is landscaped with deciduous trees, evergreen trees and evergreen shrubs to effectively create a landscape visual screen/buffer to the adjoining properties, the fifty-foot perimeter setback may be reduced to 40 feet. If the contiguous property along the nonroadway perimeter boundary line is an environmentally sensitive area containing freshwater wetlands, streams, ponds, or floodplains that are deed restricted for conservation or open space purposes, the perimeter setback may be reduced one foot for every two feet of restricted area on the contiguous property; provided, however, that setback shall not be less than the required rear yard setback.
- F. Affordable housing units. Approval of a planned adult community shall be conditioned upon the provision of a twenty-percent inclusionary component with a minimum of 23 affordable units distributed equitably throughout the development. Affordable units shall comply with UHAC, applicable affordable housing regulations (N.J.A.C. 5:93-1.1 et. seq.), any applicable order of the Court, and other applicable laws, including providing at least 13 percent of the units as very-low income, as that term is defined by the New Jersey Fair Housing Act, P.L. 1975 c. 222 (N.J.S.A. 52: 270-301 et seq.). This obligation includes, but is not limited to, developer obligations to comply with income split requirements, pricing requirements, candidate qualification and screening requirements and deed restriction and monitoring requirements.
- G. An application for a PAC-3A zone development shall include a plan showing the location and type of affordable housing units, including whether such housing unit is a low-income, very low income, or moderate-income housing unit.
- H. Deed restrictions. Approval of a planned adult community shall be conditioned upon the placement of restrictive covenants on the deeds to any and all portions of the tract so developed to ensure that the age-restricted units qualify as "55 or over housing" within the meaning of the Federal Fair Housing Act. The age-restrictive covenants shall be subject to review by the Township Attorney.
- I. Solar facilities. Rooftop solar facilities shall be permitted and shall conform with the requirements of N.J.S.A. 45:22A-43 et seq. and N.J.S.A. 52:27D-141.1 pertaining to provision of solar facilities for residential developments, or other such state-wide standards as may be applicable at the time of the application for development.
- J. Sidewalks. Sidewalks shall be provided along U.S. Route 9. A sidewalk system within the PAC development shall be designed to interconnect residential housing units with internal recreation and other PAC community service facilities. The sidewalk system shall also provide access to the commercial/office development along the frontage of U.S. Route 9.

- K. Roadway access. Roadway access shall be provided through a direct interconnection or via an easement, ROW, etc. to U.S. Route 9.
- L. Other ordinances. In the event of any conflict between the provisions and requirements of this section and the provisions and requirements of any other subsections, the provisions and requirements of this section shall govern.

VII

Article XIII, Zoning Regulations, is hereby amended to add new section §190-141.1, ML-3 – Moderate and Low Income Housing Zone – 3 DU/Acre as follows:

§190-141.1 – ML-3 – Moderate and Low Income Housing Zone – 3 DU/Acre

- A. Purpose. The purpose of this zoning district is to provide a realistic opportunity for the construction of housing for persons and families of low and moderate incomes as required by the New Jersey Supreme Court’s decision in In re Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (“Mount Laurel IV”), and in accordance with the Fair Housing Act, P.L. 1975, c. 222 (N.J.S.A. 52:270-301 et seq.) and in accordance with the “Settlement Agreement” dated November 8, 2019 in the matter of Freehold Township Docket No. MON-L-6026-08.
- B. Permitted uses
 - (1) Dwelling, One Family
 - (2) Dwelling, Two Family (or duplex) meaning a building designed for or occupied exclusively by two families living independently of each other. Two Family dwellings are to be constructed only for the purpose of providing a home for individuals or families that qualify for moderate, low, or very low income residences, in accordance with the current income limits established in conjunction with the Fair Housing Act.
- B. Permitted accessory uses.
 - _____ (1) A single toolshed or similar storage building not exceeding 150 square feet in building area.
 - _____ (2) Private swimming pools.
 - _____ (3) Playground equipment.
 - _____ (4) Fences in accordance with § 190-165.
 - _____ (5) Signs in accordance with § 190-178.
 - _____ (6) Outdoor barbecue structures.

(7) Shelters for domestic pets, provided that the building area does not exceed 15 square feet.

(8) Essential utilities.

C. General tract requirements.

(1) Maximum tract density: 3 dwelling units per gross acre of total tract area prior to subdivision and development, inclusive of areas to be dedicated as future open space, however, no more than 51 market-rate one-family dwellings and at least 12 affordable units in two-family dwellings shall be permitted.

(2) Minimum tract area: 20 acres

(3) Minimum tract frontage on a public street: 500 feet with a minimum of two access points from public roads.

(4) Not more than 65 percent of the entire tract shall be covered by impervious surface.

D. Area, yard and building requirements.

(1) Single-family Dwellings.

- (a) Minimum lot size: 4,730 square feet
- (b) Lot frontage (minimum): 43 feet
- (c) Lot width at building line (minimum): 35 feet
- (d) Lot depth (minimum): 110 feet.
- (e) Front yard setback (minimum): 25 feet.
- (f) Rear yard setback (minimum): 20 feet.
- (g) Side yard setback (minimum): 6.5 feet.
- (h) Accessory structure (side & rear yard) (minimum): 3 feet.
- (i) Building coverage (maximum): 45 percent.
- (j) Impervious coverage (maximum): 65 percent.
- (k) Accessory building coverage (maximum): 4 percent.
- (l) Principal building height (maximum): 2.5 stories / 35 feet.

(2) Dwelling, Two-Family.

- (a) Minimum combined lot size: 6,800 square feet in total for two units (one duplex structure)
- (b) Lot frontage (minimum): 30 feet.
- (c) Lot width at building line (minimum): 30 feet.
- (d) Lot depth (minimum): 110 feet.
- (e) Front yard setback (minimum): 25 feet.
- (f) Rear yard setback (minimum): 20 feet.
- (g) Side yard setback: zero feet (at common wall) and 6.5 feet.
- (h) Accessory structure (side & rear yard) (minimum): 3 feet.
- (i) Building coverage (maximum): 45 percent.

- (j) Impervious coverage (maximum): 65 percent.
 - (k) Accessory building coverage (maximum): 3 percent (each unit)
 - (l) Principal building height (maximum): 2.5 stories / 35 feet.
- E. Public Utilities. The development shall have access to public utilities, including sanitary sewer and potable water facilities.
- F. Parking and other site improvement requirements shall be governed by N.J.A.C. 5:21 – Residential Site Improvement Standards (RSIS) parking standards.
- G. Open space requirement. Not less than the 20 percent of the gross tract area property shall be devoted to open space as defined in this chapter. All, or a portion, of the open space may be offered to Freehold Township for public ownership as part of the subdivision and approval process. Such dedication of open space shall be at the discretion of the governing body to decide if it is willing to accept said conveyance of open space for public use or conservation.
- H. Municipal cooperation. Freehold Township, and its various departments and professional staff, shall consider an application to the Township Planning Board in a manner that eliminates unnecessary cost generating features, consistent with NJAC 5:93-10.1 and 10.2, provided same features are not necessary to the health, safety and welfare of the public.
- I. The Affordable Housing Units shall comply with the Township’s Affordable Housing Ordinance, Except, that the settlement agreement concerning the Three Brooks Inclusionary Development (“the Agreement”) and this Ordinance shall control where a conflict exists with Article XX, Affordable Housing, §190-217, et. seq. of this Chapter. The affordable units shall also comply with the New Jersey Fair Housing Act, COAH regulations and UHAC, except that the Agreement shall control where a conflict exists.

VIII

Article XIII, Zoning Regulations, is hereby amended to add new section §190-142.1, ML-12 Zone as follows:

§190-142.1 – ML-12 – Moderate and Low Income Housing Zone – 12,500 S.F.

- A. Purpose. The purpose of this zoning district is to provide a realistic opportunity for the construction of family housing units (non-age restricted) for persons and families of low, very low and moderate incomes as required by the New Jersey Supreme Court’s decision in In re Adoption of N.J.A.C. 5:96 and 5:97 by New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (“Mount Laurel IV”), and in accordance with the New Jersey Fair Housing Act, P.L. 1975, c. 222 (N.J.S.A. 52:270-301 et seq.).

B. Permitted uses

(1) Dwelling, One Family

(2) Dwelling, Two Family (or duplex) meaning a building designed for or occupied exclusively by two families living independently of each other. Two Family dwellings are to be constructed only for the purpose of providing a home for individuals or families that qualify for moderate- or low-income residences, in accordance with the current income limits established in conjunction with the New Jersey Fair Housing Act.

C. Permitted accessory uses.

(1) A single toolshed or similar storage building not exceeding 150 square feet in building area.

(2) Private swimming pools.

(3) Playground equipment.

(4) Fences in accordance with § 190-165.

(5) Signs in accordance with § 190-178.

(6) Outdoor barbecue structures.

(7) Shelters for domestic pets, provided that the building area does not exceed 15 square feet.

(8) Essential utilities.

D. General tract requirements.

(1) Maximum Units: No more than 172 market-rate one-family dwellings and at least 34 affordable units in two-family dwellings shall be permitted.

(2) Minimum tract area: 100 acres

(3) Minimum tract frontage on a public street: 500 feet with a minimum of two access points from public roads.

(4) Not more than 65 percent of the entire tract shall be covered by impervious surface.

E. Area, yard and building requirements.

(1) Single-Family Dwellings.

- (a) Minimum lot size: 12,500 square feet
- (b) Lot frontage (minimum): 100 feet
- (c) Lot width at building line (minimum): 100 feet
- (d) Lot depth (minimum): 120 feet.
- (e) Front yard setback (minimum): 40 feet.
- (f) Rear yard setback (minimum): 20 feet.
- (g) Side yard setback (minimum): 6.5 feet.
- (h) Accessory structure (side & rear yard) (minimum): 3 feet.
- (i) Building coverage (maximum): 45 percent.
- (j) Impervious coverage (maximum): 65 percent.
- (k) Accessory building coverage (maximum): 4 percent.

(2) Principal building height (maximum): 2.5 stories / 35 feet.

(3) Dwelling, Two-Family.

- (a) Minimum combined lot size: 15,000 square feet in total for two units (one duplex structure)
- (b) Lot frontage (minimum): 55 feet.
- (c) Lot width at building line (minimum): 55 feet.
- (d) Lot depth (minimum): 120 feet.
- (e) Front yard setback (minimum): 40 feet.
- (f) Rear yard setback (minimum): 20 feet.
- (g) Side yard setback: Zero feet (at common wall) and 6.5 feet.
- (h) Accessory structure (side & rear yard) (minimum): 3 feet.
- (i) Building coverage (maximum): 45 percent.
- (j) Impervious coverage (maximum): 65 percent.
- (k) Accessory building coverage (maximum): 3 percent (each unit)
- (l) Principal building height (maximum): 2.5 stories / 35 feet.

E. Public Utilities. The development shall have access to public utilities, including sanitary sewer and potable water facilities.

F. Parking and other site improvement requirements shall be governed by N.J.A.C. 5:21 Residential Site Improvement Standards (RSIS).

G. Open space requirement. Not less than the 20 percent of the gross tract area property shall be devoted to open space as defined in this chapter. All, or a portion, of the open space may be offered to Freehold Township for public ownership as part of the subdivision and approval process. Such dedication of open space shall be at the discretion of the governing body to decide if it is willing to accept said conveyance of open space for public use or conservation.

- H. Municipal cooperation. Freehold Township, and its various departments and professional staff, shall consider an application to the Township Planning Board in a manner that eliminates unnecessary cost generating features, consistent with NJAC 5:93-10.1 and 10.2, provided same features are not necessary to the health, safety and welfare of the public.
- I. Affordable units shall be restricted, regulated and administered consistent with the Township's affordable housing regulations, the Uniform Housing Affordability Controls rules (N.J.A.C. 5:80-26.1 et seq.) and the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.), including the Fair Housing Act's definition of very low-income households and all other provisions of the Township's Affordable Housing Ordinance. Units shall be income restricted for a period of at least 30 years from date of initial occupancy and controls may be extended at the sole discretion of the Township.

IX

Article XIII, Zoning Regulations, is hereby amended to add new section §190-142.2, MU-1- Mixed Use Overlay -1 as follows:

§190-142.2 MU-1 - Mixed Use Overlay – 1

- A. The purpose of the MU 1– Mixed Use Overlay -1 is to provide for a mix of commercial and multifamily residential uses and provide for a realistic opportunity for the construction of housing for persons and families of low, very low and moderate incomes as required by the New Jersey Supreme Court's decision in In re Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (“Mount Laurel IV”), and in accordance with the Fair Housing Act, P.L. 1975, c. 222 (N.J.S.A. 52:270-301 et seq.) and in accordance with the “Settlement Agreement” dated November 8, 2019 in the matter of Freehold Township Docket No. MON-L-6026-08. Nothing in this Section 190-142.2 shall be construed to prohibit any use permitted by the underlying zone districts. The MU -1 – Mixed Use Overlay - 1 will allow the existing uses to continue as well as the current zoning standards should the property owners seek to utilize such provisions. However, in order to develop market rate residential development, affordable housing must be created.
- B. Applicability. The MU-1-Mixed Use Overlay -1 shall apply to the “tract area” known as Block 80, Lots 4, 5, 6 and 7 as shown on the official Tax Map of Freehold Township. In addition to the underlying zoning district regulations of the tract area the MU-1 – Mixed Use Overlay-1 regulations pursuant to this section shall also apply.
- C. Minimum tract size: 5 acres for development that includes mixed-use and/or multifamily residential buildings.

D. Permitted principal uses.

- (1) Retail sales and service stores.
- (2) Restaurants, including fast-food restaurants and drive-through restaurants.
- (3) Specialty food and food markets with seating areas for on-premises consumption as provided herein.
- (4) Offices for professional, executive or administrative purposes, and related business support services.
- (5) Banks, financial institutions, insurance and real estate businesses.
- (6) Multifamily residential buildings.
- (7) Mixed-use buildings as permitted herein.
- (8) Child-care centers in accordance with N.J.S.A. 40:55D—66.6.

E. Permitted accessory uses.

- (1) Signs for non-residential uses in accordance with the standards as set forth in §190-173 through §190-176 and § 190-183.
- (2) Fences.
- (3) Parking, including for multifamily residential dwellings as provided herein.
- (4) Garbage storage and recycling enclosures.
- (5) Active and passive recreational facilities for residents, which may include, but not be limited to, a clubhouse, swimming pool, tennis courts, fitness and exercise areas and bicycle/walking paths.
- (6) Management office(s) for multifamily residential use.
- (7) Any other uses which are subordinate and customarily incidental to a permitted use.

F. Location criteria.

- (1) No multifamily residential building shall be located within a distance of 200 feet from the rights-of-way of U.S. Route 9.

G. Development standards.

- (1) The ground floor of any mixed-use building shall be used for any permitted principal use other than multifamily residential dwellings. No permitted principal use other than multifamily residential dwellings shall be located above the ground floor of any mixed-use building.
- (2) Food and specialty food markets shall have a minimum gross floor area of 8,000 square feet and shall provide a minimum of 25 seats for on-premises consumption.
- (3) The maximum permitted residential density, inclusive of any multifamily dwelling units that are within mixed-use buildings, shall be 12 units per acre as applied to the total tract area.
- (4) The maximum floor area ratio for all non-residential uses, inclusive of any non-residential floor area within mixed-use buildings, shall be 0.10.

- (5) The maximum height of any building shall be three stories and 45 feet.
- (6) The maximum number of multifamily residential dwelling units in any single building shall not exceed 60. No multifamily residential or mixed-use buildings shall be more than 270 feet in length.
- (7) The maximum building coverage shall be 20 percent.
- (8) The maximum impervious coverage shall be 60 percent.
- (9) The minimum building setbacks shall be as follows:
 - (a) From a state right-of-way: 100 feet.
 - (b) From any abutting non-residentially zoned property: 50 feet.
 - (c) From any abutting residentially zoned property to multifamily residential development: 75 feet, except that said requirement shall be 50 feet from a detached single-story residential garage structure.
 - (d) From any abutting residentially zoned property to non-residential development: 150 feet.
- (10) The minimum number of off-street parking spaces for retail sales and service stores shall be four spaces per 1,000 square feet of floor area. For all other uses, the standards set forth in § 190-163 or as otherwise established in this section shall apply.
- (11) Any outdoor refuse and recycling storage areas shall be appropriately screened by a wall enclosure constructed of materials similar to the facades of the buildings and with appropriate landscaping as required by the Planning Board.
- (12) A minimum twenty-five-foot-wide landscape buffer strip shall be provided where multifamily residential development abuts a residential zone. A minimum seventy-five (75) foot-wide landscaped buffer strip shall be provided where non-residential development abuts a residential zone. Said buffer zone shall comply with the standards set forth in §190-166 and shall be permanently maintained along the property line abutting the residential zone.
- (13) Multiple uses and buildings are permitted within the development tract.

H. Miscellaneous requirements for multifamily residential development.

- (1) Multifamily residential and mixed-use buildings shall contain one- or two-bedroom units only, except that a percentage of the affordable units may be three bedrooms to comply with applicable regulations as referenced herein and in accordance with COAH and UHAC regulations.

- (2) Multifamily residential and mixed-use buildings shall provide indoor trash disposal and storage facilities.
- (3) The following recreational and related amenities shall be provided for residents: swimming pool, clubhouse, fitness center, lounge, media and game room and business center. Additional active and/or passive recreational facilities, including, but not limited to tennis courts, fitness and exercise areas and bicycle/walking paths may be required at the discretion of the Planning Board based upon the number of multifamily residential dwelling units proposed.
- (4) Parking for multifamily residential dwellings may be provided by means of any or all of the following: at-grade surface spaces; tuck under, below building spaces; spaces in detached, single-story garage structures.
- (5) No parking space intended to satisfy the off-street parking requirement for multifamily residential use within either a multifamily residential or mixed-use building shall be located more than 125 feet from said building.
- (6) Affordable Housing Requirements
 - (a) A minimum of 20 percent of the total residential units shall be reserved for affordable housing, if the affordable housing units are for sale.
 - (b) A minimum of 15 percent of the total residential units shall be reserved for affordable housing, if the affordable housing units are for rent.
 - (c) A minimum of 13 percent of all low- and moderate-income rental units shall be affordable to very low-income households, which very low-income units shall be part of the low-income requirement.
 - (d) The low, very low and moderate income units shall be constructed on site.
 - (e) Affordable units shall be restricted, regulated and administered consistent with the Township's affordable housing regulations, the Uniform Housing Affordability Controls rules (N.J.A.C. 5:80-26.1 et seq.) and the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.), including the Fair Housing Act's definition of very low-income households and all other provisions of the Township's Affordable Housing Ordinance. Units shall be income restricted for a period of at least 30 years from date of initial occupancy and controls may be extended at the sole discretion of the Township.

I. Architectural design requirements for multifamily residential and mixed-use buildings.

- (1) Building articulation and massing. Multifamily residential and mixed-use building bulk shall be broken down vertically and differentiated horizontally to avoid monotonous and repetitive facades through any or all of the following: vertical changes in the façade plane; changes in material, color, pattern and/or texture; use of columns, pilasters, balustrades or similar ornamental features; changes in the size and rhythm of fenestration; use of design features such as balconies and terraces, changes in the roofline via coping, parapet, cornice or similar ornamental features. The base of mixed-use buildings in particular shall be highlighted architecturally and differentiated from upper floors in order to visually ground the building. Detailing and materials at the base of mixed-use buildings shall be richer than on upper floors and may include features such as horizontal banding, variation in window pattern and proportioning (i.e., larger window openings), as well as signage and lighting. The top and roof of multifamily residential buildings shall be defined and differentiated with multifaceted roof shapes where appropriate to break up the roofline.
- (2) Building façade detailing.
 - (a) Pedestrian building entries shall be clearly visible and highlighted within facades. Continuous expanses of windowless wall shall be prohibited at all levels. A change in plane and variation in materials and/or detailing shall be provided for any windowless wall in excess of 20 feet in length. Windows shall occupy at least 20 percent of the façade area within multifamily residential buildings and shall occupy at least 25 percent of the façade area within mixed-use buildings.
 - (b) Preferred materials for facades shall be brick, cultivated stone or other masonry facing and vinyl or fiber cement siding or backboard. No more than three different materials shall be employed as primary materials on a building facade. Within the chosen primary materials, variation in color, texture and pattern may be employed to create further distinctions. The level of materials, detailing and articulation shall be consistent along all facades. Materials shall be extended around corners and extensions in order to avoid a "pasted on" appearance. Where buildings have "tuck under" parking at the ground level of multifamily buildings or where there are detached freestanding garages, garage doors shall be richer in color as compared to the remainder of the façade. Such doors shall further incorporate changes in texture and/or include ornamental framing/features as part of the design. Detached freestanding garages shall employ the same façade materials and articulation as the multifamily residential buildings.
 - (c) All major mechanical equipment located on the roof of a building shall be screened from view of all vantage points with a material harmonious to that used in the façade of the building.

X

Article XIII, Zoning Regulations, is hereby amended to add new section §190-142.3, MU-2 - Mixed Use Overlay-2 as follows:

§190-142.3 MU-2 - Mixed Use Overlay - 2

- A. Purpose. The purpose of the MU-2 – Mixed Use Overlay – 2 is to provide a realistic opportunity for the construction of housing for persons and families of low and moderate incomes as required by the New Jersey Supreme Court’s decision in *In re Adoption of N.J.A.C. 5:96 and 5:97* by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (“Mount Laurel IV”), and in accordance with the New Jersey Fair Housing Act (N.J.S.A. 52:270-301 et seq.) and in accordance with the “Settlement Agreement” dated November 8, 2019 in the matter of Freehold Township Docket No. MON-L-6026-08. Nothing in this Section 190-142.3 shall be construed to prohibit any use permitted by the underlying zone districts. The MU -2 – Mixed Use Overlay- 2 will allow the existing uses to continue as well as the current zoning standards should the property owners seek to utilize such provisions. However, in order to develop market rate residential development, affordable housing must be created.
- B. Applicability. The MU-2-Mixed Use Overlay-2 shall apply to the “tract area” known as Block 70.05, Lot 10 as shown on the official Tax Map of Freehold Township. In addition to the underlying zoning district regulations of the tract area the MU – Mixed Use Overlay Zone -2 regulations pursuant to this section shall also apply.
- C. Minimum tract size: five (5) acres for development that includes mixed-use and/or multifamily residential buildings.
- D. Permitted principal uses.
- (1) Retail sales and service stores.
 - (2) Restaurants, including fast-food restaurants and drive-through restaurants.
 - (3) Specialty food and food markets with seating areas for on-premises consumption as provided herein.
 - (4) Offices for professional, executive or administrative purposes, and related business support services.
 - (5) Banks, financial institutions, insurance and real estate businesses.
 - (6) Multifamily residential buildings.
 - (7) Mixed-use buildings as permitted herein.
 - (8) Child-care centers in accordance with N.J.S.A. 40:55D—66.6. Permitted accessory uses.
- E. Permitted accessory uses.
- (1) Signs for non-residential uses in accordance with the standards as set forth in §§ 190-173 through 190-176 and § 190-183.
 - (2) Fences.
 - (3) Parking, including for multifamily residential dwellings as provided herein.

- (4) Garbage storage and recycling enclosures.
- (5) Active and passive recreational facilities for residents, which may include, but not be limited to, a clubhouse, swimming pool, tennis courts, fitness and exercise areas and bicycle/walking paths.
- (6) Management office(s) for multifamily residential use.
- (7) Any other uses which are subordinate and customarily incidental to a permitted use.

F. Location criteria.

- (1) No multifamily residential building shall be located within a distance of 200 feet from any roadway.

G. Development standards.

- (1) The ground floor of any mixed-use building shall be used for any permitted principal use other than multifamily residential dwellings. No permitted principal use other than multifamily residential dwellings shall be located above the ground floor of any mixed-use building.
- (2) Food and specialty food markets shall have a minimum gross floor area of 8,000 square feet and shall provide a minimum of 25 seats for on-premises consumption.
- (3) The maximum permitted residential density, inclusive of any multifamily dwelling units that are within mixed-use buildings, shall be 12 units per acre as applied to the total tract area.
- (4) The maximum floor area ratio for all non-residential uses, inclusive of any non-residential floor area within mixed-use buildings, shall be 0.10.
- (5) The maximum height of any building shall be three stories and 45 feet.
- (6) The maximum number of multifamily residential dwelling units in any single building shall not exceed 60. No multifamily residential or mixed-use buildings shall be more than 270 feet in length.
- (7) The maximum building coverage shall be 20 percent.
- (8) The maximum impervious coverage shall be 60 percent.
- (9) The minimum building setbacks shall be as follows:
 - (a) Front yard setback: 100 feet.
 - (b) From any abutting non-residentially zoned property: 50 feet.
 - (c) From any abutting residentially zoned property to multifamily residential development: 75 feet, except that said requirement shall be 50 feet from a detached single-story residential garage structure.

- (d) From any abutting residentially zoned property to non-residential development: 150 feet.
- (10) The minimum number of off-street parking spaces for retail sales and service stores shall be four spaces per 1,000 square feet of floor area. For all other uses, the standards set forth in § 190-163 or as otherwise established in this section shall apply.
- (11) Any outdoor refuse and recycling storage areas shall be appropriately screened by a wall enclosure constructed of materials similar to the facades of the buildings and with appropriate landscaping as required by the Planning Board.
- (12) A minimum twenty-five (25) foot wide landscape buffer strip shall be provided where multifamily residential development abuts a residential zone. A minimum seventy-five (75) foot wide landscaped buffer strip shall be provided where non-residential development abuts a residential zone. Said buffer zone shall comply with the standards set forth in §190-166 and shall be permanently maintained along the property line abutting the residential zone.
- (13) Multiple uses and buildings are permitted within the development tract.

H. Miscellaneous requirements for multifamily residential development.

- (1) Multifamily residential and mixed-use buildings shall contain one- or two-bedroom units only, except that a percentage of the affordable units may be three bedrooms to comply with applicable regulations as referenced herein and in accordance with COAH and UHAC regulations..
- (2) Multifamily residential and mixed-use buildings shall provide indoor trash disposal and storage facilities.
- (3) The following recreational and related amenities shall be provided for residents: swimming pool, clubhouse, fitness center, lounge, media and game room and business center. Additional active and/or passive recreational facilities, including, but not limited to tennis courts, fitness and exercise areas and bicycle/walking paths may be required at the discretion of the Planning Board based upon the number of multifamily residential dwelling units proposed.
- (4) Parking for multifamily residential dwellings may be provided by means of any or all of the following: at-grade surface spaces; tuck under, below building spaces; spaces in detached, single-story garage structures.
- (5) No parking space intended to satisfy the off-street parking requirement for multifamily residential use within either a multifamily residential or mixed-use building shall be located more than 125 feet from said building.

(6) Affordable Housing Requirements

- (a) A minimum of 20 percent of the total residential units shall be reserved for affordable housing, if the affordable housing units are for sale.
- (b) A minimum of 15 percent of the total residential units shall be reserved for affordable housing, if the affordable housing units are for rent.
- (c) A minimum of 13 percent of all low- and moderate-income rental units shall be affordable to very low-income households, which very low-income units shall be part of the low-income requirement.
- (d) The low, very low and moderate income units shall be constructed on site.
- (e) All development shall comply with Article XX, Affordable Housing, et seq. at the end of this chapter.
- (f) Affordable units shall be restricted, regulated and administered consistent with the Township's affordable housing regulations, the Uniform Housing Affordability Controls rules (N.J.A.C. 5:80-26.1 et seq.) and the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.), including the Fair Housing Act's definition of very low-income households and all other provisions of the Township's Affordable Housing Ordinance. Units shall be income restricted for a period of at least 30 years from date of initial occupancy and controls may be extended at the sole discretion of the Township.

I. Architectural design requirements for multifamily residential and mixed-use buildings.

- (1) Building articulation and massing. Multifamily residential and mixed-use building bulk shall be broken down vertically and differentiated horizontally to avoid monotonous and repetitive facades through any or all of the following: vertical changes in the façade plane; changes in material, color, pattern and/or texture; use of columns, pilasters, balustrades or similar ornamental features; changes in the size and rhythm of fenestration; use of design features such as balconies and terraces, changes in the roofline via coping, parapet, cornice or similar ornamental features. The base of mixed-use buildings in particular shall be highlighted architecturally and differentiated from upper floors in order to visually ground the building. Detailing and materials at the base of mixed-use buildings shall be richer than on upper floors and may include features such as horizontal banding, variation in window pattern and proportioning (i.e., larger window openings), as well as signage and lighting. The top and roof of multifamily residential buildings shall be defined and differentiated with multifaceted roof shapes where appropriate to break up the roofline.

(2) Building façade detailing.

- (a) Pedestrian building entries shall be clearly visible and highlighted within facades. Continuous expanses of windowless wall shall be prohibited at all levels. A change in plane and variation in materials and/or detailing shall be provided for any windowless wall in excess of 20 feet in length. Windows shall occupy at least 20 percent of the façade area within multifamily residential buildings and shall occupy at least 25 percent of the façade area within mixed-use buildings.
- (b) Preferred materials for facades shall be brick, cultivated stone or other masonry facing and vinyl or fiber cement siding or backboard. No more than three different materials shall be employed as primary materials on a building facade. Within the chosen primary materials, variation in color, texture and pattern may be employed to create further distinctions. The level of materials, detailing and articulation shall be consistent along all facades. Materials shall be extended around corners and extensions in order to avoid a "pasted on" appearance. Where buildings have "tuck under" parking at the ground level of multifamily buildings or where there are detached freestanding garages, garage doors shall be richer in color as compared to the remainder of the façade. Such doors shall further incorporate changes in texture and/or include ornamental framing/features as part of the design. Detached freestanding garages shall employ the same façade materials and articulation as the multifamily residential buildings.
- (c) All major mechanical equipment located on the roof of a building shall be screened from view of all vantage points with a material harmonious to that used in the façade of the building.

XI

Article XIII, Zoning Regulations, is hereby amended to add new section §190-142.4, MU-Mixed Use Overlay -3 as follows:

§190-142.4 MU-3 - Mixed Use Overlay - 3

- A. Purpose. The purpose of the MU-3 – Mixed Use Overlay -3 is to provide a realistic opportunity for the construction of housing for persons and families of low and moderate incomes as required by the New Jersey Supreme Court’s decision in In re Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (“Mount Laurel IV”), and in accordance with the Fair Housing Act, P.L. 1975, c. 222 (N.J.S.A. 52:270-301 et seq.) and in accordance with the “Settlement Agreement” dated November 8, 2019 in the matter of Freehold Township Docket No. MON-L-6026-08. Nothing in this Section 190-142.4 shall be construed to prohibit any use permitted by the underlying zone districts. The MU-3 – Mixed Use Overlay- 3 will allow the existing uses to continue as well as the current zoning standards should the property owners seek to utilize such provisions. However, in order to develop market rate residential development, affordable housing must be created.

B. Applicability. The mixed use overlay zone shall apply to the “tract area” known as Block 65.01, Lot 16 (part) and 17 as shown on the official Tax Map of Freehold Township. In addition to the underlying zoning district regulations of the tract area the MU – 3 Mixed Use Overlay-3 regulations pursuant to this section shall also apply.

C. Permitted principal uses.

- (1) Retail sales and service stores.
- (2) Restaurants, including fast-food restaurants and drive-through restaurants.
- (3) Specialty food and food markets with seating areas for on-premises consumption as provided herein.
- (4) Offices for professional, executive or administrative purposes, and related business support services.
- (5) Banks, financial institutions, insurance and real estate businesses.
- (6) Multifamily residential buildings.
- (7) Mixed-use buildings as permitted herein.
- (8) Child-care centers in accordance with N.J.S.A. 40:55D—66.6.

D. Permitted accessory uses.

- (1) Signs for non-residential uses in accordance with the standards as set forth in §190-173 through §190-176 and §190-183.
- (2) Fences.
- (3) Parking, including for multifamily residential dwellings as provided herein.
- (4) Garbage storage and recycling enclosures.
- (5) Active and passive recreational facilities for residents, which may include, but not be limited to, a clubhouse, swimming pool, tennis courts, fitness and exercise areas and bicycle/walking paths.
- (6) Management office(s) for multifamily residential use.
- (7) Any other uses which are subordinate and customarily incidental to a permitted use.

E. Location criteria.

- (1) No multifamily residential building shall be located within a distance of 200 feet from the rights-of-way of U.S. Route 9.

F. Development standards.

- (1) The ground floor of any mixed-use building shall be used for any permitted principal use other than multifamily residential dwellings. No permitted principal use other than multifamily residential dwellings shall be located above the ground floor of any mixed-use building.
- (2) Food and specialty food markets shall have a minimum gross floor area of 8,000 square feet and shall provide a minimum of 25 seats for on-premises consumption.

- (3) The maximum permitted residential density, inclusive of any multifamily dwelling units that are within mixed-use buildings, shall be 12 units per acre as applied to the total tract area.
- (4) The maximum floor area ratio for all non-residential uses, inclusive of any non-residential floor area within mixed-use buildings, shall be 0.10.
- (5) The maximum height of any building shall be three stories and 45 feet.
- (6) The maximum number of multifamily residential dwelling units in any single building shall not exceed 60. No multifamily residential or mixed-use buildings shall be more than 270 feet in length.
- (7) The maximum building coverage shall be 20 percent.
- (8) The maximum impervious coverage shall be 60 percent.
- (9) The minimum building setbacks shall be as follows:
 - (a) From a state right-of-way: 100 feet.
 - (b) Rear or side yard: 100 feet
- (10) The minimum number of off-street parking spaces for retail sales and service stores shall be four spaces per 1,000 square feet of floor area. For all other uses, the standards set forth in §190-163 or as otherwise established in this section shall apply.
- (11) Any outdoor refuse and recycling storage areas shall be appropriately screened by a wall enclosure constructed of materials similar to the facades of the buildings and with appropriate landscaping as required by the Planning Board.
- (12) A minimum twenty-five (25) foot wide landscape buffer strip shall be provided where multifamily residential development abuts a residential zone. A minimum seventy-five (75) foot wide landscaped buffer strip shall be provided where non-residential development abuts a residential zone. Said buffer zone shall comply with the standards set forth in §190-166 and shall be permanently maintained along the property line abutting the residential zone.
- (13) Multiple uses and buildings are permitted within the development tract.

G. Miscellaneous requirements for multifamily residential development.

- (1) Multifamily residential and mixed-use buildings shall contain one- or two-bedroom units only, except that a percentage of the affordable units may be three bedrooms to comply with applicable regulations as referenced herein and in accordance with COAH and UHAC regulations.

- (2) Multifamily residential and mixed-use buildings shall provide indoor trash disposal and storage facilities.
- (3) The following recreational and related amenities shall be provided for residents: swimming pool, clubhouse, fitness center, lounge, media and game room and business center. Additional active and/or passive recreational facilities, including, but not limited to tennis courts, fitness and exercise areas and bicycle/walking paths may be required at the discretion of the Planning Board based upon the number of multifamily residential dwelling units proposed.
- (4) Parking for multifamily residential dwellings may be provided by means of any or all of the following: at-grade surface spaces; tuck under, below building spaces; spaces in detached, single-story garage structures.
- (5) No parking space intended to satisfy the off-street parking requirement for multifamily residential use within either a multifamily residential or mixed-use building shall be located more than 125 feet from said building.
- (6) Affordable Housing Requirements
 - (a) A minimum of 20 percent of the total residential units shall be reserved for affordable housing, if the affordable housing units are for sale.
 - (b) A minimum of 15 percent of the total residential units shall be reserved for affordable housing, if the affordable housing units are for rent.
 - (c) A minimum of 13 percent of all low- and moderate-income rental units shall be affordable to very low-income households, which very low-income units shall be part of the low-income requirement.
 - (d) The low, very low and moderate income units shall be constructed on site.
 - (e) Affordable units shall be restricted, regulated and administered consistent with the Township's affordable housing regulations, the Uniform Housing Affordability Controls rules (N.J.A.C. 5:80-26.1 et seq.) and the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.), including the Fair Housing Act's definition of very low-income households and all other provisions of the Township's Affordable Housing Ordinance. Units shall be income restricted for a period of at least 30 years from date of initial occupancy and controls may be extended at the sole discretion of the Township.

H. Architectural design requirements for multifamily residential and mixed-use buildings.

(1) Building articulation and massing. Multifamily residential and mixed-use building bulk shall be broken down vertically and differentiated horizontally to avoid monotonous and repetitive facades through any or all of the following: vertical changes in the façade plane; changes in material, color, pattern and/or texture; use of columns, pilasters, balustrades or similar ornamental features; changes in the size and rhythm of fenestration; use of design features such as balconies and terraces, changes in the roofline via coping, parapet, cornice or similar ornamental features. The base of mixed-use buildings in particular shall be highlighted architecturally and differentiated from upper floors in order to visually ground the building. Detailing and materials at the base of mixed-use buildings shall be richer than on upper floors and may include features such as horizontal banding, variation in window pattern and proportioning (i.e., larger window openings), as well as signage and lighting. The top and roof of multifamily residential buildings shall be defined and differentiated with multifaceted roof shapes where appropriate to break up the roofline.

(2) Building façade detailing.

(a) Pedestrian building entries shall be clearly visible and highlighted within facades. Continuous expanses of windowless wall shall be prohibited at all levels. A change in plane and variation in materials and/or detailing shall be provided for any windowless wall in excess of 20 feet in length. Windows shall occupy at least 20 percent of the façade area within multifamily residential buildings and shall occupy at least 25 percent of the façade area within mixed-use buildings.

(b) Preferred materials for facades shall be brick, cultivated stone or other masonry facing and vinyl or fiber cement siding or backboard. No more than three different materials shall be employed as primary materials on a building facade. Within the chosen primary materials, variation in color, texture and pattern may be employed to create further distinctions. The level of materials, detailing and articulation shall be consistent along all facades. Materials shall be extended around corners and extensions in order to avoid a "pasted on" appearance. Where buildings have "tuck under" parking at the ground level of multifamily buildings or where there are detached freestanding garages, garage doors shall be richer in color as compared to the remainder of the façade. Such doors shall further incorporate changes in texture and/or include ornamental framing/features as part of the design. Detached freestanding garages shall employ the same façade materials and articulation as the multifamily residential buildings.

(c) All major mechanical equipment located on the roof of a building shall be screened from view of all vantage points with a material harmonious to that used in the façade of the building.

XII

Article XIII, Zoning Regulations, is hereby amended to add new subsection B(17) to §190-146 Corporate Multi-Use Development Zones CMX-10, CMX-4, CMX-3 and CMX-2. as follows:

§ 190-146 Corporate Multi-Use Development Zones CMX-10, CMX-4, CMX-3 and CMX-2.

A. Purpose (no change)

B. Permitted Uses

(1) - (16) No Change

(17) Permitted additional uses that will be planned and designed in accordance with the overall concept design for the CMX-3 zone for the “Front Tract” as identified in the First Amendment to Settlement Agreement in “Complaint for Declaratory Relief,” Docket No. L-6026-08 and all matters consolidated therewith. The application for development of the area shall be contiguous to and directly accessible from State Highway Route 9 and shall include the front tract portion of Block 71, Lot 8 as shown on the Tax Map of the Township of Freehold.

XIII

Article XIII, Zoning Regulations, is hereby amended to add new section §190-153.1, FSX – Flex Space Zone as follows:

§190-153.1 (FSX) Flex Space Zone

- A. Purpose. The (FSX) Flex Space Zone is intended to permit flex space facilities on properties containing buildings that can easily be adapted to different uses including a mix of both warehouse and office space. The Flex Space Zone includes standards for areas suitable for wholesaling and storage activities, to avoid incompatible land uses, to serve the areas with adequate access facilities, and to mitigate incompatibilities with adjacent properties.
- B. Applicability. The zone shall apply to the “tract area” for “Plan B Option” known as Block 71, Lot 8 (rear portion) as shown on the official Tax Map of Freehold Township and as further defined in the First Amendment to Settlement Agreement dated November 8, 2019 between Land Bank Freehold, LLC and the Township of Freehold and shall expire one (1) year from the date of the adoption of this Section .

C. Permitted Uses:

- (1) Offices for professional, scientific, executive or administrative purposes, and related business support services
- (2) Self-storage warehousing (2017 NAICS - 531130)
- (3) Merchant Wholesalers, Durable Goods (2017 NAICS - 423)
- (4) Specialty Trade Contractors (2017 NAICS - 238)
- (5) Showrooms enclosed within a building used for the display of wholesale or durable goods
- (6) Light manufacturing: assembly, fabrication and processing of products inside an enclosed building except hazardous or combustible materials and subject to the performance requirements as set forth in this chapter.
- (7) Research laboratories
- (8) Municipal facilities
- (9) Public utility installations
- (10) Fitness and recreational sports centers (2017 NAICS 713940).

D. Permitted Accessory Uses:

- (1) Parking
- (2) Signage in accordance with §190-182
- (3) Fences in accordance with this chapter
- (4) Loading
- (5) Trash Enclosures in accordance with this chapter
- (6) Retail sales associated with a permitted use, provided that the retail sales operation occurs within the same building as the associated permitted use, is consistent with the principal use of the building, and the retail operation occupies no more than 10 percent of the gross floor area in that building.
- (7) Operations manager's office for self-storage warehouse use

E. Bulk Standards

- (1) Minimum lot area – 20 acres
- (2) Minimum lot width – 250 feet
- (3) Minimum lot depth – 300 feet
- (4) Maximum building coverage, all buildings 25 percent
- (5) Maximum impervious coverage – 65 percent
- (6) Maximum floor area ratio is 0.25.

F. The site containing such a use shall have direct access to a principal arterial roadway, or access via an easement, right of way or access drive through an adjoining tract with frontage along a principal arterial roadway.

G. No retail sales shall be conducted on the premises as a principal use.

H. Site plan approval shall be required and any development shall also be subject to the following supplemental zoning regulations:

- (1) Maximum building size - Shall be not greater than 30,000 square feet.
- (2) The maximum building length shall be 250 feet.
- (3) The minimum front yard setback abutting a public street shall be 75 feet.
- (4) The minimum building setback adjacent to any residentially zoned or developed property shall be 100 feet. All other setbacks shall be a minimum of 50 feet.
- (5) The minimum distance between interior buildings shall be 25 feet.
- (6) The facades of all structures visible from public streets and residentially zoned or developed property shall be constructed of materials which are wood, brick, masonry, or other material finished to be compatible with the uses in the area in which the facility is located. Self-Storage unit doors shall not face existing or proposed residential properties unless adequate buffer is provided pursuant to sub-section (9) below.
- (7) No single structure shall exceed two (2) stories, 32 feet in height including all roof equipment attached thereto. Structures with roof equipment shall provide roof screening to prevent its visibility from all sides of the building.
- (8) All outdoor lighting shall be shielded to direct light and glare only onto the premises and shall be of sufficient intensity to discourage vandalism and theft. It shall be directed, shaded and focused away from all adjoining property.
- (9) A minimum of a 25 foot continuous planted buffer in accordance with this chapter shall be provided along all property lines adjacent to other non-residentially zoned sites. If a site is adjacent to a residentially zoned or residentially developed property, the minimum planted buffer shall be 50 feet. Consistent with the above, all yards adjacent to a residential zone or developed property shall be landscaped to provide appropriate visual screening and/or buffering. The visual screening may include masonry walls, decorative fencing and/or planted screening. The continuous planted buffer for the principal uses shall include a twenty-five foot wide staggered row of evergreen trees 10 feet on center and other plant materials and decorative fencing to provide a visual screen from residential properties and public streets and roads consistent with the buffer requirements. Where existing heritage trees or other mature vegetation occurs, such existing plants shall be retained within the required buffer area and supplemented with suitable plant materials as needed to affect a visual screen in lieu of the required twenty-five foot wide evergreen screen.
- (10) Internal driveway aisles for self-storage warehousing shall be a minimum of 24 feet in width. Driveway aisles where self-storage warehousing units are only on one side may be a minimum of 20 feet in width.

- (11) Parking requirements in accordance with §190-163.
- (12) Parking areas shall be provided adjacent to or in close proximity to each use.
- (13) Off-street loading requirements for all uses other than self-store warehousing in accordance with §190-164.
- (14) No outdoor storage of goods or materials shall be permitted, including the storage of vehicles and boats.

XIV

Article XX, Affordable Housing Regulations is hereby repealed in its entirety and replaced below as follows:

ARTICLE XX Affordable Housing

§190-217 Purpose.

- A. This Section is intended to assure that very-low, low-, and moderate-income units ("affordable units") are created with controls on affordability and that very-low, low-, and moderate-income households shall occupy these units. This Section shall apply except where inconsistent with applicable law.
- B. The Township of Freehold Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. (hereinafter "Fair Share Plan"). The Fair Share Plan was endorsed by the Township Committee. The Fair Share Plan describes how the Township of Freehold shall address its fair share of very-low, low-, and moderate-income housing as documented in the Fair Share Plan itself, the Settlement Agreement entered into between the Township and Fair Share Housing Center ("FSHC") on November 8, 2019 (hereinafter "FSHC Settlement Agreement"), and the Superior Court Order approving same, which was entered by the Court on February 15, 2019 after a properly noticed Fairness Hearing was held on December 31, 2019.
- C. The Township of Freehold shall track the status of the implementation of the Fair Share Plan.

§190-218 Monitoring and Reporting Requirements.

The Township of Freehold shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its Superior Court-approved Housing Element and Fair Share Plan:

- A. Beginning one year after the entry of the Township's Round 3 Judgment of Compliance and Repose, and on every anniversary of that date through 2025, the Township shall provide an annual report of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center (FSHC) and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs (NJDCA), Council on Affordable Housing (COAH), or Local Government Services (NJLGS). The report shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
- B. Beginning one year after the entry of the Township's Round 3 Judgment of Compliance and Repose, and on every anniversary of that date through 2025, the Township agrees to provide an annual report of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by COAH, or any other forms endorsed by the Superior Court Appointed Special Master and FSHC.
- C. The Fair Housing Act includes two provisions regarding action to be taken by the Township during its ten- (10) year repose period. The Township will comply with those provisions as follows:
 - (1) For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Township will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity. Such posting shall invite any interested party to submit comments to the Township, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether the mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the Superior Court regarding these issues.
 - (2) For the review of very-low-income housing requirements required by N.J.S.A. 52:27D-329.1, within thirty (30) days of the third anniversary of the entry of the Township's Judgment of Compliance and Repose, and every third year thereafter, the Township will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its satisfaction of its very-low-income requirements, including the family very-low-income requirements referenced herein. Such posting shall invite any interested party to submit comments to the Township

and Fair Share Housing Center on the issue of whether the Township has complied with its very-low-income housing obligation under the terms of this settlement.

- (3) In addition to the foregoing postings, the Township may also elect to file copies of its reports with COAH or its successor agency at the State level.

§190-219 Definitions.

The following terms when used in this Section shall have the meanings given in this Section:

“Act” or “FHA” means the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.) as has been subsequently amended.

“Accessory Apartment” shall mean a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

“Adaptable” means constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

“Administrative agent” means the entity designated by the Township responsible for the administration of affordable units in accordance with this ordinance, applicable COAH regulations and the Uniform Housing Affordability Controls (UHAC)(N.J.A.C. 5:80-26.1 et seq.)

“Affirmative marketing” means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

“Affordability average” means the average percentage of median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.

“Affordable” means a sales price or rent within the means of a low- or moderate-income household as defined by COAH in its applicable regulations or an equivalent controlling New Jersey state agency; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

“Affordable development” means a housing development all or a portion of which consists of restricted units.

“Affordable housing development” means a development included in the Township’s Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

“Affordable housing program(s)” means any mechanism in the Township’s Fair Share Plan prepared or implemented to address the Township’s fair share obligation.

“Affordable unit” means a housing unit proposed or created pursuant to the Act, credited pursuant to applicable COAH regulations, the FSHC Settlement Agreement, or an order of the Superior Court.

“Agency” or “HFMA” means the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).

“Age-restricted unit” means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development where the unit is situated are 62 years or older; or 2) at least 80 percent of the units are occupied by one person that is 55 years or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as “housing for older persons” as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

“Alternative living arrangement” means a structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D, and E boarding homes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

“Assisted living residence” means a facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

“Certified household” means a household that has been certified by an Administrative Agent as a very-low-income household, low-income household or moderate-income household.

“COAH” means the New Jersey Council on Affordable Housing.

“The Department” means the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

“DCA” means the State of New Jersey Department of Community Affairs.

“Deficient housing unit” means a housing unit with health and safety code violations that require the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

“Developer” means any person, partnership, association, entity, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

“Inclusionary development” means a development containing both affordable units and market rate units. This term includes, but is not necessarily limited to: new construction, the conversion of a non-residential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

“Low-income household” means a household with a total gross annual household income equal to 50 percent or less of the median household income.

“Low-income unit” means a restricted unit that is affordable to a low-income household.

“Major system” means the primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building, which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement or load bearing structural systems.

“Market-rate units” means housing not restricted to low- and moderate-income households that may sell or rent at any price.

“Median-income” means the median income by household size for the applicable county, as adopted annually by the Department.

“Moderate-income household” means a household with a total gross annual household income in excess of 50 percent but less than 80 percent of the median household income.

“Moderate-income unit” means a restricted unit that is affordable to a moderate-income household.

“Municipal Housing Liaison” means the employee charged by the governing body with the responsibility for oversight and administration of the affordable housing program for Freehold.

“Non-exempt sale” means any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor’s deed to a class A beneficiary and the transfer of ownership by court order.

“Random selection process” means a process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

“Regional asset limit” means the maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by the Department of Community Affairs’s adopted Regional Income Limits published annually by COAH, a successor entity or established by the Court.

“Rehabilitation” means the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

“Rent” means the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

“Restricted unit” means a dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and supplemented, but does not include a market-rate unit financed under UHROP or MONI.

“UHAC” means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

“Very-low-income household” means a household with a total gross annual household income equal to 30 percent or less of the median household income.

“Very-low-income unit” means a restricted unit that is affordable to a very low-income household.

“Weatherization” means building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for rehabilitation.

§190-220 Applicability.

- A. The provisions of this Section shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Township of Freehold pursuant to the Township's most recently adopted Housing Element and Fair Share Plan.
- B. This Section shall apply to all developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

§190-221 Rehabilitation Programs.

- A. The Township of Freehold and Fair Share Housing Center (FSHC) have agreed that the Township's Round 3 (1999-2025) Indigenous Need Rehabilitation Obligation is one hundred (100) units. The Township will work with a qualified entity to rehabilitate units in the Township to address the Township's Rehabilitation Obligation. Any such rehabilitation programs will update and renovate deficient owner-occupied and rental housing units occupied by low- and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28.
- (1) All rehabilitated rental and owner-occupied units shall remain affordable to low and moderate-income households for a period of ten (10) years (the control period). For owner-occupied units, the control period will be enforced with a lien and for renter occupied units the control period will be enforced with a deed restriction.
 - (2) The Township of Freehold shall dedicate an average of at least ten thousand dollars (\$10,000) for each unit to be rehabilitated through this program, reflecting the minimum hard cost of rehabilitation for each unit.
 - (3) Units in the rehabilitation programs shall be exempt from N.J.A.C. 5:93-9 and UHAC requirements, but shall be administered in accordance with the following:
 - (a) If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low- or moderate-income household at an affordable rent and affirmatively marketed pursuant to N.J.A.C. 5:93-9 and UHAC.
 - (b) If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to N.J.A.C. 5:93-9 and UHAC.
 - (c) Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:93-9 or the standards issued by a New Jersey administrative agency with proper authority to issue such standards.
 - (d) Applicant and/or tenant households shall be certified as income-eligible in accordance with N.J.A.C. 5:93-9 and UHAC, except that households in owner occupied units shall be exempt from the regional asset limit.

§ 190-222 Alternative Living Arrangements

- A. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:
- (1) Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court;
 - (2) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
- B. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30-year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.
- C. The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

§190-223 Phasing Schedule for Inclusionary Developments.

In inclusionary developments the following schedule shall be followed:

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

§190-224 New Construction.

- A. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:
- (1) The fair share obligation shall be divided equally between low and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit. At least thirteen percent (13 percent) of all restricted rental units within each bedroom distribution shall be very-low-income units (affordable to a household earning thirty percent (30 percent) or less of regional median income by household size). The very-low-income units shall be counted as part of the required number of low-income units within the development. At least fifty percent (50 percent) of the very-low-income units must be available to families.

- (2) At least twenty-five percent (25 percent) of the obligation shall be met through rental units, including at least half in rental units available to families.
- (3) A maximum of twenty-five percent (25 percent) of the Township's obligation may be met with age restricted units. At least half of all affordable units in the Township's plan shall be available to families.
- (4) In each affordable development, at least fifty percent (50 percent) of the restricted units within each bedroom distribution shall be very-low or low-income units including that 13 percent shall be very-low income.
- (5) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - (a) The combined number of efficiency and one (1) bedroom units shall be no greater than twenty percent (20 percent) of the total low and moderate-income units;
 - (b) At least thirty percent (30 percent) of all low and moderate-income units shall be two (2) bedroom units;
 - (c) At least twenty percent (20 percent) of all low and moderate-income units shall be three (3) bedroom units; and
 - (d) The remaining units may be allocated among two (2) and three (3) bedroom units at the discretion of the developer and the Township.
- (6) Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low and moderate-income units within the inclusionary development. This standard may be met by having all one (1) bedroom units or by having a two (2) bedroom unit for each efficiency unit.

B. Accessibility Requirements:

- (1) The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Sub Code, N.J.A.C. 5:23-7.
- (2) All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one (1) other dwelling unit shall have the following features:
 - (a) An adaptable toilet and bathing facility on the first floor; and
 - (b) An adaptable kitchen on the first floor; and

- (c) An interior accessible route of travel on the first floor; and
- (d) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
- (e) If all of the foregoing requirements in paragraphs (2)(a) through (2)(d) above cannot be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs (2)(a) through (2)(d) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
- (f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, et seq.) and the Barrier Free SubCode, N.J.A.C. 5:23-7, or evidence that Freehold has collected funds from the developer sufficient to make ten percent (10 percent) of the adaptable entrances in the development accessible:
 - [1] Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - [2] To this end, the builder of restricted units shall deposit funds into the Township of Freehold's Affordable Housing Trust Fund sufficient to install accessible entrances in ten percent (10 percent) of the affordable units that have been constructed with adaptable entrances.
 - [3] The funds deposited under Paragraph (f) above shall be used by the Township of Freehold for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - [4] The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Township of Freehold for the conversion of adaptable to accessible entrances.
 - [5] Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township's Affordable Housing Trust Fund in care of the Township Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.
- (g) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

C. Design:

- (1) In inclusionary developments, very-low, low and moderate-income units shall be integrated with the market units to the extent possible.
- (2) In inclusionary developments, very-low, low and moderate-income units shall have access to all of the same common elements and facilities as the market units.

D. Maximum Rents and Sales Prices:

- (1) In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and by the Superior Court.
- (2) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than sixty percent (60 percent) of median income, and the average rent for restricted rental units shall be affordable to households earning no more than fifty-two percent (52 percent) of median income.
- (3) The developers and/or municipal sponsors of restricted rental units shall establish at least one (1) rent for each bedroom type for both low-income and moderate-income units, provided that at least thirteen percent (13 percent) of all low and moderate-income rental units shall be affordable to very-low-income households, earning 30 percent or less of the regional median household income, which very-low-income units shall be part of the low-income requirement.
- (4) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than seventy percent (70 percent) of median income, and each affordable development must achieve an affordability average of fifty-five percent (55 percent) for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three (3) different sales prices for each bedroom type, and low-income ownership units must be available for at least two (2) different sales prices for each bedroom type.
- (5) In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
 - (a) A studio shall be affordable to a one (1) person household;
 - (b) A one (1) bedroom unit shall be affordable to a one and one-half (1.5) person household;
 - (c) A two (2) bedroom unit shall be affordable to a three (3) person household;

- (d) A three (3) bedroom unit shall be affordable to a four and one-half (4.5) person household; and
- (e) A four (4) bedroom unit shall be affordable to a six (6) person household.
- (6) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
 - (a) A studio shall be affordable to a one (1) person household;
 - (b) A one (1) bedroom unit shall be affordable to a one and one-half (1.5) person household; and
 - (c) A two (2) bedroom unit shall be affordable to a two (2) person household or to two (2) one (1) person households.
- (7) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to ninety-five percent (95 percent) of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed twenty-eight percent (28 percent) of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (8) The initial rent for a restricted rental unit shall be calculated so as not to exceed thirty percent (30 percent) of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (9) Income limits for all units that are part of the Township's Housing Element and Fair Share Plan, and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1, shall be updated by the Township annually within thirty (30) days of the publication of determinations of median income by HUD as follows:
 - (a) The income limit for a moderate-income unit for a household of four shall be eighty percent (80 percent) of the HUD determination of the median income for COAH Region 4 for a family of four. The income limit for a low-income unit for a household of four shall be fifty percent (50 percent) of the HUD determination of the median income for COAH Region 4

- (b) for a family of four. The income limit for a very low income unit for a household of four shall be thirty percent (30 percent) of the HUD determination of the median income for COAH Region 4 for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than the previous year.
- (c) The income limits are based on carrying out the process in Paragraph (a) based on HUD determination of median income for the current Fiscal Year, and shall be utilized by the Township until new income limits are available.
- (10) In establishing sale prices and rents of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established by the Council:
 - (a) The price of owner-occupied very-low, low and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region determined pursuant to Paragraph 9. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
 - (b) The rents of very-low-, low and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the Central New Jersey Area, upon its publication for the prior calendar year. This increase shall not exceed nine percent (9 percent) in any one (1) year. Rents for units constructed pursuant to low income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.

§190-225 Utilities.

- A. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.
- B. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by the NJDCA for its Section 8 program.

§190-226 Occupancy Standards.

In referring certified households to specific restricted units, the Administrative Agent shall, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:

- A. Provide an occupant for each bedroom;
- B. Provide children of different sexes with separate bedrooms;
- C. Provide separate bedrooms for parents and children; and
- D. Prevent more than two (2) persons from occupying a single bedroom.

§190-227 Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Section for a period of at least thirty (30) years, until Freehold Township takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- B. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- C. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer, shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
- D. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer, a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Section, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- E. The affordability controls set forth in this Section shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- F. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

§190-227.1 Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices.

Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

- A. The initial purchase price for a restricted ownership unit shall be approved by the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer.
- B. The Township's Administrative Agent, or an Administrative Agent appointed by a particular developer, shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- C. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low and moderate-income purchasers and those paid by market purchasers, unless the master deed for the inclusionary project was executed prior to the enactment of UHAC.
- D. The owners of restricted ownership units may apply to the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer, to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

§190-227.2 Buyer Income Eligibility.

- A. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to fifty percent (50 percent) of median income and moderate-income ownership units shall be reserved for households with a gross household income less than eighty percent (80 percent) of median income.
- B. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed thirty-three percent (33 percent) of the household's eligible monthly income.

§190-227.3 Limitations on Indebtedness Secured by Ownership Unit; Subordination.

- A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer, for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer, shall issue such determination prior to the owner incurring such indebtedness.
- B. With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed ninety-five percent (95 percent) of the maximum allowable resale price of the unit, as such price is determined by the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer, in accordance with N.J.A.C. 5:80-26.6(b).

§190-227.4 Capital Improvements To Ownership Units.

- A. The owners of restricted ownership units may apply to the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer, to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that add an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
- B. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer, at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to ten (10) year, straight-line depreciation, has been approved by the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer. Unless otherwise approved by the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

§190-227.5 Control Periods for Restricted Rental Units.

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Section for a period of at least thirty (30) years, until Freehold Township takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- B. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Monmouth. A copy of the filed document shall be provided to the Township's Administrative Agent within thirty (30) days of the receipt of a Certificate of Occupancy.
- C. A restricted rental unit shall remain subject to the affordability controls described in this Section despite the occurrence of any of the following events:
 - (1) Sublease or assignment of the lease of the unit;
 - (2) Sale or other voluntary transfer of the ownership of the unit; or
 - (3) The entry and enforcement of any judgment of foreclosure on the property containing the unit.

§190-227.6 Rent Restrictions for Rental Units; Leases.

- A. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer.
- B. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer.
- C. Application fees (including the charge for any credit check) shall not exceed five percent (5 percent) of the monthly rent of the applicable restricted unit and shall be payable to the Developer and/or Landlord or to the Township's Administrative Agent appointed by a particular developer. If the fees are paid to the Township's Administrative Agent or an Administrative Agent appointed by a particular developer they are to be applied to the costs of administering the controls applicable to the unit as set forth in this Section.

- D. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least fifteen percent (15 percent) of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

§190-227.7 Tenant Income Eligibility.

- A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
- (1) Very-low-income rental units shall be reserved for households with a gross household income less than or equal to thirty percent (30 percent) of the regional median household income by household size.
 - (2) Low-income rental units shall be reserved for households with a gross household income less than or equal to fifty percent (50 percent) of the regional median household income by household size.
 - (3) Moderate-income rental units shall be reserved for households with a gross household income less than eighty percent (80 percent) of the regional median household income by household size.
- B. The Township's Administrative Agent, or a qualified Administrative Agent appointed by a particular developer, shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed thirty-five percent (35 percent) ((forty 40) percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
- (1) The household currently pays more than thirty-five percent (35 percent) (forty (40) percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - (2) The household has consistently paid more than thirty-five percent (35 percent) (forty (40) percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - (3) The household is currently in substandard or overcrowded living conditions;
 - (4) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - (5) The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.

- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in B(1) through B(5) above with the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer, who shall counsel the household on budgeting.

§190-227.8 Municipal Housing Liaison.

- A. The position of Municipal Housing Liaison (MHL) for the Township of Freehold is established by this Section. The Township shall make the actual appointment of the MHL by means of a resolution.
- (1) The MHL must be either a full-time or part-time employee of Freehold.
 - (2) The person appointed as the MHL must be reported to the Superior Court and thereafter posted on the Township's website.
 - (3) The MHL must meet all the requirements for qualifications, including initial and periodic training, if such training is made available by COAH or the DCA.
 - (4) The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Township of Freehold, including the following responsibilities which may not be contracted out to the Administrative Agent, or the Administrative Agent appointed by a specific developer:
 - (a) Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 - (b) The implementation of the Affirmative Marketing Plan and affordability controls;
 - (c) When applicable, supervising any contracting Administrative Agent;
 - (d) Monitoring the status of all restricted units in the Township's Fair Share Plan;
 - (e) Compiling, verifying and submitting annual reports as required;
 - (f) Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
 - (g) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Affordable Housing Professionals of New Jersey (AHPNJ), if such continuing education opportunities are made available by COAH or the DCA.
- B. Subject to the approval of the Superior Court, the Township of Freehold shall designate one (1) or more Administrative Agent(s) to administer and to affirmatively market the affordable units constructed in the Township in accordance with UHAC and this Section.

§190-227.9 Administrative Agent.

An Administrative Agent may be either an independent entity serving under contract to and reporting to the Township, or reporting to a specific individual developer. ***The fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required.*** The Township Administrative Agent shall monitor and work with any individual Administrative Agents appointed by individual developers. The Administrative Agent(s) shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which includes:

A. Affirmative Marketing:

- (1) Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Township of Freehold and the provisions of N.J.A.C. 5:80-26.15; and
- (2) Providing counseling or contracting to provide counseling services to low and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

B. Household Certification:

- (1) Soliciting, scheduling, conducting and following up on interviews with interested households;
- (2) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low or moderate-income unit;
- (3) Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
- (4) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
- (5) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located;
- (6) Employing a random selection process as provided in the Affirmative Marketing Plan of the Township of Freehold when referring households for certification to affordable units; and

- (7) Notifying the following entities of the availability of affordable housing units in the Township of Freehold: Fair Share Housing Center (510 Park Boulevard, Cherry Hill, NJ 08002), the New Jersey State Conference of the NAACP, the Latino Action Network (P.O. Box 943, Freehold, NJ 07728), East Orange NAACP (P.O. Box 1127, East Orange, NJ 07019), Newark NAACP (P.O. Box 1262, Newark, NJ 07101), Morris County NAACP (P.O. Box 2256, Morristown, NJ 07962), Elizabeth NAACP (P.O. Box 6732, Elizabeth, NJ 07206), and the Supportive Housing Association.

C. Affordability Controls:

- (1) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
- (2) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
- (3) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Monmouth County Register of Deeds or the Monmouth County Clerk's office after the termination of the affordability controls for each restricted unit;
- (4) Communicating with lenders regarding foreclosures; and
- (5) Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

D. Resales and Re-rentals:

- (1) Instituting and maintaining an effective means of communicating information between owners and the Township's Administrative Agent, or any Administrative Agent appointed by a specific developer, regarding the availability of restricted units for resale or re-rental; and
- (2) Instituting and maintaining an effective means of communicating information to very-low, low and moderate-income households regarding the availability of restricted units for resale or re-rental.

E. Processing Requests from Unit Owners:

- (1) Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Section;

- (2) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;
- (3) Notifying the Township of an owner's intent to sell a restricted unit; and
- (4) Making determinations on requests by owners of restricted units for hardship waivers.

F. Enforcement:

- (1) Securing annually from the Township a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
- (2) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Township's Administrative Agent, or any Administrative Agent appointed by a specific developer;
- (3) Posting annually, in all rental properties (including two (2) family homes), a notice as to the maximum permitted rent together with the telephone number of the Township's Administrative Agent, or any Administrative Agent appointed by a specific developer, where complaints of excess rent or other charges can be made;
- (4) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
- (5) Establishing a program for diverting unlawful rent payments to the Township's Affordable Housing Trust Fund; and
- (6) Creating and publishing a written operating manual for each affordable housing program administered by the Township's Administrative Agent, or any Administrative Agent appointed by a specific developer, to be approved by the Township Committee and the Superior Court, setting forth procedures for administering the affordability controls.

G. Additional Responsibilities:

- (1) The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
- (2) The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Section. The Township's Administrative Agent will be responsible for collecting monitoring information from any Administrative Agents appointed by specific developers.
- (3) The Township's Administrative Agent, or any Administrative Agent appointed by a specific developer, shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

§190-227.10 Affirmative Marketing Requirements.

- A. The Township of Freehold shall adopt by resolution an Affirmative Marketing Plan that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- B. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 4 and is required to be followed throughout the period of restriction.
- C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 4, comprised of Mercer, Monmouth, and Ocean Counties.
- D. In accordance with N.J.S.A. 52:27D-311 (j) the Township and Developer or residential development owner may enter into an agreement to provide a preference for affordable housing to low to moderate income veterans who served in time of war or other emergency, as defined in N.J.S.A. 54:4-8.10, of up to fifty (50) percent of the affordable units in that particular project. This preference shall be established in the applicant selection process for affordable units so that applicants who are veterans who served in time of war or other emergency, as referenced in this subsection, and who apply within ninety (90) days of the initial marketing period shall receive preference for the rental of the agreed-upon percentage of affordable units. After the first ninety (90) days of the initial 120-day marketing period, if any of those units subject to the preference remain available, then applicants from the general public shall be considered for occupancy. Following the initial 120-day marketing period, previously qualified applicants and future qualified applicants who are veterans who served in time of war or other emergency, as referenced in this subsection, shall be placed on

a special waiting list as well as the general waiting list. The veterans on the special waiting list shall be given preference for affordable units, as the units become available, whenever the percentage of preference-occupied units falls below the agreed upon percentage. Any agreement to provide affordable housing preferences for veterans pursuant to this subsection shall not affect a municipality's ability to receive credit for the unit for the New Jersey Council of Affordable Housing or its successor. The Township has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and re-sales and re-rentals. The Township's Administrative Agent designated by the Township of Freehold, or any Administrative Agent appointed by a specific developer, shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.

- E. In implementing the Affirmative Marketing Plan, the Township's Administrative Agent, or any Administrative Agent appointed by a specific developer, shall provide a list of counseling services to very-low, low, and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- F. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Township's Administrative Agent, or any Administrative Agent appointed by a specific developer, shall consider the use of language translations where appropriate.
- G. The affirmative marketing process for available affordable units shall begin at least one hundred and twenty days (120) prior to the expected date of occupancy.
- H. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; and the municipal building in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.
- I. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

§190-227.11 Enforcement of Affordable Housing Regulations.

- A. Upon the occurrence of a breach of any of the regulations governing an affordable unit by an Owner, Developer or Tenant, the Township shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- B. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the Township may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of sixty (60) days after service of the written notice:
- (1) The Township may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Superior Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one (1) or more of the following penalties, at the discretion of the Court:
 - (a) A fine of not more than two thousand dollars (\$2,000.00) per day or imprisonment for a period not to exceed ninety (90) days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
 - (b) In the case of an Owner who has rented a very-low, low or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Township of Freehold Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - (c) In the case of an Owner who has rented a very-low, low or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
 - (2) The Township may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low or moderate-income unit.

- (a) The judgment shall be enforceable, at the option of the Township, by means of an execution sale by the Sheriff, at which time the low and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the Township, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.
- (b) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the Township for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the Township in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the Township in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the Township for the Owner and shall be held in such escrow for a maximum period of two (2) years or until such earlier time as the Owner shall make a claim with the Township for such. Failure of the Owner to claim such balance within the two (2) year period shall automatically result in a forfeiture of such balance to the Township. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the Township, whether such balance shall be paid to the Owner or forfeited to the Township.
- (c) Foreclosure by the Township due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the very-low, low and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- (d) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the Township may acquire title to the very-low, low and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the very-low, low and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.

- (e) Failure of the very-low, low and moderate-income unit to be either sold at the Sheriff's sale or acquired by the Township shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the Township, with such offer to purchase being equal to the maximum resale price of the very-low, low and moderate-income unit as permitted by the regulations governing affordable housing units.
- (f) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

§190-227.12 Affordable Housing Mandatory Set-Aside

A. Purpose and Scope

This section establishes regulations to ensure that any site that benefits from a rezoning, variance or redevelopment plan approved by the Township, the Township's Planning Board, that results in multi-family residential development of five (5) dwelling units or more produces affordable housing at a set-aside rate of twenty percent (20 percent) for for-sale affordable units and at a set-aside rate of fifteen percent (15 percent) for rental affordable units, in accordance with the Township's Third Round Housing Element and Fair Share Plan, consistent with the terms of the Settlement Agreement reached with Fair Share Housing Center regarding compliance with the Township's affordable housing obligations. This Ordinance will not apply zones that already have affordable housing set-aside requirements.

B. Affordable Housing Mandatory Set-Aside Requirement

- (1) If the Township or the Township's Planning Board permits the construction of multi-family or single-family attached residential development that is "approvable" and "developable," as defined at N.J.A.C. 5:93-1.3, of five (5) units or more, the Township or the Township's Planning Board shall require that an appropriate percentage of the residential units be set aside for low and moderate income households.
- (2) This requirement shall apply beginning with the effective date the Ordinance creating this section was adopted to any multi-family or single-family attached residential development, including the residential portion of a mixed-use project, which consists of five (5) or more new residential units, whether permitted by a zoning amendment, a variance granted by the Township's Planning Board, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation.

- (3) For any such development for which the Township's land use ordinances (e.g. zoning or an adopted Redevelopment Plan) already permitted residential development as of the effective date the Ordinance creating this section was adopted, this requirement shall only apply if the Township's Planning Board permits an increase in approvable and developable gross residential density to at least twice the permitted approvable and developable gross residential density as of the effective date the Ordinance creating this section was adopted.
- (4) Nothing in this section precludes the Township, or the Township's Planning Board, from imposing an affordable housing set-aside in a development not required to have a set-aside pursuant to this paragraph consistent with N.J.S.A. 52:27D-311(h) and other applicable laws.
- (5) For all inclusionary projects, the appropriate set-aside percentage will be twenty percent (20 percent) for all for-sale projects and fifteen percent (15 percent) for all rental projects.
- (6) This requirement does not create any entitlement for a property owner or applicant for a zoning amendment, variance, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation, or for approval of any particular proposed project.
- (7) This requirement does not apply to any sites or specific zones otherwise identified in the Township's Settlement Agreement with FSHC, or in the Township's 2020 Housing Element and Fair Share Plan, for which density and set-aside standards shall be governed by the specific standards set forth therein.
- (8) Furthermore, this section shall not apply to developments containing four (4) or less dwelling units.
- (9) All subdivision and site plan approvals of qualifying residential developments shall be conditioned upon compliance with the provisions of this section.
- (10) Where a developer demolishes existing dwelling units and builds new dwelling units on the same site, the provisions of this section shall apply only if the net number of dwelling units is five (5) or more.
- (11) All inclusionary projects created under this section must comply with the affordable housing requirements in this Article.

§190-227.13 Affordable Housing Development Fees

A. Purpose

- (1) In *Holmdel Builder's Association v. Holmdel Township*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27d-301 *et seq.*, and the State Constitution, subject to the adoption of Rules by the Council on Affordable Housing (COAH).
- (2) Pursuant to N.J.S.A. 52:27D-329.2 and the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), COAH was authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that were under the jurisdiction of COAH, and that are now before a Court of competent jurisdiction and have a Court-approved Spending Plan, may retain and expend fees collected from both residential and non-residential development.
- (3) This section establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with COAH's regulations developed in response to P.L. 2008, c. 46, Sections 8 and 32-38 (N.J.S.A. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7). Fees collected pursuant to this section shall be used for the sole purpose of providing low- and moderate-income housing in accordance with a Court-approved Spending Plan.

B. Basic Requirements

- (1) This section shall not be effective until approved by the Court.
- (2) The Township of Freehold shall not spend development fees until the Court has approved a plan for spending such fees (Spending Plan).

C. Definitions

The following terms, as used in this Section, shall have the following meanings:

"Affordable housing development" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable housing development.

"COAH" or the "Council" means the New Jersey Council on Affordable Housing established under the Fair Housing Act.

"Development fee" means money paid by a developer for the improvement of property as permitted by applicable COAH regulations.

“Developer” means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

“Equalized assessed value” means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with Sections 1, 5, and 6 of P.L. 1973, c.123 (C.54:1-35a through C.54:1-35c).

“Green building strategies” means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

D. Residential Development Fees

(1) Imposition of Fees

- (a) Within the Township of Freehold, all residential developers, except for developers of the types of developments specifically exempted below and developers of developments that include affordable housing shall pay a fee of one and one-half percent (1.5 percent) of the equalized assessed value for all new residential development provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.
- (b) When an increase in residential density is permitted pursuant to a “d” variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a “bonus” development fee of six percent (6 percent) of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

(2) Eligible Exactions, Ineligible Exactions and Exemptions for Residential Developments

- (a) Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and/or developments where the developer has made a payment in lieu of on-site construction of affordable units, if permitted by Ordinance or by Agreement with the Township of Freehold, shall be exempt from the payment of development fees.

- (b) Developments that have received preliminary or final site plan approval prior to the adoption of Freehold's first adopted Development Fee Ordinance shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where site plan approval is not applicable, the issuance of a building permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the Development Fee Ordinance in effect on the date that the building permit is issued.
- (3) Improvements or additions to existing one- and two-family dwellings on individual lots shall not be required to pay a development fee, but a development fee shall be charged for any new dwelling constructed as a replacement for a previously existing dwelling on the same lot that was or will be demolished, unless the owner resided in the previous dwelling for a period of one year or more prior to obtaining a demolition permit. Where a development fee is charged for a replacement dwelling, the development fee shall be calculated on the increase in the equalized assessed value of the new structure as compared to the previous structure.
- (4) Nonprofit organizations which have received tax exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code, providing current evidence of that status is submitted to the Municipal Clerk, together with a certification that services of the organization are provided at reduced rates to those who establish an inability to pay existing charges, shall be exempted from paying a development fee.
- (5) Federal, State, County and local governments shall be exempted from paying a development fee.
- (6) The owner of a residential unit who rebuilds when the owner's existing dwelling unit was destroyed due to fire, flood or other natural disaster shall be exempt from paying a development fee.

E. Non-Residential Development Fees

- (1) Imposition of Fees
 - (a) Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall pay a fee equal to two and one-half percent (2.5 percent) of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.

- (b) Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall also pay a fee equal to two and one-half percent (2.5 percent) of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
 - (c) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and one-half percent (2.5 percent) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvements and the equalized assessed value of the newly improved structure, i.e. land and improvements, and such calculation shall be made at the time a final Certificate of Occupancy is issued. If the calculation required under this Section results in a negative number, the non-residential development fee shall be zero.
- (2) Eligible Exactions, Ineligible Exactions and Exemptions for Non-residential Development
- (a) The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to a two and one-half percent (2.5 percent) development fee, unless otherwise exempted below.
 - (b) The two and one-half percent (2.5 percent) development fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within the existing footprint, reconstruction, renovations and repairs.
 - (c) Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption". Any exemption claimed by a developer shall be substantiated by that developer.
 - (d) A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three (3) years after that event or after the issuance of the final Certificate of Occupancy for the non-residential development, whichever is later.
 - (e) If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this Section within forty-five (45) days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Township of Freehold as a lien against the real property of the owner.

F. Collection Procedures

- (1) Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the Construction Official responsible for the issuance of a building permit.
- (2) For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- (3) The Construction Official responsible for the issuance of a building permit shall notify the local Tax Assessor of the issuance of the first building permit for a development which is subject to a development fee.
- (4) Within 90 days of receipt of such notification, the Township Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- (5) The Construction Official responsible for the issuance of a final Certificate of Occupancy shall notify the Township Tax Assessor of any and all requests for the scheduling of a final inspection on a property which is subject to a development fee.
- (6) Within 10 business days of a request for the scheduling of a final inspection, the Township Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- (7) Should the Township of Freehold fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in N.J.S.A. 40:55D-8.6.
- (8) Fifty percent (50 percent) of the initially calculated development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the time of issuance of the Certificate of Occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the building permit and that determined at the time of issuance of the Certificate of Occupancy.

(9) Appeal of Development Fees

- (a) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Such a challenge must be made within 45 days from the issuance of the Certificate of Occupancy. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Township of Freehold. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1, et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
- (b) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Township of Freehold. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1, et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

G. Affordable Housing Trust Fund

- (1) There is hereby created a separate, interest-bearing Affordable Housing Trust Fund to be maintained by the Chief Financial Officer of the Township of Freehold for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- (2) Funds shall not be expended to reimburse the Township of Freehold for past housing activities.
- (3) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - (a) Payments in lieu of on-site construction of affordable units or of a fraction of an affordable unit, where permitted by Ordinance or by Agreement with the Township of Freehold;
 - (b) Funds contributed by developers to make ten percent (10 percent) of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
 - (c) Rental income from municipally operated units;
 - (d) Repayments from affordable housing program loans;
 - (e) Recapture funds;

- (f) Proceeds from the sale of affordable units; and
 - (g) Any other funds collected in connection with Freehold' affordable housing program.
- (4) In the event of a failure by the Township of Freehold to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in In re Tp. of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Township of Freehold, or, if not practicable, then within the County or the Housing Region.

Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.

- (5) Interest accrued in the Affordable Housing Trust Fund shall only be used to fund eligible affordable housing activities approved by the Court.

H. Use of Funds

- (1) The expenditure of all funds shall conform to a Spending Plan approved by the Court. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address the Township of Freehold' fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market to affordable program; Regional Housing Partnership programs; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost saving and in accordance with accepted national or State standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by the Court and specified in the approved Spending Plan.

- (2) At least 30 percent of all development fees collected and interest earned on such fees shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of the median income for Housing Region 4, in which Freehold is located.
- (a) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
- (b) Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income. The specific programs to be used for very low income affordability assistance shall be identified and described within the Spending Plan.
- (c) Payments in lieu of constructing affordable housing units on site, if permitted by Ordinance or by Agreement with the Township of Freehold, and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- (3) The Township of Freehold may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including its programs for affordability assistance.
- (4) No more than 20 percent of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare a Housing Element and Fair Share Plan, and/or administer an affirmative marketing program or a rehabilitation program.
- (a) In the case of a rehabilitation program, the administrative costs of the rehabilitation program shall be included as part of the 20 percent of collected development fees that may be expended on administration.
- (b) Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH or Court monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or related to securing or appealing a judgment from the Court are not eligible uses of the Affordable Housing Trust Fund.

I. Monitoring

The Township of Freehold shall provide annual reporting of Affordable Housing Trust Fund activity to the State of New Jersey, Department of Community Affairs, Council on Affordable Housing or Local Government Services or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, payments in lieu of constructing affordable units on site (if permitted by Ordinance or by Agreement with the Township), funds from the sale of units with extinguished controls, barrier free escrow funds, rental income from Township owned affordable housing units, repayments from affordable housing program loans, and any other funds collected in connection with Freehold's affordable housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

J. Ongoing Collection of Fees

- (1) The ability for the Township of Freehold to impose, collect and expend development fees shall expire with the expiration of the repose period covered by its Judgment of Compliance unless the Township of Freehold has first filed an adopted Housing Element and Fair Share Plan with the Court or with a designated State administrative agency, has petitioned for a Judgment of Compliance from the Court or for Substantive Certification or its equivalent from a State administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of its Development Fee Ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.
- (2) If the Township of Freehold fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to Section 20 of P.L. 1985, c. 222 (C. 52:27D-320).
- (3) The Township of Freehold shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment of Compliance, nor shall the Township of Freehold retroactively impose a development fee on such a development. The Township of Freehold also shall not expend any of its collected development fees after the expiration of its Judgment of Compliance.

XV

All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.

XVI

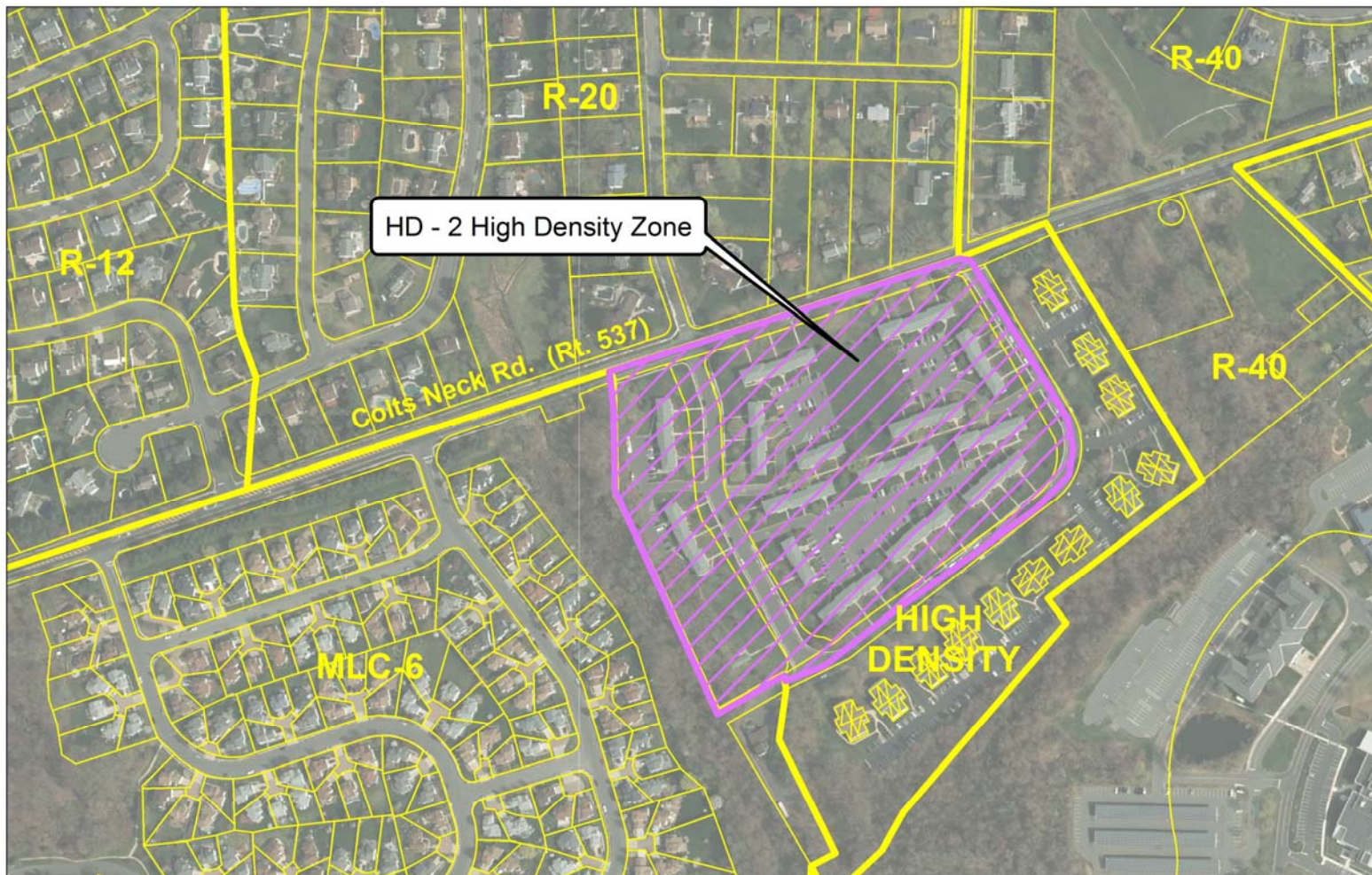
If any section, subparagraph, sentence, clause, or phrase of this Ordinance shall be held to be invalid, such decision shall not invalidate any remaining portion of this Ordinance.

XVII

This Ordinance shall take effect immediately upon passage, publication according to law, filing with the Monmouth County Planning Board.

XVIII

Copies of this Ordinance shall be filed with the Freehold Township Clerk, Tax Assessor, Planning Board, Planning Board Attorney, Township Attorney, Special Council for Affordable Housing, Township Engineer, Township Planner, Township Planning Consultants, Zoning Officer and Construction Official.



HD -2 - High Density Zone

Block 41.01, Lot 5.03:

Block 41, Lots 5.04, 5.05, 5.06

Colts Neck Road

Freehold Township, N.J.

HD-2 High Density Zone

0 100 200 400 600 800 Feet



Prepared: March 5, 2020

Sources: 2015 NJDEP GIS aerial data and NJDOT GIS data. This map was developed using New Jersey Department of Environmental Protection Geographic Information System digital data, but this secondary product has not been verified by NJDEP and is not state-authorized.



THOMAS PLANNING ASSOCIATES, LLC
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P.O. Box 363
Bridle, N.J. 08710-0363

T. Andrew Thomas, P.P.
Map 0702-000-0702
attp@tplan.com

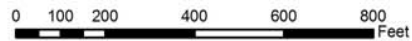
Thomas A. Thomas, P.P.
Map 0702-000-0702
tplan@tplan.com



ML-3 - Moderate and
Low Income Zone 3DU/Acre

Block 72, Lot 88
Three Brooks Rd.
Freehold Township, N.J.

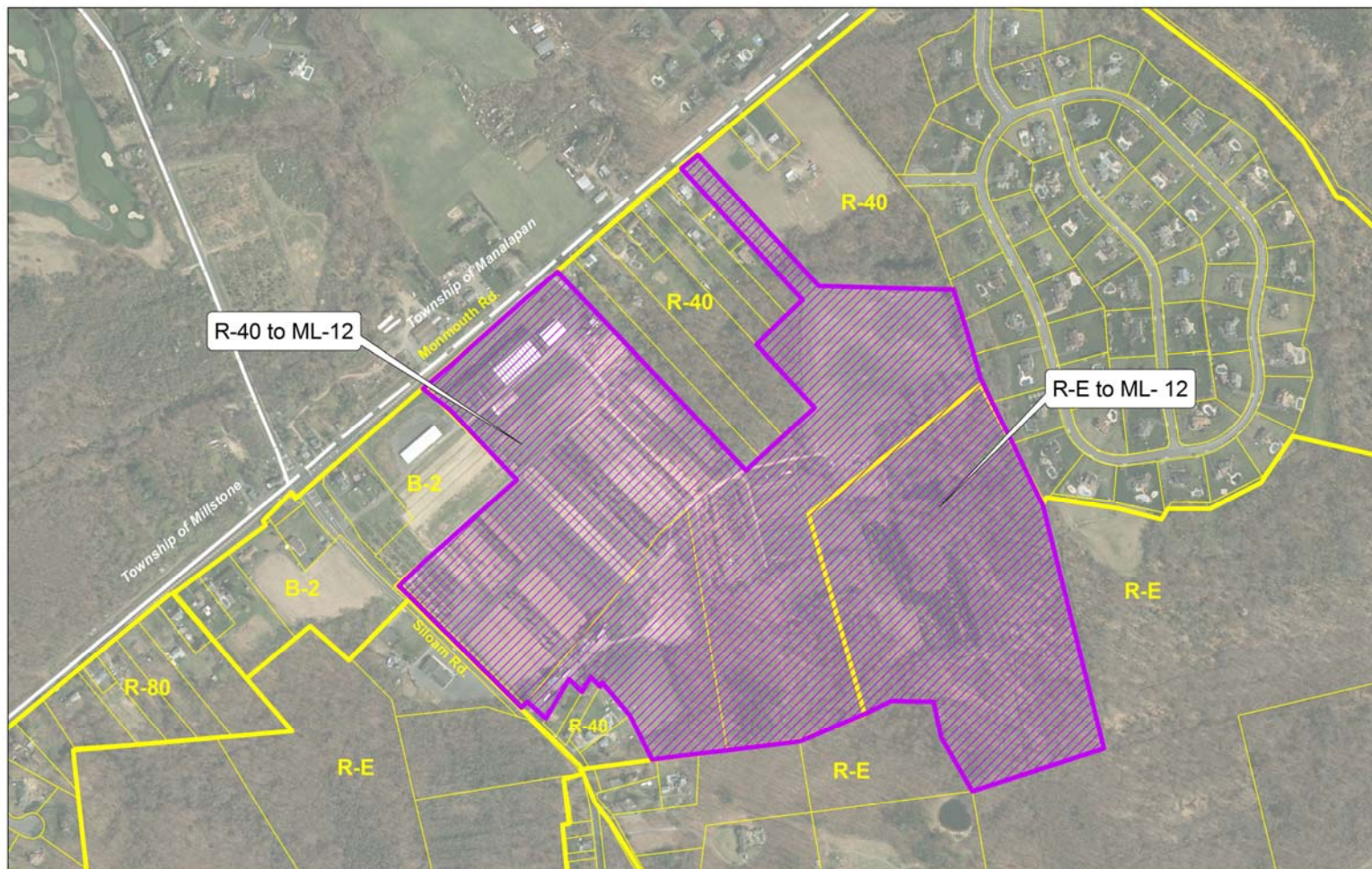
ML-3 - Moderate and Low Income Housing - 3 DU/Acre



Prepared: March 5, 2020

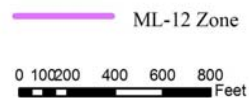
Sources: 2015 NJDEP GIS aerial data and NJDOT GIS data. This map was developed using New Jersey Department of Environmental Protection Geographic Information System digital data, but this secondary product has not been verified by NJDEP and is not state-authorized.

 THOMAS PLANNING ASSOCIATES, LLC Professional Planning and GIS Consultants P.O. Box 363 Brielle, N.J. 08730-0363	
T. Andrew Thomas, P.P. Tel: (732) 764-4711 atp@tpa-nj.com	Thomas A. Thomas, P.P. Tel: (732) 764-2289 tat@tpa-nj.com



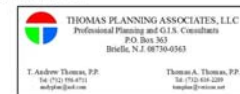
ML-12 - Moderate and Low
Income Housing Zone - 12,500 S.F.

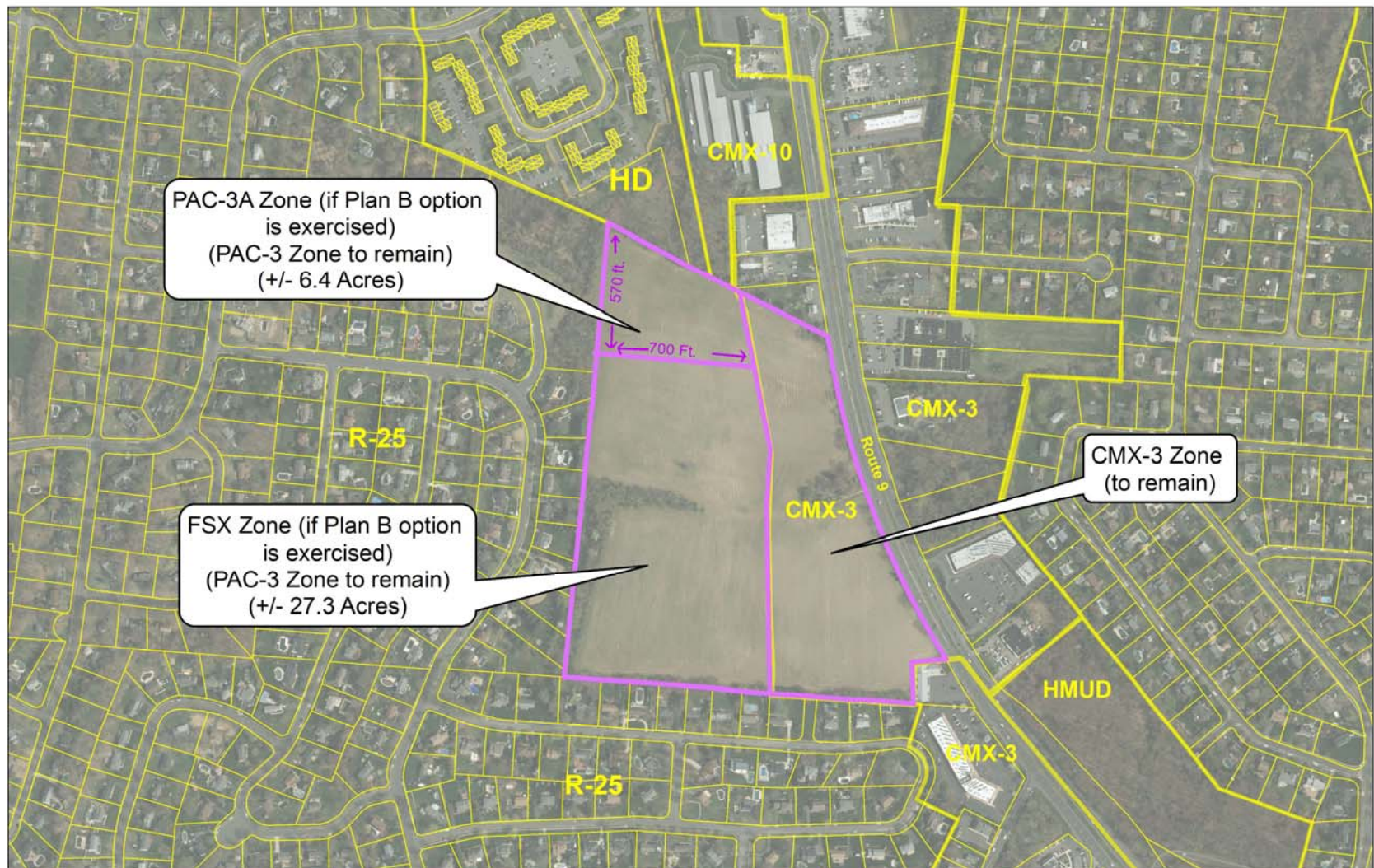
Block 91, Lot 20.01 (portion) and 22
Monmouth Rd. / Siloam Rd.
Freehold Township, N.J.



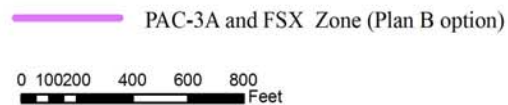
Prepared: March 5, 2020

Sources: 2015 NJDEP GIS aerial data and NJDOT
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Department of Environmental Protection Geographic
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product has not been verified by NJDEP and is
not state-authorized.





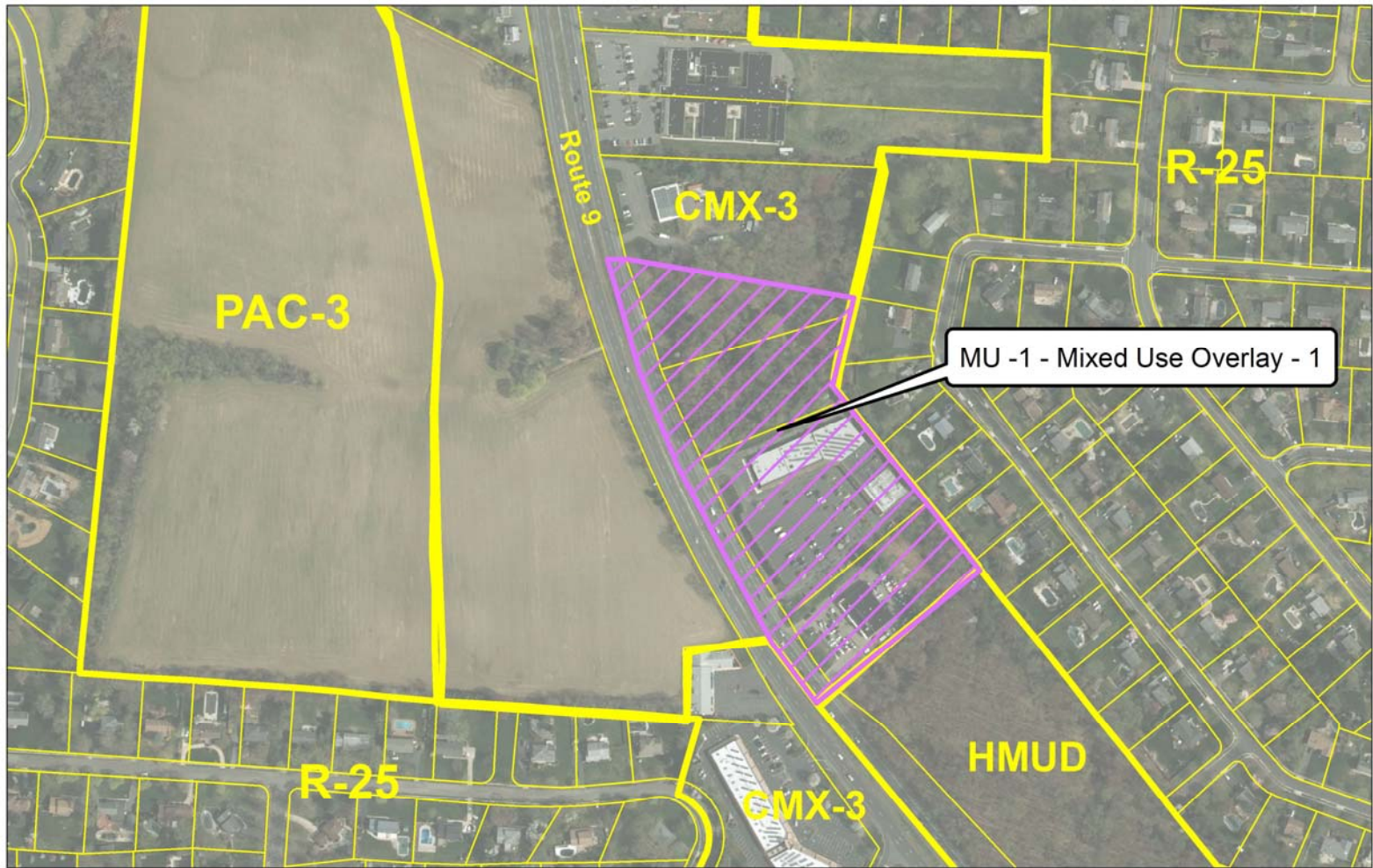
PAC-3A and FSX Zone (Plan B option)
Land Bank Property
Block 71, Lot 8
Route 9 (southbound)
Freehold Township, N.J.



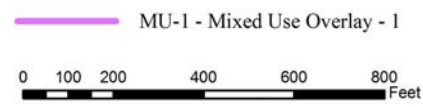
Prepared: March 5, 2020

Sources: 2015 NJDEP GIS aerial data and NJDOT GIS data. This map was developed using New Jersey Department of Environmental Protection Geographic Information System digital data, but this secondary product has not been verified by NJDEP and is not state-authorized.





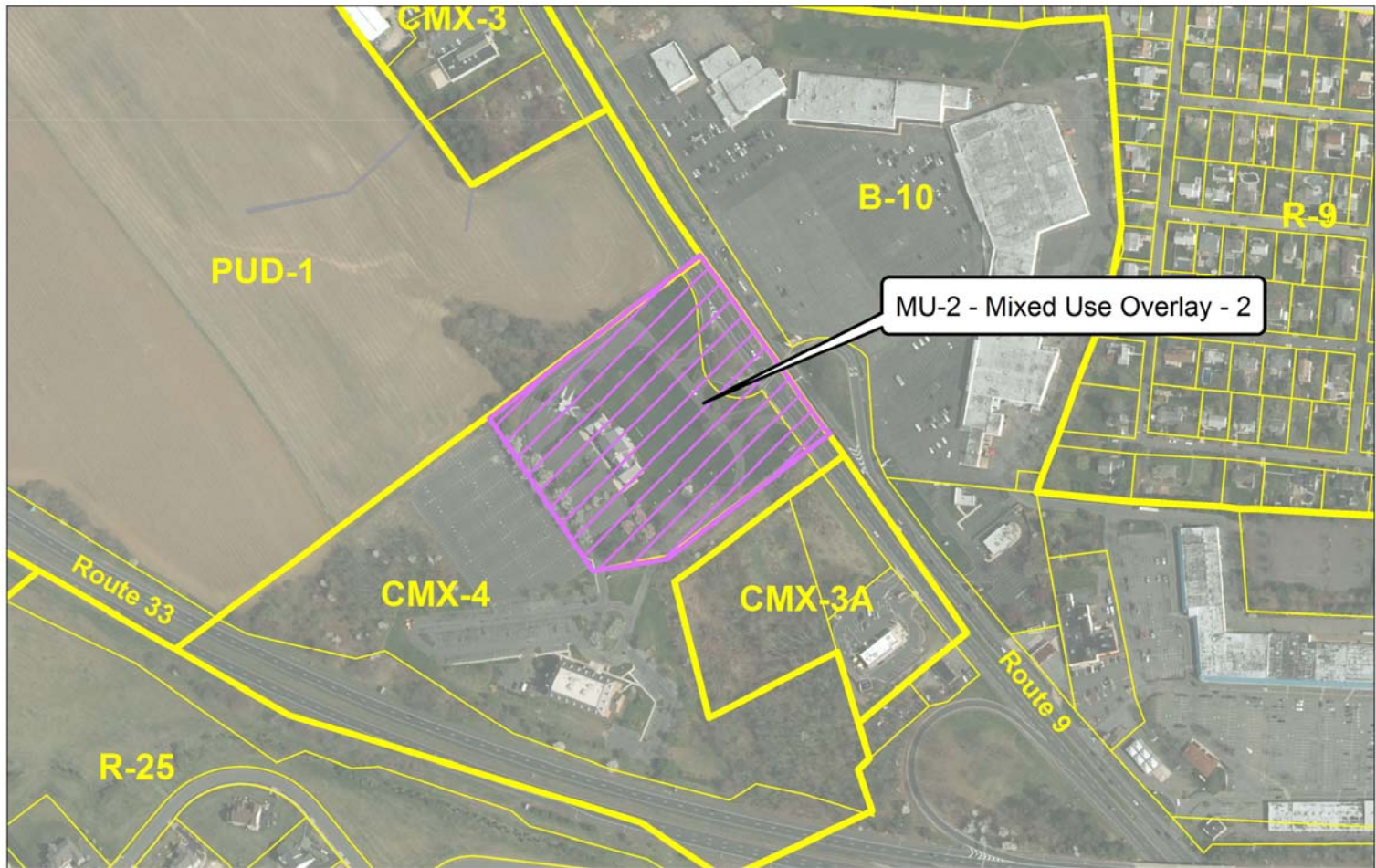
MU-1- Mixed Use Overlay -1
 Block 80, Lots 4, 5, 6 & 7
 Route 9 (northbound)
 Freehold Township, N.J.



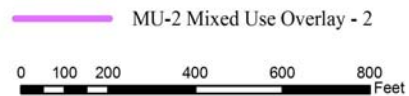
Prepared: March 5, 2020

Sources: 2015 NJDEP GIS aerial data and NJDOT GIS data. This map was developed using New Jersey Department of Environmental Protection Geographic Information System digital data, but this secondary product has not been verified by NJDEP and is not state-authorized.

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T. Andrew Thomas, P.P. Tel: (732) 558-6751 andrew@tpa.com	Thomas A. Thomas, P.P. Tel: (732) 558-6280 tom@tpa.com



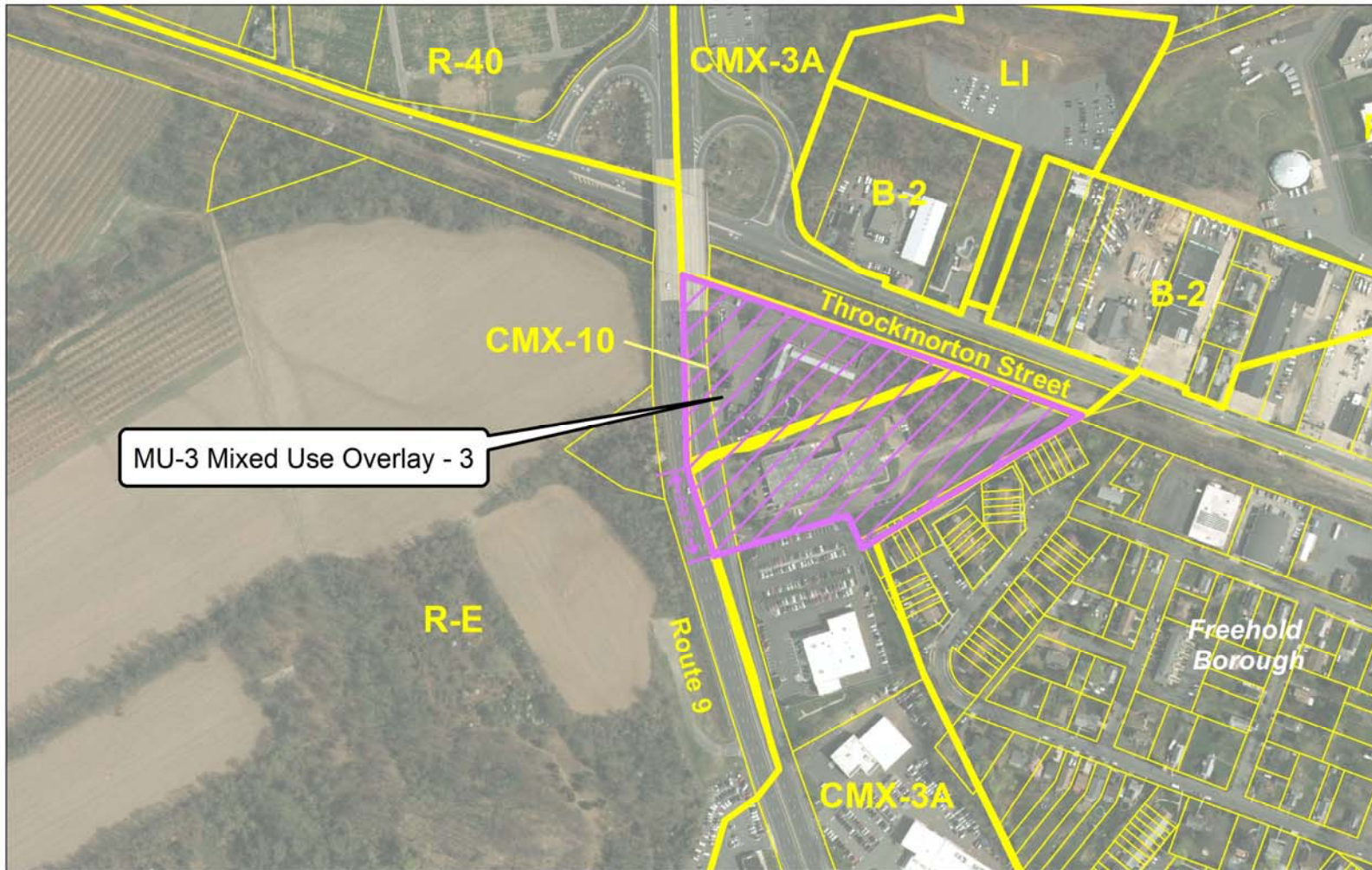
MU-2- Mixed Use Overlay - 2
 Block 70.05, Lot 10
 Route 9 (southbound)
 Freehold Township, N.J.



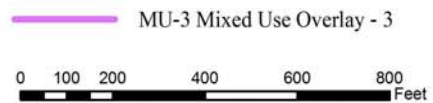
Prepared: March 4, 2020

Sources: 2015 NJDEP GIS aerial data and NJDOT GIS data. This map was developed using New Jersey Department of Environmental Protection Geographic Information System digital data, but this secondary product has not been verified by NJDEP and is not state-authorized.





MU-3 - Mixed Use Overlay-3
 Block 65.01, Lots 16 (portion) and 17
 Route 9 (northbound)
 Freehold Township, N.J.



Sources: 2015 NJDEP GIS aerial data and NJDOT GIS data. This map was developed using New Jersey Department of Environmental Protection Geographic Information System digital data, but this secondary product has not been verified by NJDEP and is not state-authorized.

