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Atlantic Realty Development
Corporation

ATLANTIC REALTY DEVELOPMENT
CORPORATION,

Plaintiff,

v.

THE MAYOR AND COUNCIL OF THE
TOWNSHIP OF WEST WINDSOR AND THE
TOWNSHIP OF WEST WINDSOR,

Defendants.

**SUPERIOR COURT OF NEW JERSEY
MERCER COUNTY-LAW DIVISION**

CIVIL ACTION

DOCKET NO.: MER-L-1947-18

**STIPULATION OF SETTLEMENT AND
CONSENT ORDER**

Recital: This Stipulation and Consent Order ("SCO"), dated ___,
2020, is executed by Plaintiff Atlantic Realty Development
Corporation ("Atlantic") and by Defendant Township of West Windsor
("Township"), referred to together as "the Parties", in intended
final settlement of the above-captioned zoning and land use related
action ("the Action"), in concert with the Parties' final
settlement regarding the Superior Court of New Jersey declaratory

judgment action captioned: I/M/O The Township of West of Windsor, Docket No. MER-L-1561-15, ("the Township DJ Action") and the related appeal, captioned: I/M/O The Township of West Windsor (Mount Laurel Declaratory Judgement Action), Docket No. A-005412-18 ("the Appeal"), each involving the same Atlantic real property located within the Township that is in issue in the captioned Action, with resolution of the Appeal being provided for within Section 24. hereof through separate Stipulation of Dismissal to be filed under the Appeal Docket immediately upon entry of the instant SCO;

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A. THE PARTIES

Through their respective undersigned counsel, Waters, McPherson, McNeill, P.C. (Kenneth D. McPherson, Jr., counsel of record) appearing for Plaintiff Atlantic, and Miller, Porter, and Muller, P.C. (Gerald J. Muller, counsel of record) appearing for the Defendants), the Parties have hereby entered the instant SCO, stipulating and agreeing as follows:

1. Pursuant to Order of Substitution of Parties entered in the Action on December 2, 2019 (copy attached as Exhibit A), Atlantic has been substituted as the real-party-in-interest under Rule 4:34-3, superseding the original plaintiff in the Action, Princeton Land, LLC ("PL"), an affiliate of The Howard Hughes

Corporation ("HHC"), and pursuant to Orders of the Appellate Division, entered in the Appeal on January 22, 2020 (attached hereto as Exhibit B), Atlantic has also been recognized as a Party-Appellant, and successor-in-interest to HHC and to HHC's affiliate titleholder, PL.

B. THE SETTLED LAND USE ACTION

2. The Action was commenced through complaint filed by HHC's affiliate PL, on September 13, 2018 ("the Complaint"), as titleholder to contiguous lots within the southwestern section of the Township, fronting on US Route 1, comprised of approximately 650 acres, formally used by the American Cyanamid Corporation, principally as an industrial agricultural research facility ("the HHC Site"), acquired in 2010 in its entirety by HHC, with the intention of development for predominantly residential uses, including approximately 1,976 units of inclusionary family housing, as set forth in the concept plans filed by PL, and later adopted by Atlantic in the Action in which Atlantic has succeeded PL as Party Plaintiff-in-Interest;

i. Pre-Settlement Litigation of Non-residential Zoning

3. Following hearing on April 5, 2019 on motion by the Township for dismissal of Counts One, Four and Five of the Complaint, the Court issued an order, dated June 26, 2019, granting dismissal with prejudice of Counts One, Four and Five of the

Complaint, which sought statutory Redevelopment planning of the HHC Site and other related relief compelling zoning revision, with remaining Counts Two and Three of the Complaint, respectively contending that the existing use zoning of the HHC site (effectively precluding any residential development of the property in Atlantic's view) is arbitrary and contrary to the Municipal Land Use Law ("MLUL"), and is confiscatory in its application to the HHC site in violation of the State and Federal Constitutions, remaining in contest by the Township and therefore being scheduled for pretrial discovery;

4. Further pre-trial discovery and litigation activity in the Action was suspended through successive Case Management Orders at the request of the Parties in order to discuss possible settlement of the Action;

5. Atlantic acquired title to the entirety of the HHC Site on or about October 29, 2019, with the intention of developing the HHC Site principally for residential uses;

ii. Presentation of HHC Site Development Plans

6. Prior to commencement of the Action, on or about September 13, 2018, on referral by the Township Council, on May 10, 2017 and July 26, 2017, the Township Planning Board ("Planning Board") heard the presentation by Atlantic's predecessor-in-title of concept plans for the redevelopment of the HHC Site for

inclusionary housing and other non-industrial uses, following which the Planning Board declined to take action at that time in furtherance of either designation of any or all portions of the HHC Site as a redevelopment area, or, alternatively, designation of the HHC site as a statutory area in need of renewal, and otherwise declining to advance rezoning of the HHC site, with the Township Council thereafter similarly declining requests for zoning revision;

7. On or about November 6, 2019, in contrast to the Planning Board presentation by Atlantic's predecessor-in-title of concept plans for residential development of the HHC Site, the Township Planning Board published drafts of contemplated Township Master Plan revisions which did not include residential use of the HHC Site;

iii. Resolution of Township Affordable Housing Litigation

8. On or about July 2, 2019, within the Township's aforementioned Township DJ Action, that is now the subject of the Appeal being maintained by Atlantic (which is being concurrently settled together with the Action), the Presiding Judge issued a Final Judgment of Compliance and Repose, resolving the Township DJ Action and approving the Township's affordable housing compliance plan, which the Township views as satisfying and discharging any Township obligation to rezone and site plan for inclusionary family

housing, other than as to inclusionary housing development sites included in the Township's Court-approved affordable Housing Element and Fair Share Plan ("HEFSP"), which does not include the HHC Site.

C. RECONCILIATION OF CONFLICTING VIEWS OF LAND USE

9. In appearances and submissions in both the above captioned Action and the Appeal, the Parties have held divergent land use views, with Atlantic maintaining, on the one hand, that the HHC Site is suitable for residential use and that there exists need for market-rate housing within the regional housing market, within which the HHC Site and the Township are situated, such that, in Atlantic's view, market-rate housing constitutes the highest and best use of the HHC's Site, and the Township maintaining, on the other hand, that the Township's provision of constitutionally sufficient affordable housing is not a function of the HHC Site as the Township has made constitutionally sufficient provision for residential zoning, with affordable units included in the Township's approved HEFSP, together with the Hilton/Toll Bros. Project, thereby satisfying the Township's affordable housing obligation while avoiding burdens of additional residential development;

D. COURT-AUTHORIZED SETTLEMENT CONFERENCING OF PARTIES

10. In effort to resolve their differences regarding zoning and development of the HHC Site, during Case Management teleconferences conducted in the Action on January 6, 2020 and March 9, 2020, the Parties requested that the Court grant a further suspension of discovery and litigation proceedings, and the Court's April 13, 2020 Case Management Order ("CMO"), entered contemporaneously with case management telephonic conferences, therefore tolled discovery pending further Case Management teleconference, initially scheduled thereunder for June 16, 2020, and thereafter, rescheduled for July 1, 2020, pursuant to the aforementioned April 13, 2020 CMO, dated April 13, 2020, with the aforesaid tolling of discovery being further extended through November 10 2020 pursuant to CMO entered September 10, 2020;

E. TERMS OF CONDITIONAL SETTLEMENT

11. The Parties, having since conferred both directly and through their respective counsel, and having reviewed and approved the instant SCO, now present the instant SCO to the Court and hereby advise the Court, through their respective counsel, of the following terms of settlement:

i. Opportunity to Review and Comment on the Terms of the Agreement

The Parties have had due opportunity to consider the terms and conditions of the instant SCO and exhibits referenced herein

and attached hereto, review of the SCO being conducted with the benefit of advice of respective counsel for the Parties, and, in the case of the Township, with the benefit of the advice and recommendations of the Township's independent planning consultants and the Township's Real Estate Manager;

ii. Resolution Adopting the SCO

12. The Township Council of the Township has also considered the instant SCO and annexed exhibits, including in executive session as authorized under the Open Public Meetings Act, N.J.S.A. 10:4-6 to-21, for settlement discussion, and, through Resolution duly adopted at a regularly scheduled meeting (a copy of which is attached hereto as Exhibit C), the Township Council has approved the instant SCO and authorized its execution on behalf of the Township, which accordingly has been signed below, subject to all the executory actions of municipal governmental contemplated hereunder being considered at duly noticed public meetings, and subject, as well, to the independent exercise of discretion of the Planning Board and Township Council with respect to the prospective zoning revisions contemplated herein;

F. DISMISSAL OF ACTION WITHOUT PREJUDICE TO BECOME WITH PREJUDICE DISMISSAL UPON FULFILLMENT OF CONDITIONS OF SETTLEMENT

13. The Parties having reached accord, and with due authorizations of the respective Parties having been obtained for

the execution hereof by their respective counsel, and the executed SCO having been submitted for entry by the Court on consent to pursuant to R.4:42-1 (b), Parties having before the Court, both in settlement of the Action, with the Parties hereby further **Agreeing and Stipulating, as follows:**

14. The Action shall be, and hereby is dismissed without prejudice, through entry of the instant SCO without costs in favor of or against either Party, with the instant dismissal becoming a final dismissal with prejudice immediately upon satisfaction of Conditions 1. and 2. of settlement set forth immediately below, with the entry of dismissal with prejudice forever precluding Atlantic, or any successors-in-interest thereto, from: a) applying to the Planning Board for recommendation or authorization of residential use of the HHC Site; b) petitioning the Township Council for residential-use rezoning; or c) initiating litigation, or otherwise seeking governmental or judicial relief authorizing residential use of the HHC Site:

Condition 1. Adoption of Zoning Code Consistent with Conceptual Site Plan. With the benefit of a supporting resolution of the Planning Board recommending rezoning of the HHC Site ("Planning Board Resolution"), the Township Council and the Township shall have adopted an ordinance rezoning the HHC Site, in form consistent with development shown on the Conceptual Site Plan attached hereto as Exhibit D, which,

subject to site plan approvals and all other applicable regulatory approvals, shall include permissible development of the HHC Site with not less than 5.5 million square feet of modern warehouse use ("Warehouse Rezoning"), and development of up to 150,000 square feet of retail use calculated exclusively of other commercial uses shown as permitted on Exhibit D, without authorization of any residential development of the entire 650+ acre HHC Site, with Warehouse Rezoning including the enactment of modern warehouse and non-residential use zoning code, incorporating, in substance, the Bulk and Dimensional regulations shown in Exhibit E annexed hereto, which will accommodate contemplated improvements shown on the annexed (Exhibit D) Conceptual Site Plan ("Warehouse Rezoning Code"); and

Condition 2. Timely Action on Rezoning. Both the aforesaid Planning Board Resolution and the Warehouse Rezoning Code are to be adopted at regularly scheduled or special public meetings of both the Planning Board and the Township Council, the Board and the Township Council, each having respectively considered the HHC Site, in the Planning Board's case, in the course of hearing the proposed redevelopment plan presentation of Atlantic's predecessor-in-title, and, in the case of both the Planning Board and the Township Council, during the course of selection of inclusionary housing sites

for incorporation in the Township's Court approved HEFSP, with the public hearings contemplated in connection with the adoption of the Planning Board Resolution and Warehouse Rezoning Code being conducted in public sessions, intended to be completed within or about ninety (90) days from the date of entry hereof;

i. Entry of Final Dismissal with Prejudice Order

15. Upon timely, final and non-appealable adoption of Warehouse Rezoning Code hereunder, or entry of an non-appealable court decision in favor of the Parties in litigation brought by a third party, thereby satisfying conditions precedent to final dismissal of the Action set forth in Section 14. hereof, an order of dismissal of the Action with prejudice and without costs shall be entered on notice pursuant to Rule 4:42-1(c) (Settlement on Notice).

G. REACTIVATION OF ACTION IN THE EVENT OF NON-FULFILLMENT OF SETTLEMENT CONDITIONS.

16. In the event that either of conditions 1. and 2. set forth in Section 14. hereof shall not be timely fulfilled as a result of either the Planning Board and/or Township Council action or inaction in the course of their respective discretionary reviews of the SCO and annexed Exhibits ("Non-Approval of Warehouse Rezoning"), or, in the event either Condition should not be fulfilled as a result of judicial determination adverse to the

adoption of Warehouse Rezoning Code, then, in either of such events, Atlantic may apply to the Court, on notice duly served on counsel for the Township pursuant to Rule 4:42-2, for the issuance of an order reactivating the Action, and upon entry of such order, the Parties shall resume their respective litigation positions in the Action as of the date thereof, subject to further CMO, provided, however, that reactivation of the Action hereunder due to Non-Approval of Warehouse Rezoning shall not affect the finality and non-appealable status of either the July 2, 2019 Judgment of Immunity and Repose entered in the Township's Mount Laurel IV DJ Action or the dismissal of the Appeal with prejudice pursuant to Section 24. hereof;

i. Election of Acceptance of Partial Warehouse Rezoning

17. If, as a result of inaction, or adverse action, of the Planning Board, and/or, the Township Council, or as a result of decision of a reviewing Court, Non-Approval of Warehouse Rezoning shall occur, then, in such events, Atlantic may, at its election, opt for either the reactivation of the Action on notice pursuant to Rule 4:42-1(c) as provided for in Section 16. hereof, and thereby resume its litigation position therein, or, Atlantic may accept such non-conforming rezoning revisions as may be adopted by the Township with respect to portions of the HHC Site that Atlantic may designate as accepted, and thereafter, Atlantic may then litigate for relief from zoning of areas constituting the balance

of the HHC Site not designated as accepted by Atlantic ("Contested Zoning Areas"), and, any litigation of Contested Zoning Areas reactivated hereunder may include the prosecution of claims for judicial relief from zoning which, if granted, would allow Contested Zoning Areas to be used for residential uses, including, but not limited to, multifamily residential homes, as well as inclusionary family housing and 100% affordable unit housing projects, provided however, that as set forth in Section 16. hereof, the reactivation of the Action for litigation of Contested Zoning Areas shall have no effect on either the Township's Judgment of Repose and Immunity or the final dismissal of the Appeal hereunder;

ii. HEFSP Compliance Will Be Contestable in Event of Non-Approval of Warehouse Rezoning

18. In the event of Non-Approval of Warehouse Rezoning set forth in Section 16. above, in addition to litigation of Contested Zoning Areas, Atlantic may contest the adequacy of the Township's compliance with the terms of the Court's July 2, 2019 Judgment in the Township's Mount Laurel IV DJ Action approving the Township's HEFSP, and contest any subsequent orders founded thereon, to the extent of challenging the reasonableness and speed of Township and its selected developers progress with affordable housing sites included within the Township's HEFSP, with Atlantic's right of contest of the Township's HEFSP accruing under the terms of this

Section 18. including the option of challenging, within the Township DJ Action, the continuing validity and reasonableness of the Court's earlier findings that specific affordable housing sites included within the Township's Court-approved HEFSP are "realistic" compliance sites, properly creditable toward satisfaction of the balance of the Township's Third Round obligation;

iii. Township Retention of All Defenses in Event of Non-Approval of Warehouse Rezoning and Reactivation of Litigation of Contested Zoning Areas

19. In all instances of Non-Approval of Warehouse Rezoning and reactivation of litigation under the terms of Sections 16., 17., or 18. hereof, the Township shall have available to it all defenses at law and equity assertable in good faith, and the entry of this SCO shall be without prejudice to the Township in any Contested Zoning Area proceedings arising due to Non-approval of Warehouse Rezoning;

H. EXPEDITION OF REZONING AND SITE PLANNING CONFORMING (WITHOUT VARIANCE) TO WAREHOUSE REZONING CODE

20. Warehouse Rezoning shall be expeditiously scheduled before the Planning Board and Township Council without the necessity of further study or investigation of the HHC site, given the Township Council and Planning Board's aforementioned prior considerations of the HHC Site on-record, with Warehouse Rezoning being supported principally by submission of the instant SCO as

entered by the Court, along with Exhibits annexed thereto, together with such other consistent documentation and customary professional exhibits and reports (including, but not limited to, reports of fiscal impact of Warehouse Rezoning), that Atlantic and/or the Township may timely submit in support of Warehouse Rezoning;

i. Nonsupport of Objectors

21. Neither the Township nor the Planning Board nor Atlantic shall support or fund, any challenge, contest, or appeal (including prerogative writ actions pursuant to Rule 4:69-1), seeking relief from Warehouse Rezoning hereunder or from any Site Plan approval issued pursuant to Warehouse Rezoning Code, and having heretofore reviewed the Exhibits annexed hereto, the Township, its Planning Consultant, and Land Use Manager, shall, on request by Atlantic, express general support in a concise writing for any site plan application conforming to Warehouse Rezoning Code adopted in form annexed hereto as Exhibit E without necessity of variance ("Conforming Site Plan Application").

ii. Rejection of No Variances-Conforming Warehouse Rezoning Site Plan as Cause for Reopening of Claims for Residential Uses of HHC Site

22. In the event of non-approval of a Conforming Site Plan Application, in addition to seeking judicial review of such adverse site planning decision, as provided for in Sections 16., 17. and

18. hereof, Atlantic shall also be entitled to initiate separate litigation, seeking regulatory and/or judicial relief that would:

i) allow Atlantic to make market rate residential use of such portions of the HHC site that may be subject to such adverse site planning decision; **ii)** allow the substitution of areas of the HHC Site for sites included within the Township's HEFSP, as is provided for in Section 18. hereof (Contest of HEFSP compliance in event of Non-Approval of Warehouse Rezoning); or **iii)** relief that would allow inclusionary housing development of HHC Site areas for application toward satisfaction of any later round ("Round IV") Mount Laurel compliance obligations of the Township. (The Township shall retain all defenses as provided in Section 19. hereof., and non-approval of a Conforming Site Plan Application hereunder shall otherwise have no effect on either the finality of the July 2, 2019 Judgment in the Township Mount Laurel IV Declaratory Judgment Action or the dismissal of the Appeal under Section 24. upon entry of the instant SCO.);

I. ENTRY OF DISMISSAL WITH PREJUDICE OF ACTION UPON FINAL ADOPTION OF WAREHOUSE REZONING

23. Upon the final non-appealable adoption of Warehouse Rezoning Code as conditionally stipulated herein, final dismissal of the Action with prejudice shall be entered on notice pursuant to Rule 4:42 - 1(c), on application of either Party hereto, without costs in favor of or against either Party;

i. Dismissal of Appeal upon entry of SCO

24. Upon entry of the instant SCO, Atlantic shall cause Stipulations of Settlement and Dismissal of the Appeal, in form annexed hereto as Exhibit F, to be entered by the Office of the Clerk of the Appellate Division of New Jersey Superior Court pursuant to R. 2:8-2 in final resolution of the Appeal as set forth in the Recital hereto;

ii. No Tax Abatement Applications

25. Subject to Section 14. hereof, Atlantic is foregoing and relinquishing any application for: arrangements for payments in lieu of taxes ("PILOT"); Financial Agreements under the Housing and Redevelopment Laws; or other form of abatement of ad valorem municipal real estate taxes.

J. COUNTERPARTS

26. This SCO may be executed by the Parties, through their respective counsel, in counterparts.

Waters, McPherson, McNeill, P.C.
Counsel for Plaintiff
Atlantic Realty Development Corporation

By 
Kenneth D. McPherson, Jr.

Dated: _____, 2020

Miller, Porter, and Muller
Special Counsel to Defendant
Township of West Windsor

By: _____
Gerald J. Muller, Esq.
Dated: _____, 2020

The Foregoing is So Ordered.

By: _____
Mary C. Jacobson, A.J.S.C.

Table of Exhibits

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1206426.2

EXHIBIT A

Kenneth D. McPherson, Jr., Esq. (Attorney ID No. 028501982)

Lauren H. Sobotka, Esq. (Attorney ID No. 273992018)

WATERS, McPHERSON, McNEILL, P.C.

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Attorneys for Movants Atlantic Realty Development Corporation and
Affiliate Title Holders, Scholar's Meadow LLC and Clarksville
Center LLC

PRINCETON LAND LLC,

Plaintiff,

v.

THE MAYOR AND COUNCIL OF THE
TOWNSHIP OF WEST WINDSOR AND
THE TOWNSHIP OF WEST WINDSOR,

Defendants.

SUPERIOR COURT OF NEW JERSEY
MERCER COUNTY-LAW DIVISION

DOCKET NO. MER-L-1947-18

CIVIL ACTION

ORDER OF SUBSTITUTION OF
PARTY-PLAINTIFFS

The above-captioned action ("the Action") having been brought before the Court by Waters, McPherson, McNeill, P.C. (Kenneth D. McPherson, Jr. and Lauren H. Sobotka, appearing), as counsel for movant Atlantic Realty Development Corporation ("ARDC") and ARDC's affiliated title holders identified herein, on notice of motion, served on counsel for parties of record, Pepper Hamilton, LLC (Thomas M. Letizia, appearing), attorneys for Original Party-Plaintiff, Princeton Land LLC ("PL"), and Miller, Porter & Muller, P.C. (Gerald J. Miller, appearing), Special Counsel for Defendants, Mayor and Council of the Township of West Windsor and the Township of West Windsor (together, "Defendants"), seeking an

Order pursuant to Rule 4:34-3 (Real-Party-in-Interest/Substituting Parties-Plaintiff), and the Court having received no objections to the form of the Proposed Order, submitted with the moving papers, and for good cause shown in the moving papers;

It is on this 2nd day of ~~November~~, ^{December} 2019, hereby
ORDERED:

1. Having acquired title and development rights to the property that is the object of the Action, ARDC, as holder of development rights, and its affiliate title holders, Scholar's Meadow LLC and Clarksville Center LLC, (together, "Movants"), are now the Real-Parties-Plaintiffs-in-Interest in the captioned matter;
2. Movants shall be and hereby are substituted for PL as Parties-Plaintiffs pursuant to Rule 4:34-3;
3. Further filings in the Action may be captioned, and should be accepted by the Office of the Clerk for filing, showing Movants as Parties-Plaintiffs in the following manner: "Atlantic Realty Development Corporation, Scholar's Meadow LLC, and Clarksville Center LLC, Plaintiffs, through substitution as Real-Parties-in-Interest Pursuant to Rule 4:34-3;
4. A true, but uncertified, copy of this Order shall be served on the offices of counsel of record for all the other parties within 7 days of the date hereof.

Mary C. Jacobson, A.J.S.C.
Mary C. Jacobson, A.J.S.C.

 Opposed

X Unopposed

1155521.3

EXHIBIT

B

ORDER ON MOTION

I/M/O THE TOWNSHIP OF WEST
WINDSOR

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-005412-18T2
MOTION NO. M-003007-19
BEFORE PART G
JUDGES: JOSEPH L. YANNOTTI
LISA A. FIRKO

MOTION FILED: 12/20/2019 BY: TOWNSHIP OF WEST WINDSOR

ANSWER(S)
FILED:

SUBMITTED TO COURT: January 21, 2020

ORDER

THIS MATTER HAVING BEEN DULY PRESENTED TO THE COURT, IT IS, ON THIS
21st day of JANUARY, 2020, HEREBY ORDERED AS FOLLOWS:

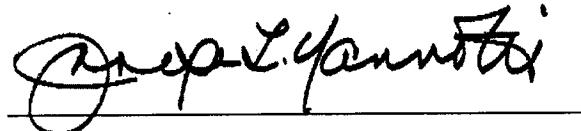
MOTION BY RESPONDENT

MOTION TO AMEND SCHEDULING ORDER DENIED AND OTHER

SUPPLEMENTAL:

The motion to amend the scheduling order is denied. All parties to the trial court proceedings are deemed to be parties on appeal. Atlantic Realty is the appellant, and all other parties are respondents. Unless it has already done so, any respondent that does not intend to participate in the appeal shall within ten (10) days after the date of this order inform the Clerk of the Court of its non-participation. Any amicus curiae that has been granted leave to appear in the trial court proceedings may, without seeking further leave, file a brief on appeal. R. 1:13-9(d). The Township's motion to bar Atlantic Realty from raising arguments regarding the site formerly owned by Howard Hughes is denied.

FOR THE COURT:



JOSEPH L. YANNOTTI, P.J.A.D.

ORDER ON MOTION

I/M/O THE TOWNSHIP OF WEST
WINDSOR

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-005412-18T2
MOTION NO. M-003206-19
BEFORE PART G
JUDGES: JOSEPH L. YANNOTTI
LISA A. FIRKO

MOTION FILED: 12/30/2019

BY: ATLANTIC REALTY

ANSWER(S) 01/10/2020
FILED:

BY: TOWNSHIP OF WEST WINDSOR

SUBMITTED TO COURT: January 21, 2020

ORDER

THIS MATTER HAVING BEEN DULY PRESENTED TO THE COURT, IT IS, ON THIS
21st day of JANUARY, 2020, HEREBY ORDERED AS FOLLOWS:

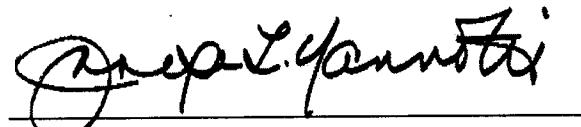
MOTION BY APPELLANT

MOTION to SUBSTITUTE
REAL-PARTY-IN-INTEREST DENIED AND OTHER

SUPPLEMENTAL:

The motion is denied as moot. See Order entered on M-3007-19.

FOR THE COURT:


JOSEPH L. YANNOTTI, P.J.A.D.

EXHIBIT

C

RESOLUTION

WHEREAS,

the Township of West Windsor (“Township”) filed a declaratory judgment action, pursuant to In re Adoption of N.J.A.C. 5:96 & 5:97 ex rel. New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (“Mount Laurel IV”) in July of 2015, captioned I/M/O The Township of West of Windsor, Docket No. MER-L-1561-15 (“Township Declaratory Judgment Action”), in which the Township sought immunity from builders’ remedy lawsuits; and

WHEREAS,

in 2016, Atlantic Realty Corporation (“Atlantic Realty”), as owner of the parcel of land, known as the H&B Site (“H&B Site”), intervened in the Township’s Declaratory Judgment Action; and

WHEREAS,

in the Fall of 2018, the Township entered into settlement discussions with Intervener Fair Share Housing Center (“FSHC”) in the Township Declaratory Judgment Action ; and

WHEREAS,

a settlement agreement between the Township and FSHC was ultimately reached in the Township Declaratory Judgment Action, which was subsequently approved by this Council; and

WHEREAS,

on or about July 2, 2019, the presiding Mount Laurel Judge entered a Final Judgment of Compliance and Repose in the Township Declaratory Judgment Action based on the Township – FSHC settlement; and

WHEREAS,

in August of 2019, as developer of lands within the Township referred to as the “H&B Site”, and as intervenor in the Township Declaratory Judgment Action, Atlantic Realty appealed the July 2, 2019 Order of the Superior Court of New Jersey, Appellate Division, captioned I/M/O The Township of West of Windsor, Docket No. A-005412-18 (“the Appeal”); and

WHEREAS,

on September 13, 2019, Howard Hughes Corporation, through its affiliate Princeton Lands, LLC (“PL”), titleholder to approximately 650 acres (the “HHC Site”), filed a prerogative writ action, captioned: Atlantic Realty Development Corporation v. The Mayor and Council of the Township of West Windsor and the Township of West Windsor assigned Docket No. MER-L-1947-18, as titleholder to approximately 650 acres (“the HHC Action”) seeking residential rezoning of the HHC Site ; and

WHEREAS, Atlantic Realty acquired title to the HHC site on or about October 29, 2019, and through Court Orders, succeeded to the positions of Howard Hughes Corporation and PL in the Appeal and in the HHC Action;

WHEREAS, Atlantic Realty and the Township have, through respective legal counsel, negotiated terms of settlement agreement providing for the dismissal of the Appeal and the HHC Action regarding the H&B Site and the HHC Site under terms and conditions set forth in a proposed Stipulation of Settlement with Consent Order (“SCO”) resolving both the Appeal and the HHC Action; and

WHEREAS the Council has: reviewed the SCO, has consulted with its professionals, heard comment by the public and has determined that it would be in the best interests of the Township to approve the SCO and terms of the settlement agreement memorialized therein.

NOW, THEREFORE, be it resolved on this, the 30th day of November, 2020 by the West Windsor Township Council, that the Township’s counsel is hereby authorized and directed to execute the SCO attached hereto, or in a form substantially equivalent thereto, approved by Township Council, and the Mayor, and the Township Clerk, are hereby authorized to execute on behalf of the Township all documents contemplated within the SCO and to otherwise do all things necessary or convenient to implement the terms of the settlement agreement memorialized therein.

ADOPTED: November 30, 2020,

I hereby certify that the above resolution was adopted by the West Windsor Township Council at their meeting held on the 30th day of November, 2020.

Gay M. Huber Township Clerk West Windsor Township

Exhibit D

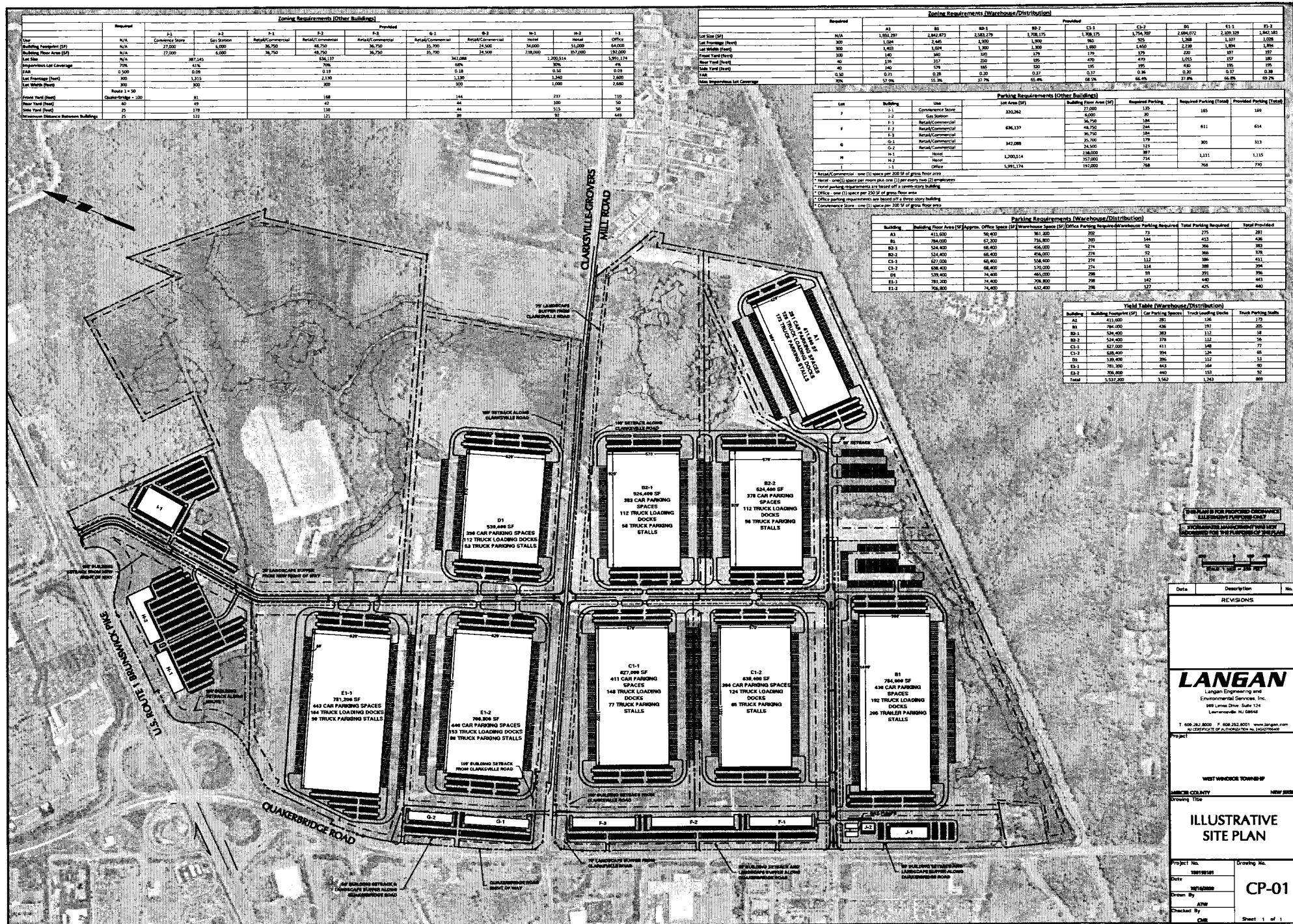


Exhibit E

ORDINANCE 2020-XX

AN ORDINANCE TO AMEND AND SUPPLEMENT THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999)

AN ORDINANCE CREATING THE PLANNED COMMERCIAL DISTRICT (PCD)

WHEREAS, the Planning Board of West Windsor adopted a Land Use Element of the Master Plan on February 12, 2020 (2020 Land Use Plan Element); and

WHEREAS, the 2020 Land Use Plan Element recommends a Planned Commercial District encompassing lots commonly referred to as the Howard Hughes Tract which are identified by municipal tax records as Block 8 Lots 1, 2, 2 (QFarm), 3, 16, 20, 28, 32.01, 39, 40, 41, 45, 46, and 49 as well as Block 15.14 Lots 18, 18 (QFarm), 19, 19 (QFarm), 20, 20 (QFarm), 22 (QFarm), 26 (QFarm), and 75; and

WHEREAS, the 2020 Land Use Plan Element recommends a variety of research, industrial, and commercial land uses to be permitted in this PCD; and

WHEREAS, the intent of the PCD is to support a wide variety of nonresidential uses to facilitate the redevelopment of the tract, while also ensuring that any such development will be complementary to the surrounding area, protect existing environmental constraints, minimize undue strain on the Township's community facilities, and avoid any substantial adverse impacts to the existing traffic and circulation patterns of Clarksville Road, Quakerbridge Road, and the US Route 1 corridor.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of West Windsor, County of Mercer, State of New Jersey, as follows:

Section 1. Chapter 200 of the Code of the Township of West Windsor (1999), Land Use, Part 1, Site Plan Review, Article II, Terminology, Section 200-4, Definitions, Subsection B is amended by adding the following NEW definitions.

DISTILLERY – A facility which produces by distillation spirits for consumption, the sales and distribution of which are subject to regulation by the State of New Jersey.

OUTPATIENT SURGICAL FACILITY – A facility providing surgical treatment to patients not requiring hospitalization. It is not part of a hospital but is organized and operated to provide medical care to out-patients. Patients shall be served solely on an out-patient basis, and no patients shall be kept overnight on the premises.

PERFORMING ARTS FACILITY – A multi-use establishment that is intended for use by various types of the performing arts, including but not limited to dance, music, and theater.

PET DAY CARE FACILITY – A facility where dogs, cats, and other domestic household pets are temporarily boarded for pay or remuneration of any sort. A pet day care service is distinguished from a kennel in that pets are typically boarded for the day,

although overnight may be available. A pet day care establishment may also offer accessory services, such as retail sales of pet care supplies, veterinary services, and animal grooming. The breeding and/or selling of animals at these facilities is not permitted.

SPA – A commercial establishment offering health and beauty treatment through such means as steam baths, message, and similar services.

WINERY – A licensed facility comprising the building or buildings used to convert fruit or fruit juices to wine, and to age, bottle, store, distribute, and sell said wine. A winery includes crushing, fermenting and refermenting, bottling, blending, bulk and bottle storage, aging, shipping, receiving, laboratory equipment and maintenance facilities, sales, and administrative office functions, and may include tasting and promotional events.

Section 2. Chapter 200 of said Code, Land Use, Part 4, Zoning, Article XXVI, Titles, Purposes, Establishment of Districts; General Conditions, Section 200-143, Zoning Map, is amended to read as follows:

The boundaries of said zoning district is hereby established as shown on the Zoning Map, Township of West Windsor, dated August 17, 2020, and revised through _____, which, with all explanatory matter thereon, is hereby adopted and made part of this Part 4. An official copy of said Map, indicating the latest amendments shall be kept up-to-date in the office of the Land Use Manager for the use and benefit of the public and shall have the most current revision date shown thereon. The Zoning Map for that shall be the official reference as to the current zoning classification of the land within the boundaries of the Township of West Windsor.

Section 3. Chapter 300 of the Code of the Township of West Windsor (1999), Land Use, Part 4, Zoning, Article XXVIII, Regulations for Business Districts, Section 200-207.3, PCD Planned Commercial District use regulations, is hereby created as follows.

§ 200-207.3 PCD Planned Commercial District use regulations.

- A. Intent. The intent of the PCD is to support a wide variety of nonresidential uses to facilitate the redevelopment of the tract, while also ensuring that any such development will be complementary to the surrounding area, protect existing environmental constraints, minimize undue strain on the Township's community facilities, and avoid any substantial adverse impacts to the existing traffic and circulation patterns of Clarksville Road, Quakerbridge Road, and the US Route 1 corridor. Retail, service commercial, entertainment and hospitality uses are to be located along Quakerbridge Road and US Route 1 in order to maintain the commercial character of those corridors. Warehouse and distribution uses are encouraged within the remainder of the district. The PCD is also intended to

promote an attractive comprehensive integrated design and encourage a high level of investment.

- B. Permitted uses. In the PCD, no building or premises shall be used and no building shall be erected or altered which is arranged, intended, or designed to be used except for one or more of the following uses, and all such uses shall be subject to the performance standards set forth in Part 1, Site Plan Review, of this chapter unless otherwise noted.
- (1) General, corporate, administrative, and professional offices.
 - (2) Research, testing, analytic laboratories.
 - (3) Product development laboratories.
 - (4) Pilot plant facilities.
 - (5) Warehousing and distribution facilities.
 - (6) Finishing and assembly of products.
 - (7) Limited manufacturing.
 - (8) Data processing and computer centers.
 - (9) Business support uses.
 - (10) Banks with or without drive-through lanes.
 - (11) Retail stores and shops.
 - (12) Personal service establishments.
 - (13) Restaurants, including but not limited to establishments offering indoor dining, outdoor dining, take out, delivery, curbside pickup, and drive-through lanes.
 - (14) Taverns offering alcoholic beverages for sale and consumption on the premises.
 - (15) Brew pubs.
 - (16) Fast food restaurants with or without drive-through lanes.
 - (17) Gas stations in conjunction with a convenience store and/or vehicle wash.
 - (18) Health clubs.
 - (19) Fitness centers.
 - (20) Commercial recreation facilities.
 - (21) Spas.
 - (22) Performing art facilities.
 - (23) Legitimate theaters.
 - (24) Motion-picture theaters.
 - (25) Cultural facility buildings or structures.
 - (26) Hotels with one hundred (100) or more guest rooms.

- (27) Conference centers.
 - (28) Child care centers.
 - (29) Senior day care centers.
 - (30) Medical offices.
 - (31) Urgent care medical facilities.
 - (32) Outpatient surgical facilities.
 - (33) Breweries.
 - (34) Wineries.
 - (35) Distilleries.
 - (36) Veterinary clinics.
 - (37) Pet day care facilities.
 - (38) Mixed use planned developments pursuant to Section 200-209A.(8), except for affordable housing.
 - (39) A community landmark sign serving as a gateway to the community and which may include an electronic sign with changeable type, which shall display information regarding municipal, civic, and community events as well as emergency messaging. It may also display on-premises and off-premises advertising.
 - (40) Any existing wastewater treatment plant or electrical substation which existed prior to the date of the adoption of this ordinance.
 - (41) Any kennel which existed prior to the date of the adoption of this ordinance.
 - (42) Any combination of the above permitted uses in one or more principal buildings on a lot.
- C. Accessory uses. In the PCD, the following uses may be permitted as accessory uses.
- (1) Accessory uses and accessory buildings incidental to the above uses located on the same lot and within the same zoning district permitting the principal use.
 - (2) Outdoor and rooftop dining for restaurants, hotels, taverns, breweries, brewpubs, and wineries.
 - (3) A restaurant or cafeteria primarily for supplying meals only to employees and guests of the principal use.
 - (4) In-service training schools for employees.
 - (5) Custodial living quarters.
 - (6) Indoor and outdoor recreation facilities, provided that all such accessory buildings and uses shall be planned as an integral part of the principal use.

- (7) Assembly halls for meetings incidental to the business of the principal use.
 - (8) Maintenance, utility, and storage facilities incidental to the principal use.
 - (9) Guard houses.
 - (10) Public and private utility (e.g. electric, gas, telephone, cable, water, sewer, etc.) substations, electric and gas facilities to service the permitted uses. Such facilities shall be subject to the requirements contained in Article XXVII, Section 200-156B, except that the requirements of Section 200-156B(6)b shall not apply.
 - (11) Electric vehicle charging stations.
- D. Conditional uses. In the PCD, the following uses may be permitted as conditional uses.
- (1) Transmission lines, transmitting and receiving antennae or aerials subject to the requirement set forth in Article XXVII, Section 200-156B.
 - (2) Public utilities (e.g. electric, gas, telephone, cable, water, sewer, etc.) substation, electric and gas facilities subject to the requirements contained in Article XXVII, Section 200-156B, except those utilities which are necessary to service the permitted uses.

Section 4. Chapter 200 of the Code of the Township of West Windsor (1999), Land Use, Part 4, Zoning, Article XXVIII, Regulations for Business Districts, Section 200-207.4, PCD Planned Commercial District bulk and area regulations, is hereby created as follows.

§ 200-207.4 PCD Planned Commercial District bulk and area regulations.

- A. Minimum lot area: None.
- B. Minimum lot frontage: 300 feet.
- C. Minimum lot width: 300 feet.
- D. Minimum lot depth: None.
- E. Minimum front yards:
 - (1) Along Quakerbridge Road: 50 feet.
 - (2) Along Clarksville Road: 100 feet.
 - (3) Along US Route 1: 100 feet.
 - (4) Along proposed roads generally consistent with the Master Plan: 100 feet.
 - (5) Along other roadways: 50 feet.
- F. Minimum rear yard: 40 feet.
- G. Minimum side yard:
 - (1) For buildings less than or equal to 40 feet in height: 25 feet.
 - (2) For buildings greater than 40 feet in height: 40 feet.
- H. Yards abutting residential districts. The above yards shall be increased by 25 feet in those instances where they abut, in whole or in part, a residential zone district or lot line.
- I. Minimum building setback from US Route 1 or Quakerbridge Road for warehouse and distribution facilities: 300 feet.
- J. Minimum distance between buildings: 25 feet.
- K. Maximum improvement coverage: 70%
- L. Maximum building height:
 - (1) The maximum building height shall be three (3) stories and forty-five (45) feet for all uses except warehouse and distribution facilities as well as hotels located along US Route 1.
 - (2) The maximum building height shall be two (2) stories and sixty (60) feet for warehouse and distribution facilities.
 - (3) The maximum building height shall be six (6) stories and seventy-five (75) feet for hotels along US Route 1 provided that:

(a) Four (4) or more storied buildings shall be located only within a band one thousand and eight hundred (1,800) feet in width as measured from the right of way line of US Route 1.

(b) The minimum setback requirements shall be increased an additional three (3) feet of setback for one (1) foot of building height which exceeds forty-five (45) feet.

M. Maximum Retail Building Space.

- (1) The maximum size of a retail building shall be twenty-five thousand (25,000) square feet.
- (2) The total combined retail area of the PCD shall not exceed one hundred and fifty thousand (150,000) square feet, not including restaurants and/or shops associated with the hotel use.

N. Parking in yards. Parking shall be permitted in the front, rear, and side yard setbacks subject to the following:

- (1) Parking lots shall maintain a twenty-five (25) foot minimum grassed or landscaped separation on each lot to an adjoining lot, except that a seven and one-half (7.5) foot minimum grass or landscaped separation on each lot may be provided in those instances where a warehouse and distribution facility abuts an adjacent warehouse and distribution facility.
- (2) Parking shall not be permitted in any landscape buffer required by this chapter.

O. Parking for warehouse and distribution facilities. Parking at warehouse and distribution facilities shall be computed as the sum of the parking required for the floor area of the facility used as office space plus the parking required for the floor area of the building used for warehousing or distribution space. The parking ratios to be used in this computation are as follows:

- (1) One (1) space for each five thousand (5,000) square feet of building floor area devoted to warehousing and/or distribution space.
- (2) One (1) space for each two hundred and fifty (250) square feet of building floor area that is devoted to office space.

P. PCD Performance Standards. All uses permitted in the PCD shall be subject to the performance standards set forth in Part 1, Site Plan Review, of this chapter, except as modified below.

- (1) The provisions of Section 200-36.1 shall not apply to warehouse and distribution facilities. The provisions of Section 200-36.1 shall apply to all other uses, except that sidewalks in the PCD may be constructed of impervious materials.
- (2) The provisions of Section 200-28.D(1) shall not apply.

- (3) Parking and loading is permitted between the fronts of buildings and the street line. No parking is permitted within any landscaped buffer as required herein.
 - (4) Aisles for the movement and circulation of vehicles shall be permitted in all yard setback areas. No aisle, except those required for access into and out of the site, shall be permitted in landscaped buffer as required herein.
 - (5) Trailer parking spaces and loading docks shall be permitted within building yard setbacks for warehouse and distribution facilities.
 - (6) Acceleration and deceleration lanes shall not be required at warehouse and distribution facility entrances along the master plan road located between US Route 1 and Quakerbridge Road.
 - (7) Impervious cover, including but not limited to buildings, sidewalks, or other constructed surface, shall be permitted within two hundred (200) feet of the centerline of any stream, ditch, or watercourse not identified on Attachment A. The construction of any such impervious cover shall be in accordance with all outside agency regulations as applicable.
 - (8) Existing trees may be removed in accordance with all outside agency regulations and pursuant to site plan approval.
 - (9) Bicycle parking shall not be required for warehouse and distribution facilities.
- Q. Additional standards pertaining to banks and fast-food restaurants with drive-through lanes. The following additional standards shall apply to drive through lanes in the PCD.
- (1) The minimum distance between the edge of a drive-through lane and any property line shall be thirty (30) feet, or fifty (50) feet if the property adjoins a residential district.
 - (2) Direct access to and from drive-throughs shall not be permitted from public streets. Such access shall be provided from within the lot or the internal road system servicing the primary use. Ingress and egress points shall be coordinated so as not to impede the main traffic flow to, from, or passing by the drive-through lanes.
 - (3) For banks, no more than four (4) drive-through teller windows shall be provided, not including an ATM drive-up lane.
- R. Additional standards pertaining to veterinary clinics. The following additional standards shall apply to veterinary clinics in the PCD.
- (1) The veterinary clinic building shall be sited at least one hundred and fifty (150) feet from any residential use or zoning district.
 - (2) Buildings housing animals shall be soundproofed to a maximum transmission of 65 dB measured on the outside of the exterior wall. Other soundproofing requirements may be imposed by the board of jurisdiction,

- such as, but not limited to the following: non-opening windows and forced-air ventilation, solid core doors and sound-absorbent ceilings.
- (3) Proper and ample ventilation of all animal areas in buildings shall be demonstrated to the satisfaction of the board of jurisdiction and shall meet all state licensing requirements.
 - (4) Animals may be kept overnight for medical reasons only.
 - (5) Animals shall be housed indoors and may be allowed outside only for short periods under staff supervision for hygienic or medical reasons. When they are outside, they shall be kept in a completely enclosed area.
 - (6) A maximum percentage of floor area for overnight holding of animals shall be limited to 30% of the gross floor area of the veterinary clinic/hospital building.
 - (7) No cremation or disposal of dead animals is allowed on the premises. Disposal of used and contaminated veterinary medical supplies shall meet low-level hazardous waste disposal requirements.
 - (8) The curbing of pets shall be addressed.
- S. Additional standards pertaining to pet day care facilities. The following additional standards shall apply to pet day care facilities in the PCD.
- (1) All buildings and structures, including outdoor play areas or other enclosures in which the animals are to be kept, shall be located at least one hundred fifty (150) feet from any residential use or zoning district.
 - (2) Buildings housing animals shall be soundproofed to a maximum transmission of 65 dB measured on the outside of the exterior wall. Other soundproofing requirements may be imposed by the board of jurisdiction, such as, but not limited to the following: non-opening windows and forced-air ventilation, solid core doors and sound-absorbent ceilings.
 - (3) All buildings shall be of adequate construction, maintained in good repair, and secured in order to protect animals from injury or escape.
 - (4) Proper and ample ventilation of all animal areas in buildings shall be demonstrated to the satisfaction of the board of jurisdiction and shall meet all state licensing requirements.
 - (5) All animals housed in the facility shall be kept within the confines of a building between the hours of 9:00 p.m. and 8:00 a.m.
 - (6) Outdoor facilities:
 - (a) A wall or fence shall be installed to secure the pets from other domestic animals and unauthorized individuals.
 - (b) Outdoor animal areas shall be sufficient to protect the animal from sunlight, rain, snow or weather detrimental to the animal's health or shall allow indoor access.

- (c) Provisions shall be made for the removal and proper disposal of animal food, waste, bedding, and debris.
 - (d) All outdoor areas where animals are kept shall have impermeable flooring that can easily be cleaned and sanitized or shall have a minimum of six inches of animal-appropriate gravel which is replaced on a regular schedule which is consistent with the maintenance of sanitary conditions.
- T. Additional standards pertaining to community landmark signs. The following additional standards shall apply to community landmark signs in the PCD.
- (1) One (1) Community Landmark Sign shall be permitted along Quakerbridge Road, and one (1) Community Landmark Sign shall be permitted along the US Route 1 corridor
 - (2) A Community Landmark Sign shall serve as a gateway sign into the community and as such, such sign shall provide sufficient availability for community information.
 - (3) A Community Landmark Sign shall provide availability and display time for municipal, civic or emergency messaging use and may display on-premises and off-premises advertising.
 - (4) The nearest edge of the Community Landmark Sign display face shall have a setback of thirty-five (35) feet from any right-of-way.
 - (5) No Community Landmark Sign shall exceed fifty (50) feet in height measured from the top of the sign to the grade at the base of the sign.
 - (6) Each Community Landmark sign may have up to two display faces, placed either back to back or in a V-shaped configuration. Each display face shall have a maximum area of three hundred and seventy-eight (378) square feet.
 - (7) Community Landmark Signs shall be permitted to operate twenty-four (24) hours a day.
 - (8) All message or copy change of the Community Landmark Sign display face shall be instantaneous. Scrolling, fading, animated, flashing or moving messages or copy is prohibited. No display face shall change message or copy more than once every eight (8) seconds.
 - (9) A Community Landmark Sign display face may not message or advertise adult or sexually oriented businesses or materials, hate speech, or use any form of profane language or promotion of any message that would be obscene in nature.
 - (10) All Community Landmark Signs shall incorporate ambient light sensors that measure the levels of surrounding light and automatically reduce the intensity of illumination during periods of darkness or increase the intensity of illumination during periods of brightness. No Community

Landmark Sign display face shall exceed a maximum illumination intensity of 500 nits during nighttime hours (dusk until dawn) and 7,500 nits during daytime hours (dawn until dusk) when the display face is in direct sunlight. A Community Landmark Sign display face shall not spill light or glare exceeding 0.3-foot candles of light above the ambient light level.

- (11) The architecture of a Community Landmark Sign shall incorporate visual art or architecture elements in addition to its messaging function thereby creating a unique or distinctive architectural design. A Community Landmark Sign design shall incorporate one or more of the following architectural elements: natural or reproduced stone, stucco, wood, brick, ornamental iron or decorative steel. Any Community Landmark Sign design that incorporates landscaping shall require the operator (the entity, person, or individual who owns the New Jersey Department of Transportation outdoor advertising sign permit for the specific Community Landmark Sign display area) to permanently maintain the landscaping. The owner or operator of the Community Landmark Sign shall continuously maintain the structure and surrounding associated area. The Township may require a Community Landmark Sign to display the name of the municipality, county or local identifiable community area as part of the structure.
- (12) Community Landmark Signs shall not be considered a principal use or structure on a lot and shall be allowed on lots that already have principal uses or structures.

U. Buffers. Landscape buffers in the PCD shall be provided as follows.

- (1) Landscape transition buffer. A landscape transition buffer of not less than twenty-five (25) feet in width shall be provided and maintained by the owner or lessee of a property between any nonresidential use and contiguous residentially zoned districts.
- (2) A landscape buffer of fifty (50) feet in width shall be provided along US Route 1 and Quakerbridge Road.
- (3) A landscape buffer of seventy-five (75) feet shall be provided along Clarksville Road.
- (4) A landscape buffer of twenty-five (25) feet shall be provided along the master plan road located between US Route 1 and Quakerbridge Road.
- (5) No parking or loading shall be permitted in a landscape buffer.
- (6) Yard requirements shall be deemed to be counted as part of the landscape buffer area. Where yard areas are less than the required buffer area, they shall be increased accordingly.

- (7) Suitably landscaped and bermed stormwater basins in the PCD may be located within any yard setbacks or landscaped buffers required by this Chapter, provided that a maximum of fifty percent (50%) of the basin may be located within the buffer area.

Section 5. In the event of any conflict between the provisions and requirements of this section and the provisions and requirements of any other section of this chapter, the provisions and requirements of this section shall govern.

Section 6. This ordinance shall take effect twenty days after action or inaction by the Mayor as approved by law, or an override of a mayoral veto by the Council, whichever is applicable; upon filing with the Mercer County Planning Board; and upon publication according to law.

Introduction:

Planning Board Approval:

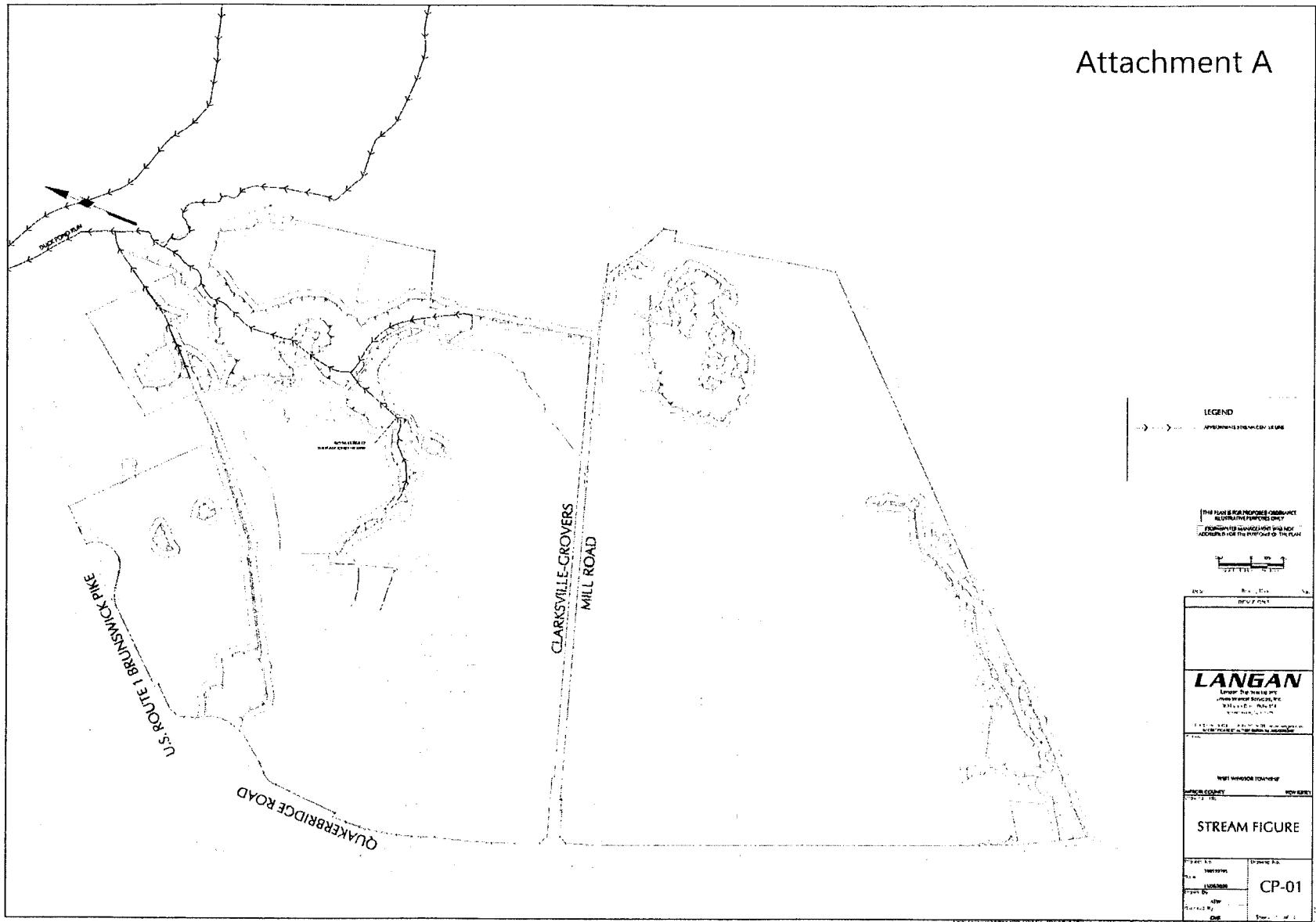
Public Hearing:

Adoption:

Mayor Approval:

Effective Date:

Attachment A



EXHIBIT

F

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Attorneys for Intervener/Appellant, Atlantic Realty

**I/M/O THE TOWNSHIP OF
WEST WINDSOR**

: SUPERIOR COURT OF NEW JERSEY
: APPELLATE DIVISION
: Docket No.: A-005412-18 T2
:
: Civil Action
:
: ON APPEAL FROM THE SUPERIOR
: COURT OF NEW JERSEY, LAW
: DIVISION, MERCER COUNTY
**(Mount Laurel Declaratory
Judgement Action)**
:
: DOCKET NO. MER-L-1561-15
:
: Sat Below: Hon. Mary C.
: Jacobson, A.J.S.C.
:
:
:

STIPULATION OF SETTLEMENT OF APPEAL

WHEREAS the captioned appeal ("the Appeal") was commenced by Notice of Appeal, filed by Intervener-Appellant Atlantic Realty Development Corporation ("Atlantic"), on August 14, 2019, seeking relief from the Orders of the Trial Court below, dated January 11, 2019 and July 2, 2019, entered in Plaintiff-Respondent Township of West Windsor's ("Township") Mount Laurel IV Declaratory Judgment action, commenced under the caption: I/M/O Declaratory Judgment Action of Township of West Windsor, Mercer County Superior Court,

Law Division, assigned Docket No. MER-L-1561-15 ("Township DJ Action"),

WHEREAS the foregoing orders now on appeal, respectively:

- a) Approved the Township's settlement agreement with Intervener-Respondent Fair Share Housing Center ("FSHC") following Settlement/Fairness Hearing, through which the Township and FSHC stipulated, subject to Court review, to a Township Housing Element and Fair Share Plan ("HEFSP") in satisfaction of the Township's constitutional affordable housing obligation, as set forth in order dated January 11, 2019 on appeal; and
- b) Granted the Township Judgment of Immunity and Repose from Builder's Remedy suits, through Order now on appeal dated July 2, 2019;

WHEREAS within the Appeal, Atlantic filed an appeal Case Information Statement, Appeal Brief, and Appendices with the Appellate Division, seeking, in substance, relief from the terms of the foregoing Orders, which, in effect, accept the Township's HEFSP without inclusion of certain properties intended for development by Atlantic as inclusionary housing sites, located within the Township, respectively referred to as:

- a) the H&B Site, comprised of approximately 28 acres, located in the Eastern quadrant of the Township, more specifically

identified in Atlantic's filings within the Township DJ Action, and

b) the Howard Hughes Corporation ("HHC") Site, comprising approximate 660 acre site, also located within the Township, with frontage on US Route 1 as also more specifically described in filings below, the rights to develop of the HHC Site having been acquired by Atlantic following the filing of the Appeal, with the Appellate Division thereafter entering orders recognizing Atlantic's appeal position as encompassing both the H&B and the HHC Sites;

WHEREAS, the Appeal was referred to the Civil Appeal Settlement Program ("CASP"), with Atlantic, the Township, and FSHC initially conferring before the Hon. Robert A. Fall, P.J.A.D. (Retired, Temporarily Assigned) as Parties submitting CASP Statements through their respective counsel, with Waters, McPherson, McNeill, P.C., appearing on behalf of Atlantic (Kenneth D. McPherson, Jr., attending), Miller, Porter and Muller, P.C., appearing on behalf of the Township (Gerald J. Muller, attending), with Intervener FSHC attending through its Counsel and Executive Director, Adam Gordon;

WHEREAS, in separate action commenced in Mercer County Superior Court Law Division, under the caption: Princeton Land, LLC v. The Township of West Windsor, Docket No. MER-L-1947-18,

relief from zoning of the HHC site was separately sought through Complaint filed September 13, 2018, along with related claims for land use relief, to which Atlantic succeeded as a Party-Plaintiff-in-Interest through order of substitution following Atlantic's aforesaid acquisition of rights to development of the HHC site ("the HHC Site Action") ,

WHEREAS, contemporaneously with the conduct of CASP process in the Appeal, principals for Atlantic and the Township directly conferred regarding the HHC Action, and with leave of the Assignment Judge presiding in the HHC Action, further settlement exchanges were conducted by Atlantic and the Township through their respective counsel, culminating in the Township and Atlantic's execution of a Stipulation of Settlement and Consent Order ("SCO") under the caption of the HHC Action, subject to both Township Council review thereof and adoption of approval resolution and entry of the SCO by the presiding Judge, with the entry and execution of the instant stipulation dismissing the Appeal ("Appeal Dismissal Stipulation") having been made a term and condition of Atlantic's and the Township's settlement of the HHC Action and the Appeal, both settlements together involving rezoning and use of the HHC Site and H&B Site;

WHEREAS, following the aforesaid CASP conference, Atlantic filed its principal brief and appendix for the Appeal pursuant to

Amended Appeal Brief Scheduling Order, with dates for further responding briefing in the Appeal being suspended by the presiding CASP Judge at the joint request of Atlantic and the Township pending further settlement discussion;

WHEREAS, Atlantic and the Township have further conferred, and, on notice to FSHC, have reached agreement memorialized herein ("Appeal Settlement Stipulation") for the disposition of the Appeal and settlement of appeal issues regarding the HHC Site and H&B Site addressed herein;

IT IS on this _____ day of _____, 2020, therefore further stipulated and agreed by Atlantic, the Township, and FSHC, as follows:

1. Atlantic shall sign, through counsel, a stipulation dismissing the Appeal with prejudice, in the form attached hereto as Exhibit A ("Appeal Dismissal Stipulation"), immediately dismissing the Appeal upon Township adoption and publication of a resolution by the Municipal Council of the Township ("Settlement Resolution"), authorizing and directing:

a) the Township's execution, through counsel, and delivery to counsel for Atlantic, of a Township counterpart of both the instant Appeal Settlement Stipulation , executed on behalf of the Township, together with execution and delivery of a

Township counterpart of the aforesaid SCO, resolving the HHC Action under terms and conditions stated therein; and

b) the Township Council's introduction of proposed zoning code, in form attached hereto as Exhibit B, for consideration, within time provided for within the SCO, together with the recommendations and pertinent advices of: the Township Planner, the Township Civil Engineer, and Township Real Estate Manager), as proposed new zoning of the H&B site which, subject to further action of the Township Council, would be adopted, allowing improvement of the H&B Site for uses consistent with the H&B Site concept plan attached to this Appeal Settlement Stipulation as Exhibit C hereto ("H&B Site Non-Residential Rezoning"), with the Settlement Resolution further resolving that due consideration shall be given to H&B Site Non-Residential Rezoning without necessity of additional studies thereof, at regularly scheduled meeting, or as soon thereafter that the that H&B Site Non-Residential Rezoning may be attend to, within the time frames contemplated within the SCO;

2. Upon publication of the Settlement Resolution, Atlantic shall deliver to counsel for the Township, the executed Appeal Dismissal Stipulation, to be held in escrow by counsel for the Township for filing with the Clerk of Appellate Division,

immediately upon the Presiding Judge's entry of the SCO in the HHC Action on prompt application by Atlantic for entry of the SCO pursuant to the terms thereof, and exchange of executed counterparts of the instant Appeal Dismissal Stipulation;

3. Atlantic further stipulates and agrees herein that the Township Council's timely adoption of H&B Site Non-Residential Rezoning by final non-appealable Ordinance, through meetings of the Township Council scheduled within the timeframe contemplated within the SCO, shall constitute and effectuate a self-executing release of all claims of Atlantic and any successors thereof, to residential uses of the H&B site, binding Atlantic to acceptance of the H&B Site Non-Residential Rezoning as authorized uses of the H&B Site;

4. In the event that H&B Site Non-Residential Rezoning shall not be timely adopted as final and non-appealable Ordinance ("Failure of H&B Site Non-Residential Rezoning"), Atlantic shall nonetheless remain bound by the Appeal Dismissal Stipulation, and Atlantic's sole recourse with respect to the H&B Site shall be regularly available petitioning of municipal government for zoning revision, and/or litigating for rezoning of the H&B Site and other related legal and equitable relief, with the prior entry of the Appeal Dismissal Stipulation and Settlement Resolution being without prejudice to the Township in such event, with the Township

retaining all available legal defenses to any action by Atlantic hereunder. (While the entry of the Appeal Dismissal Stipulation shall preclude Atlantic from contesting either the settlement of the Township's total affordable unit obligation or the award of immunity from Builder's Remedy suits within the Township Declaratory Judgment Action, in the event of Failure of H&B Site Non-Residential Rezoning, Atlantic may participate in annual and midpoint reviews of Township progress with implementation of the HEFSP and may advocate for authorization of inclusionary housing on the H&B Site as a remedy for any insufficiency of Township advancement of the HESFP, as may be determined by the Judge presiding in the Township DJ Action, with the Township retaining all defenses and responses thereto otherwise available to it.); and

5. Counterparts. This Appeal Settlement Stipulation and may be signed in counterparts with service of an electronic reproduction thereof being effective as though it were an original.

Waters, McPherson, McNeill, P.C.
Counsel for Intervener-Appellant
Atlantic Realty Development Corporation

By: /s/ Kenneth D. McPherson Jr.
Kenneth D. McPherson, Jr.

Dated: _____ , _____

Miller, Porter, and Muller
Special Counsel to Plaintiff-Respondent
Township of West Windsor

By: _____
Gerald J. Muller, Esq.
Dated: _____

Fair Share Housing Center
Intervener-Respondent
Counsel of Record and
Executive Director

By: _____
Adam M. Gordon, Esq.

Dated: _____

1206443.1

EXHIBITS TO BE APPENDED

EXHIBIT A	Appeal Dismissal Stipulation
EXHIBIT B	Settlement Zoning Code for H&B Site
EXHIBIT C	H&B Site Concept Plan

Exhibit A

Kenneth D. McPherson, Jr., Esq. (Attorney ID No. 028501982)
Jessica CM Almeida, Esq. (Attorney ID No. 058132013)
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Attorneys for Intervener/Appellant, Atlantic Realty

I/M/O THE TOWNSHIP OF WEST WINDSOR : SUPERIOR COURT OF NEW JERSEY
: APPELLATE DIVISION
: Docket No.: A-005412-18 T2
:
: Civil Action
:
: ON APPEAL FROM THE SUPERIOR
: COURT OF NEW JERSEY, LAW
: DIVISION, MERCER COUNTY
(Mount Laurel Declaratory Judgement Action) : DOCKET NO. MER-L-1561-15
:
: Sat Below: Hon. Mary C.
: Jacobson, A.J.S.C.
:
: STIPULATION OF DISMISSAL OF
: APPEAL PURSUANT TO RULE 2:8-2

The matters in the above-captioned appeal ("the Appeal") that Intervener-Appellant, Atlantic Realty Development Corporation ("Atlantic") had placed in dispute with Plaintiff-Respondent Township of West Windsor ("Township") and Intervener-Respondent Fair Share Housing Center ("FSHC"), by filing of the instant Appeal seeking relief of Orders entered before the Trial Court, which among other things, approved agreement between the Township and FSHC settling the Township's Mount Laurel inclusionary housing obligation from which the Appeal was taken by Atlantic, having now

been amicably adjusted, with the consent of the Township and FSHC, memorialized through execution of the instant stipulation by respective counsel below, and, on notice to all other Parties of record below through e-Court's filing of the instant stipulation of dismissal, pursuant to Rule 2:8-2, Atlantic does hereby dismiss the Appeal with prejudice and without costs.

Waters, McPherson, McNeill, P.C.
Counsel for Intervener-Appellant
Atlantic Realty Development Corporation

By: /s/ Kenneth D. McPherson Jr.
Kenneth D. McPherson, Jr.

Dated: _____, 2020

Miller, Porter, and Muller
Special Counsel to Plaintiff-Respondent
Township of West Windsor

By: _____
Gerald J. Muller, Esq.
Dated: _____, 2020

Fair Share Housing Center
Intervener-Respondent
Counsel of Record and
Executive Director

By: _____
Adam M. Gordon, Esq.

Dated: _____, 2020

1185418.3

Exhibit B

ORDINANCE 2020-XX

AN ORDINANCE TO AMEND AND SUPPLEMENT THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999)

AN ORDINANCE AMENDING THE ROM-3 Industrial District (research, office, limited manufacturing)

WHEREAS, the Planning Board of West Windsor adopted a Land Use Element of the Master Plan on February 12, 2020 (2020 Land Use Plan Element); and

WHEREAS, the 2020 Land Use Plan Element recommends expanding the list of permitted uses in the ROM-3 District to include self-storage and warehousing; and

WHEREAS, the intent of the ROM-3 District is to promote a high-quality level of development at a scale that will also provide substantial compatibility with the residential and agricultural nature of the surrounding area, protect any associated existing or proposed areas of Township Greenbelt and limit both environmental impacts and potential conflicts with surrounding neighborhoods to the greatest degree possible.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of West Windsor, County of Mercer, State of New Jersey, as follows:

Section 1. Chapter 300 of the Code of the Township of West Windsor (1999), Land Use, Part 4, Zoning, Article XXIX, Regulations for Research/Office/Manufacturing, Research/Office and Research and Development Districts, Section 200-213, ROM-3 Industrial District (research, office, limited manufacturing) use regulations, is hereby amended as follows. Added text is underlined, and text being eliminated is ~~struck-through~~.

§ 200-213 ROM-3 Industrial District (research, office, limited manufacturing) use regulations.

A. Permitted uses. In an ROM-3 District, no building or premises shall be used and no building shall be erected or altered which is arranged, intended or designed to be used except for one or more of the following uses, and all such uses shall be subject to the performance standards set forth in Part 1, Site Plan Review, of this chapter.

- (1) All those permitted uses as listed for an ROM-2 District.
- (2) Research-office. Limited manufacturing park developments, notwithstanding any other requirements of this chapter, shall be subject to those special requirements as listed herein for a ROM-1 Park District, except as changed herein:
 - (a) Minimum park area: 12 acres in contiguous parcels.
 - (b) Minimum lot area: three acres.

(c) Minimum park and lot frontage: 250 feet.

(d) Maximum building height: three stories, but not to exceed 45 feet.

(3) Warehousing and distribution facilities.

(4) Finishing and assembly of products.

(5) Self-storage facilities.

B. Accessory Uses. In the ROM-3 District, the following uses may be permitted as accessory uses.

(1) Accessory uses and accessory buildings incidental to the above uses located on the same lot and within the same zoning district permitting the principal use.

(2) Uses and buildings incidental to permitted uses within the same zoning district permitting the principal use.

(3) A restaurant or cafeteria primarily for supplying meals only to employees and guests of the principal use.

(4) In-service training schools for employees.

(5) Custodial living quarters.

(6) Indoor and outdoor recreation facilities, provided that all such accessory buildings and uses shall be planned as an integral part of the principal use.

(7) Assembly halls for meetings incidental to the business of the principal use.

(8) Maintenance, utility and storage facilities incidental to the principal use.

(9) Guard houses.

(10) Public and Private utility (e.g., electric, gas, telephone, cable, water, sewer, etc.) substations, electric and gas facilities to service the permitted uses. The facilities shall be subject to the requirements contained in Article XXVII, §200-156B, except that the requirement of 200-156B(6)b shall not apply.

(11) Electric vehicle charging stations.

B-C. Conditional uses. In an ROM-3 District, the following uses may be permitted as conditional uses:

(1) Any use permitted by condition in an ROM-2 District, with the exception of §§ 200-211B(3).

(2) Transmission lines, transmitting and receiving antennae or aerials subject to the requirement set forth in Article XXVII, Section 200-156B.

(3) Public utilities (e.g. electric, gas, telephone, cable, water, sewer, etc.) substation, electric and gas facilities subject to the requirements contained in Article XXVII, Section 200-156B, except those utilities which are necessary to service the permitted uses.

Section 2. Chapter 300 of the Code of the Township of West Windsor (1999), Land Use, Part 4, Zoning, Article XXIX, Regulations for Research/Office/Manufacturing, Research/Office and Research and Development Districts, Section 200-214, ROM-3 District bulk and area regulations, is hereby amended as follows. Added text is underlined, and text being eliminated is struck through.

§ 200-214 ROM-3 Industrial District (research, office, limited manufacturing) use regulations.

The following shall be the standards for the ROM-3 District

- A. Minimum lot area: five acres.
- B. Minimum lot area for warehouse and distribution facilities: twenty-five (25) acres.
- B. C. Minimum lot frontage: 300 feet.
- C. D. Minimum lot width: 300 feet.
- D. E. Minimum lot depth: not applicable.
- E. F. Minimum Yards
 - (1) Front yard: 125 feet, with a seventy-five foot landscape area at the street right-of-way.
 - (2) Rear yard: 40 feet.
 - (3) Side yard: There shall be two side yards with a minimum of 40 feet each.
 - (a) For buildings less than or equal to forty (40) feet in height: twenty-five (25) feet.
 - (b) For buildings greater than forty (40) feet in height: forty (40) feet.
 - (c) For warehouse and distribution facilities, a side yard setback of three hundred (300) shall be provided from the westerly boundary line of the ROM-3 District.
 - (4) Yards abutting residential districts. The above yard, including the landscape transition buffer and screen requirements, shall be increased by 20 feet in those instances where they abut, in whole or in part, a residential district or lot line. Side and rear yards shall be increased by twenty-five (25) feet in those instances where they abut, in whole or in part, a residential zone district or lot line. This provision shall not apply to the aforementioned three hundred (300) foot setback from the westerly boundary line of the ROM-3 District established for warehouse and distribution facilities.
- G. Minimum distance between buildings: 25 feet.

F. H. Maximum FAR. There shall be no FAR for the ROM-3 District. The maximum permitted FAR shall be allowed to vary according to the following schedule, depending on the intended use and building height:

<u>Primarily¹ Research/Office Uses²</u>	<u>Maximum FAR</u>
In one-story buildings	0.22
In multistory buildings	0.30
<u>Primarily¹ Manufacturing/Warehousing Uses²</u>	<u>Maximum FAR</u>
In one-story buildings	0.30
In multistory buildings	0.40

NOTE:

¹"Primarily" shall mean more than 80% of total building use on a lot. The maximum FAR shall be adjusted proportionately where less than 80% of the designated building uses are proposed for a lot.

G. I. Maximum improvement coverage: 50% 70%.

H. J. Maximum building height: three stories, but not to exceed 45 feet.

- (1) The maximum building height shall be three stories and forty-five (45) feet for all uses except warehouse and distribution facilities.
- (2) The maximum height shall be two (2) stories and forty-five (45) feet for warehouse and distribution facilities.

K. Parking in yards. Parking shall be permitted in the front, rear, and side yard setbacks subject to the following:

- (1) Parking lots shall maintain a twenty-five (25) foot minimum grassed or landscaped separation on each lot to an adjoining lot, except that a seven and one-half (7.5) foot minimum grass or landscaped separation on each lot may be provided in those instances where a warehouse and distribution facility abuts an adjacent warehouse distribution facility.
- (2) Parking shall not be permitted in any landscape buffer required by this chapter.

L. Parking for warehouse and distribution facilities. Parking at warehouse and distribution facilities shall be computed on a pro rata basis as the sum of the parking required for the floor area of the facility used as office space plus the parking required for the floor area of the building used for warehousing or distribution space. The parking ratios to be used in this computation are as follows:

- (1) One (1) space for each five thousand (5,000) square feet of building floor area devoted to warehousing and/or distribution space.
- (2) One (1) space for each two hundred and fifty (250) square feet of building floor area that is devoted to office space.

M. ROM-3 District Performance Standards. All uses permitted in the ROM-3 District shall be subject to the performance standards set forth in Part 1, Site Plan Review, of this chapter, except as modified below.

- (1) The provisions of Section 200-36.1 shall not apply to warehouse and distribution facilities. The provisions of Section 200-36.1 shall apply to all other uses, except that sidewalks in the ROM-3 District may be constructed of impervious materials.
- (2) The provisions of Section 200-28.D(1) shall not apply.
- (3) Parking and loading is permitted between the fronts of buildings and the street line. No parking is permitted within any landscaped buffer as required herein.
- (4) Aisles for the movement and circulation of vehicles shall be permitted in all yard setback areas. No aisle, except those required for access into and out of the site, shall be permitted in landscaped buffer as required herein.
- (5) Trailer parking spaces and loading docks shall be permitted within building yard setbacks for warehouse and distribution facilities.
- (6) Existing trees may be removed in accordance with all outside agency regulations and pursuant to site plan approval.
- (7) Bicycle parking shall not be required for warehouse distribution facilities.

O. Buffers. Landscape buffers in the ROM-3 District shall be provided as follows.

- (1) A landscape buffer of seventy-five (75) feet shall be provided at the street line.
- (2) For warehouse and distribution facilities, a landscape buffer of one hundred (100) feet shall be provided from the westerly boundary line of the ROM-3 District.
- (3) No parking or loading shall be permitted in a landscape buffer.
- (4) Yard requirements shall be deemed to be counted as part of the landscape buffer area. Where yard areas are less than the required buffer area, they shall be increased accordingly.
- (5) Suitably landscaped and bermed stormwater basins in the ROM-3 District may be located within any yard setbacks or landscaped buffers required by this Chapter, provided that a maximum of fifty percent (50%) of the basin may be located within the buffer area.

Section 3. In the event of any conflict between the provisions and requirements of this section and the provisions and requirements of any other section of this chapter, the provisions and requirements of this section shall govern.

Section 4. This ordinance shall take effect twenty days after action or inaction by the Mayor as approved by law, or an override of a mayoral veto by the Council, whichever is applicable; upon filing with the Mercer County Planning Board; and upon publication according to law.

Introduction:

Planning Board Approval:

Public Hearing:

Adoption:

Mayor Approval:

Effective Date:

Exhibit C

571

Cannot Fill - Will also have 50' buffer
(eliminate or move parking)

50 foot wetland transition
(buffer)

Fill with GP-7
Approx. 8,800 sf
(0.20 ac.)

301,100 sf. industrial building
63 dock doors
2 drive-ins
70 trailer parking positions
~345 car parking positions

Fill with GP-6
APPROX 14,000 sf
(0.29 ac.)

Fill with GP7
(if needed)

50 foot wetland transition
area (buffer)

Cannot Fill - Will also have 50' buffer
(eliminate or move trailer parking)

West Windsor Township
Block 23, Lot 5
27.86 acres
Option #5b

COPY

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(Attorney ID No. 028501982)
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Attorneys for Plaintiff,
Atlantic Realty Development
Corporation

ATLANTIC REALTY DEVELOPMENT
CORPORATION,

Plaintiff,

v.

THE MAYOR AND COUNCIL OF THE
TOWNSHIP OF WEST WINDSOR AND THE
TOWNSHIP OF WEST WINDSOR,

Defendants.

SUPERIOR COURT OF NEW JERSEY
MERCER COUNTY-LAW DIVISION

CIVIL ACTION

DOCKET NO.: MER-L-1947-18

**STIPULATION OF SETTLEMENT AND
CONSENT ORDER**

Recital: This Stipulation and Consent Order ("SCO"), dated ___,
2020, is executed by Plaintiff Atlantic Realty Development
Corporation ("Atlantic") and by Defendant Township of West Windsor
("Township"), referred to together as "the Parties", in intended
final settlement of the above-captioned zoning and land use related
action ("the Action"), in concert with the Parties' final
settlement regarding the Superior Court of New Jersey declaratory

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Judgment action captioned: I/M/O The Township of West Windsor, Docket No. MER-L-1561-15, ("the Township DJ Action") and the related appeal, captioned: I/M/O The Township of West Windsor (Mount Laurel Decatury Judgment Action), Docket No. A-005412-24, hereof through separate stipulation of Dismissal to be located within the Township that is in issue in the captioned Action, with resolution of the Appeal being provided for within Section 24, hereof through separate stipulation of Dismissal to be filed under the Appeal Docket immediately upon entry of the instant Settlement 24, hereto. Each involving the same Atlantic real property located within the Township that is in issue in the captioned Judgment ("the Appeal"), each involving the same Atlantic real property located within the Township that is in issue in the captioned Judgment action captioned: I/M/O The Township of West Windsor, Docket No. MER-L-1561-15, ("the Township DJ Action") and the related appeal, captioned: I/M/O The Township of West Windsor, SCO,

1. Pursuant to Order of Substitution of Parties entered in the Action on December 2, 2019 (Copy attached as Exhibit A),
Atlantic has been substituted as the real-party-in-interest under Rule 4:34-3, superseding the original Plaintiff in the Action.
Princeton Land, LLC ("PL"), an affiliate of The Howard Hugheses

stipulating and agreeing as follows:

Through their respective undesignated counseled, McPherson, McNell, P.C. (Kenneth D. McPherson, Jr., counseled of record) appearing for Plaintiff Atlantic, and Miller, Porter, and Gerald J. Miller, counseled of record) appearing for Defendants), the Parties have hereby entered the instant SCO,

A. THE PARTIES

14	APPRAISAL OF Warehouse Rezoning	14
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Corporation ("HHC"), and pursuant to Orders of the Appellate Division, entered in the Appeal on January 22, 2020 (attached hereto as Exhibit B), Atlantic has also been recognized as a Party-Appellant, and successor-in-interest to HHC and to HHC's affiliate titleholder, PL.

B. THE SETTLED LAND USE ACTION

2. The Action was commenced through complaint filed by HHC's affiliate PL, on September 13, 2018 ("the Complaint"), as titleholder to contiguous lots within the southwestern section of the Township, fronting on US Route 1, comprised of approximately 650 acres, formally used by the American Cyanamid Corporation, principally as an industrial agricultural research facility ("the HHC Site"), acquired in 2010 in its entirety by HHC, with the intention of development for predominantly residential uses, including approximately 1,976 units of inclusionary family housing, as set forth in the concept plans filed by PL, and later adopted by Atlantic in the Action in which Atlantic has succeeded PL as Party Plaintiff-in-Interest;

i. Pre-Settlement Litigation of Non-residential Zoning

3. Following hearing on April 5, 2019 on motion by the Township for dismissal of Counts One, Four and Five of the Complaint, the Court issued an order, dated June 26, 2019, granting dismissal with prejudice of Counts One, Four and Five of the

Complaint, which sought statutory Redevelopment planning of the HHC Site and other related relief compelling zoning revision, with remaining Counts Two and Three of the Complaint, respectively contending that the existing use zoning of the HHC site (effectively precluding any residential development of the property in Atlantic's view) is arbitrary and contrary to the Municipal Land Use Law ("MLUL"), and is confiscatory in its application to the HHC site in violation of the State and Federal Constitutions, remaining in contest by the Township and therefore being scheduled for pretrial discovery;

4. Further pre-trial discovery and litigation activity in the Action was suspended through successive Case Management Orders at the request of the Parties in order to discuss possible settlement of the Action;

5. Atlantic acquired title to the entirety of the HHC Site on or about October 29, 2019, with the intention of developing the HHC Site principally for residential uses;

ii. **Presentation of HHC Site Development Plans**

6. Prior to commencement of the Action, on or about September 13, 2018, on referral by the Township Council, on May 10, 2017 and July 26, 2017, the Township Planning Board ("Planning Board") heard the presentation by Atlantic's predecessor-in-title of concept plans for the redevelopment of the HHC Site for

inclusionary housing and other non-industrial uses, following which the Planning Board declined to take action at that time in furtherance of either designation of any or all portions of the HHC Site as a redevelopment area, or, alternatively, designation of the HHC site as a statutory area in need of renewal, and otherwise declining to advance rezoning of the HHC site, with the Township Council thereafter similarly declining requests for zoning revision;

7. On or about November 6, 2019, in contrast to the Planning Board presentation by Atlantic's predecessor-in-title of concept plans for residential development of the HHC Site, the Township Planning Board published drafts of contemplated Township Master Plan revisions which did not include residential use of the HHC Site;

iii. Resolution of Township Affordable Housing Litigation

8. On or about July 2, 2019, within the Township's aforementioned Township DJ Action, that is now the subject of the Appeal being maintained by Atlantic (which is being concurrently settled together with the Action), the Presiding Judge issued a Final Judgment of Compliance and Repose, resolving the Township DJ Action and approving the Township's affordable housing compliance plan, which the Township views as satisfying and discharging any Township obligation to rezone and site plan for inclusionary family

housing, other than as to inclusionary housing development sites included in the Township's Court-approved affordable Housing Element and Fair Share Plan ("HEFSP"), which does not include the HHC Site.

C. RECONCILIATION OF CONFLICTING VIEWS OF LAND USE

9. In appearances and submissions in both the above captioned Action and the Appeal, the Parties have held divergent land use views, with Atlantic maintaining, on the one hand, that the HHC Site is suitable for residential use and that there exists need for market-rate housing within the regional housing market, within which the HHC Site and the Township are situated, such that, in Atlantic's view, market-rate housing constitutes the highest and best use of the HHC's Site, and the Township maintaining, on the other hand, that the Township's provision of constitutionally sufficient affordable housing is not a function of the HHC Site as the Township has made constitutionally sufficient provision for residential zoning, with affordable units included in the Township's approved HEFSP, together with the Hilton/Toll Bros. Project, thereby satisfying the Township's affordable housing obligation while avoiding burdens of additional residential development;

D. COURT-AUTHORIZED SETTLEMENT CONFERENCING OF PARTIES

10. In effort to resolve their differences regarding zoning and development of the HHC Site, during Case Management teleconferences conducted in the Action on January 6, 2020 and March 9, 2020, the Parties requested that the Court grant a further suspension of discovery and litigation proceedings, and the Court's April 13, 2020 Case Management Order ("CMO"), entered contemporaneously with case management telephonic conferences, therefore tolled discovery pending further Case Management teleconference, initially scheduled thereunder for June 16, 2020, and thereafter, rescheduled for July 1, 2020, pursuant to the aforementioned April 13, 2020 CMO, dated April 13, 2020, with the aforesaid tolling of discovery being further extended through November 10 2020 pursuant to CMO entered September 10, 2020;

E. TERMS OF CONDITIONAL SETTLEMENT

11. The Parties, having since conferred both directly and through their respective counsel, and having reviewed and approved the instant SCO, now present the instant SCO to the Court and hereby advise the Court, through their respective counsel, of the following terms of settlement:

i. Opportunity to Review and Comment on the Terms of the Agreement

The Parties have had due opportunity to consider the terms and conditions of the instant SCO and exhibits referenced herein

and attached hereto, review of the SCO being conducted with the benefit of advice of respective counsel for the Parties, and, in the case of the Township, with the benefit of the advice and recommendations of the Township's independent planning consultants and the Township's Real Estate Manager;

ii. Resolution Adopting the SCO

12. The Township Council of the Township has also considered the instant SCO and annexed exhibits, including in executive session as authorized under the Open Public Meetings Act, N.J.S.A. 10:4-6 to-21, for settlement discussion, and, through Resolution duly adopted at a regularly scheduled meeting (a copy of which is attached hereto as Exhibit C), the Township Council has approved the instant SCO and authorized its execution on behalf of the Township, which accordingly has been signed below, subject to all the executory actions of municipal governmental contemplated hereunder being considered at duly noticed public meetings, and subject, as well, to the independent exercise of discretion of the Planning Board and Township Council with respect to the prospective zoning revisions contemplated herein;

F. DISMISSAL OF ACTION WITHOUT PREJUDICE TO BECOME WITH PREJUDICE DISMISSAL UPON FULFILLMENT OF CONDITIONS OF SETTLEMENT

13. The Parties having reached accord, and with due authorizations of the respective Parties having been obtained for

the execution hereof by their respective counsel, and the executed SCO having been submitted for entry by the Court on consent to pursuant to R.4:42-1 (b), Parties having before the Court, both in settlement of the Action, with the Parties hereby further **Agreeing and Stipulating, as follows:**

14. The Action shall be, and hereby is dismissed without prejudice, through entry of the instant SCO without costs in favor of or against either Party, with the instant dismissal becoming a final dismissal with prejudice immediately upon satisfaction of Conditions 1. and 2. of settlement set forth immediately below, with the entry of dismissal with prejudice forever precluding Atlantic, or any successors-in-interest thereto, from: a) applying to the Planning Board for recommendation or authorization of residential use of the HHC Site; b) petitioning the Township Council for residential-use rezoning; or c) initiating litigation, or otherwise seeking governmental or judicial relief authorizing residential use of the HHC Site:

Condition 1. Adoption of Zoning Code Consistent with Conceptual Site Plan. With the benefit of a supporting resolution of the Planning Board recommending rezoning of the HHC Site ("Planning Board Resolution"), the Township Council and the Township shall have adopted an ordinance rezoning the HHC Site, in form consistent with development shown on the Conceptual Site Plan attached hereto as Exhibit D, which,

subject to site plan approvals and all other applicable regulatory approvals, shall include permissible development of the HHC Site with not less than 5.5 million square feet of modern warehouse use ("Warehouse Rezoning"), and development of up to 150,000 square feet of retail use calculated exclusively of other commercial uses shown as permitted on Exhibit D, without authorization of any residential development of the entire 650+ acre HHC Site, with Warehouse Rezoning including the enactment of modern warehouse and non-residential use zoning code, incorporating, in substance, the Bulk and Dimensional regulations shown in Exhibit E annexed hereto, which will accommodate contemplated improvements shown on the annexed (Exhibit D) Conceptual Site Plan ("Warehouse Rezoning Code"); and

Condition 2. Timely Action on Rezoning. Both the aforesaid Planning Board Resolution and the Warehouse Rezoning Code are to be adopted at regularly scheduled or special public meetings of both the Planning Board and the Township Council, the Board and the Township Council, each having respectively considered the HHC Site, in the Planning Board's case, in the course of hearing the proposed redevelopment plan presentation of Atlantic's predecessor-in-title, and, in the case of both the Planning Board and the Township Council, during the course of selection of inclusionary housing sites

for incorporation in the Township's Court approved HEFSP, with the public hearings contemplated in connection with the adoption of the Planning Board Resolution and Warehouse Rezoning Code being conducted in public sessions, intended to be completed within or about ninety (90) days from the date of entry hereof;

i. Entry of Final Dismissal with Prejudice Order

15. Upon timely, final and non-appealable adoption of Warehouse Rezoning Code hereunder, or entry of an non-appealable court decision in favor of the Parties in litigation brought by a third party, thereby satisfying conditions precedent to final dismissal of the Action set forth in Section 14. hereof, an order of dismissal of the Action with prejudice and without costs shall be entered on notice pursuant to Rule 4:42-1(c) (Settlement on Notice).

G. REACTIVATION OF ACTION IN THE EVENT OF NON-FULFILLMENT OF SETTLEMENT CONDITIONS.

16. In the event that either of conditions 1. and 2. set forth in Section 14. hereof shall not be timely fulfilled as a result of either the Planning Board and/or Township Council action or inaction in the course of their respective discretionary reviews of the SCO and annexed Exhibits ("Non-Approval of Warehouse Rezoning"), or, in the event either Condition should not be fulfilled as a result of judicial determination adverse to the

adoption of Warehouse Rezoning Code, then, in either of such events, Atlantic may apply to the Court, on notice duly served on counsel for the Township pursuant to Rule 4:42-2, for the issuance of an order reactivating the Action, and upon entry of such order, the Parties shall resume their respective litigation positions in the Action as of the date thereof, subject to further CMO, provided, however, that reactivation of the Action hereunder due to Non-Approval of Warehouse Rezoning shall not affect the finality and non-appealable status of either the July 2, 2019 Judgment of Immunity and Repose entered in the Township's Mount Laurel IV DJ Action or the dismissal of the Appeal with prejudice pursuant to Section 24. hereof;

i. **Election of Acceptance of Partial Warehouse Rezoning**

17. If, as a result of inaction, or adverse action, of the Planning Board, and/or, the Township Council, or as a result of decision of a reviewing Court, Non-Approval of Warehouse Rezoning shall occur, then, in such events, Atlantic may, at its election, opt for either the reactivation of the Action on notice pursuant to Rule 4:42-1(c) as provided for in Section 16. hereof, and thereby resume its litigation position therein, or, Atlantic may accept such non-conforming rezoning revisions as may be adopted by the Township with respect to portions of the HHC Site that Atlantic may designate as accepted, and thereafter, Atlantic may then litigate for relief from zoning of areas constituting the balance

of the HHC Site not designated as accepted by Atlantic ("Contested Zoning Areas"), and, any litigation of Contested Zoning Areas reactivated hereunder may include the prosecution of claims for judicial relief from zoning which, if granted, would allow Contested Zoning Areas to be used for residential uses, including, but not limited to, multifamily residential homes, as well as inclusionary family housing and 100% affordable unit housing projects, provided however, that as set forth in Section 16. hereof, the reactivation of the Action for litigation of Contested Zoning Areas shall have no effect on either the Township's Judgment of Repose and Immunity or the final dismissal of the Appeal hereunder;

ii. HEFSP Compliance Will Be Contestable in Event of Non-Approval of Warehouse Rezoning

18. In the event of Non-Approval of Warehouse Rezoning set forth in Section 16. above, in addition to litigation of Contested Zoning Areas, Atlantic may contest the adequacy of the Township's compliance with the terms of the Court's July 2, 2019 Judgment in the Township's Mount Laurel IV DJ Action approving the Township's HEFSP, and contest any subsequent orders founded thereon, to the extent of challenging the reasonableness and speed of Township and its selected developers progress with affordable housing sites included within the Township's HEFSP, with Atlantic's right of contest of the Township's HEFSP accruing under the terms of this

Section 18. including the option of challenging, within the Township DJ Action, the continuing validity and reasonableness of the Court's earlier findings that specific affordable housing sites included within the Township's Court-approved HEFSP are "realistic" compliance sites, properly creditable toward satisfaction of the balance of the Township's Third Round obligation;

iii. Township Retention of All Defenses in Event of Non-Approval of Warehouse Rezoning and Reactivation of Litigation of Contested Zoning Areas

19. In all instances of Non-Approval of Warehouse Rezoning and reactivation of litigation under the terms of Sections 16., 17., or 18. hereof, the Township shall have available to it all defenses at law and equity assertable in good faith, and the entry of this SCO shall be without prejudice to the Township in any Contested Zoning Area proceedings arising due to Non-approval of Warehouse Rezoning;

H. EXPEDITION OF REZONING AND SITE PLANNING CONFORMING (WITHOUT VARIANCE) TO WAREHOUSE REZONING CODE

20. Warehouse Rezoning shall be expeditiously scheduled before the Planning Board and Township Council without the necessity of further study or investigation of the HHC site, given the Township Council and Planning Board's aforementioned prior considerations of the HHC Site on-record, with Warehouse Rezoning being supported principally by submission of the instant SCO as

entered by the Court, along with Exhibits annexed thereto, together with such other consistent documentation and customary professional exhibits and reports (including, but not limited to, reports of fiscal impact of Warehouse Rezoning), that Atlantic and/or the Township may timely submit in support of Warehouse Rezoning;

i. Nonsupport of Objectors

21. Neither the Township nor the Planning Board nor Atlantic shall support or fund, any challenge, contest, or appeal (including prerogative writ actions pursuant to Rule 4:69-1), seeking relief from Warehouse Rezoning hereunder or from any Site Plan approval issued pursuant to Warehouse Rezoning Code, and having heretofore reviewed the Exhibits annexed hereto, the Township, its Planning Consultant, and Land Use Manager, shall, on request by Atlantic, express general support in a concise writing for any site plan application conforming to Warehouse Rezoning Code adopted in form annexed hereto as Exhibit E without necessity of variance ("Conforming Site Plan Application").

ii. Rejection of No Variances-Conforming Warehouse Rezoning Site Plan as Cause for Reopening of Claims for Residential Uses of HHC Site

22. In the event of non-approval of a Conforming Site Plan Application, in addition to seeking judicial review of such adverse site planning decision, as provided for in Sections 16., 17. and

18. hereof, Atlantic shall also be entitled to initiate separate litigation, seeking regulatory and/or judicial relief that would: **i)** allow Atlantic to make market rate residential use of such portions of the HHC site that may be subject to such adverse site planning decision; **ii)** allow the substitution of areas of the HHC Site for sites included within the Township's HEFSP, as is provided for in Section 18. hereof (Contest of HEFSP compliance in event of Non-Approval of Warehouse Rezoning); or **iii)** relief that would allow inclusionary housing development of HHC Site areas for application toward satisfaction of any later round ("Round IV") Mount Laurel compliance obligations of the Township. (The Township shall retain all defenses as provided in Section 19. hereof., and non-approval of a Conforming Site Plan Application hereunder shall otherwise have no effect on either the finality of the July 2, 2019 Judgment in the Township Mount Laurel IV Declaratory Judgment Action or the dismissal of the Appeal under Section 24. upon entry of the instant SCO.);

I. ENTRY OF DISMISSAL WITH PREJUDICE OF ACTION UPON FINAL ADOPTION OF WAREHOUSE REZONING

23. Upon the final non-appealable adoption of Warehouse Rezoning Code as conditionally stipulated herein, final dismissal of the Action with prejudice shall be entered on notice pursuant to Rule 4:42 - 1(c), on application of either Party hereto, without costs in favor of or against either Party;

i. Dismissal of Appeal upon entry of SCO

24. Upon entry of the instant SCO, Atlantic shall cause Stipulations of Settlement and Dismissal of the Appeal, in form annexed hereto as Exhibit F, to be entered by the Office of the Clerk of the Appellate Division of New Jersey Superior Court pursuant to R. 2:6-2 in final resolution of the Appeal as set forth in the Recital hereto;

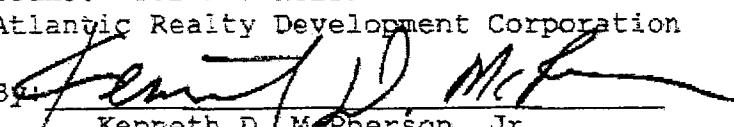
ii. No Tax Abatement Applications

25. Subject to Section 14. hereof, Atlantic is foregoing and relinquishing any application for: arrangements for payments in lieu of taxes ("PILOT"); Financial Agreements under the Housing and Redevelopment Laws; or other form of abatement of ad valorem municipal real estate taxes.

J. COUNTERPARTS

26. This SCO may be executed by the Parties, through their respective counsel, in counterparts.

Waters, McPherson, McNeill, P.C.
Counsel for Plaintiff
Atlantic Realty Development Corporation

By: 
Kenneth D. McPherson, Jr.

Dated: _____, 2020

Miller, Porter, and Muller
Special Counsel to Defendant
Township of West Windsor

By: Gerald J. Muller
Gerald J. Muller, Esq.
Dated: December 7, 2020

The Foregoing is So Ordered.

By: Mary C. Jacobson, A.J.S.C.

EXHIBIT A

Kenneth D. McPherson, Jr., Esq. (Attorney ID No. 028501982)
Lauren H. Sobotka, Esq. (Attorney ID No. 273992018)
WATERS, McPHERSON, MCNEILL, P.C.

300 Lighting Way
P.O. Box 1560
Secaucus, NJ 07096
Tel. (201) 863-4400
Email kmj@lawwww.com

Attorneys for Movants Atlantic Realty Development Corporation and
Affiliate Title Holders, Scholar's Meadow LLC and Clarksville
Center LLC

PRINCETON LAND LLC,

Plaintiff,

v.

THE MAYOR AND COUNCIL OF THE
TOWNSHIP OF WEST WINDSOR AND
THE TOWNSHIP OF WEST WINDSOR,

Defendants.

SUPERIOR COURT OF NEW JERSEY
MERCER COUNTY-LAW DIVISION

DOCKET NO. MER-L-1947-18

CIVIL ACTION

ORDER OF SUBSTITUTION OF
PARTY-PLAINTIFFS

The above-captioned action ("the Action") having been brought before the Court by Waters, McPherson, McNeill, P.C. (Kenneth D. McPherson, Jr. and Lauren H. Sobotka, appearing), as counsel for movant Atlantic Realty Development Corporation ("ARDC") and ARDC's affiliated title holders identified herein, on notice of motion, served on counsel for parties of record, Pepper Hamilton, LLC (Thomas M. Letizia, appearing), attorneys for Original Party-Plaintiff, Princeton Land LLC ("PL"), and Miller, Porter & Muller, P.C. (Gerald J. Miller, appearing), Special Counsel for Defendants, Mayor and Council of the Township of West Windsor and the Township of West Windsor (together, "Defendants"), seeking an

Order pursuant to Rule 4:34-3 (Real-Party-in-Interest/Substituting Parties-Plaintiff), and the Court having received no objections to the form of the Proposed Order, submitted with the moving papers, and for good cause shown in the moving papers:

It is on this 2nd day of December, 2019, hereby

ORDERED:

1. Having acquired title and development rights to the property that is the object of the Action, ARDC, as holder of development rights, and its affiliate title holders, Scholar's Meadow LLC and Clarksville Center LLC, (together, "Movants"), are now the Real-Parties-Plaintiffs-in-Interest in the captioned matter;
2. Movants shall be and hereby are substituted for PL as Parties-Plaintiffs pursuant to Rule 4:34-3;
3. Further filings in the Action may be captioned, and should be accepted by the Office of the Clerk for filing, showing Movants as Parties-Plaintiffs in the following manner: "Atlantic Realty Development Corporation, Scholar's Meadow LLC, and Clarksville Center LLC, Plaintiffs, through substitution as Real-Parties-in-Interest Pursuant to Rule 4:34-3;
4. A true, but uncertified, copy of this Order shall be served on the offices of counsel of record for all the other parties within 7 days of the date hereof.

Mary C. Jacobson, A.J.S.C.

Mary C. Jacobson, A.J.S.C.

- Opposed
X Unopposed

1155521.3

EXHIBIT

B

ORDER ON MOTION

I/M/O THE TOWNSHIP OF WEST
WINDSOR

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-005412-18T2
MOTION NO. M-003007-19
BEFORE PART G
JUDGES: JOSEPH L. YANNOTTI
LISA A. FIRKO

MOTION FILED: 12/20/2019 BY: TOWNSHIP OF WEST WINDSOR

ANSWER(S)
FILED:

SUBMITTED TO COURT: January 21, 2020

ORDER

THIS MATTER HAVING BEEN DULY PRESENTED TO THE COURT, IT IS, ON THIS
21st day of JANUARY, 2020, HEREBY ORDERED AS FOLLOWS:

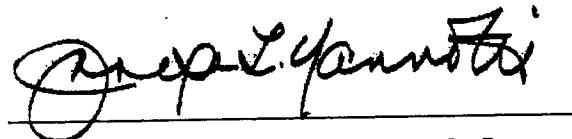
MOTION BY RESPONDENT

MOTION TO AMEND SCHEDULING ORDER DENIED AND OTHER

SUPPLEMENTAL:

The motion to amend the scheduling order is denied. All parties to the trial court proceedings are deemed to be parties on appeal. Atlantic Realty is the appellant, and all other parties are respondents. Unless it has already done so, any respondent that does not intend to participate in the appeal shall within ten (10) days after the date of this order inform the Clerk of the Court of its non-participation. Any amicus curiae that has been granted leave to appear in the trial court proceedings may, without seeking further leave, file a brief on appeal. R. 1:13-9(d). The Township's motion to bar Atlantic Realty from raising arguments regarding the site formerly owned by Howard Hughes is denied.

FOR THE COURT:



JOSEPH L. YANNOTTI, P.J.A.D.

ORDER ON MOTION

I/M/O THE TOWNSHIP OF WEST
WINDSOR

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-005412-18T2
MOTION NO. M-003206-19
BEFORE PART G
JUDGES: JOSEPH L. YANNOTTI
LISA A. FIRKO

MOTION FILED: 12/30/2019 BY: ATLANTIC REALTY

ANSWER(S) 01/10/2020 BY: TOWNSHIP OF WEST WINDSOR
FILED:

SUBMITTED TO COURT: January 21, 2020

ORDER

THIS MATTER HAVING BEEN DULY PRESENTED TO THE COURT, IT IS, ON THIS
21st day of JANUARY, 2020, HEREBY ORDERED AS FOLLOWS:

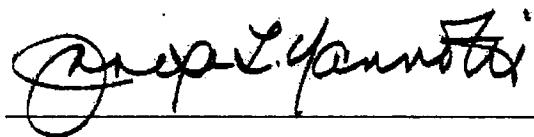
MOTION BY APPELLANT

MOTION to SUBSTITUTE
REAL-PARTY-IN-INTEREST DENIED AND OTHER

SUPPLEMENTAL:

The motion is denied as moot. See Order entered on M-3007-19.

FOR THE COURT:



JOSEPH L. YANNOTTI, P.J.A.D.

EXHIBIT

C

RESOLUTION

- WHEREAS, the Township of West Windsor (“Township”) filed a declaratory judgment action, pursuant to In re Adoption of N.J.A.C. 5:96 & 5:97 ex rel. New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (“Mount Laurel IV”) in July of 2015, captioned I/M/O The Township of West of Windsor, Docket No. MER-L-1561-15 (“Township Declaratory Judgment Action”), in which the Township sought immunity from builders’ remedy lawsuits; and
- WHEREAS, in 2016, Atlantic Realty Corporation (“Atlantic Realty”), as owner of the parcel of land, known as the H&B Site (“H&B Site”), intervened in the Township’s Declaratory Judgment Action; and
- WHEREAS, in the Fall of 2018, the Township entered into settlement discussions with Intervener Fair Share Housing Center (“FSHC”) in the Township Declaratory Judgment Action; and
- WHEREAS, a settlement agreement between the Township and FSHC was ultimately reached in the Township Declaratory Judgment Action, which was subsequently approved by this Council; and
- WHEREAS, on or about July 2, 2019, the presiding Mount Laurel Judge entered a Final Judgment of Compliance and Repose in the Township Declaratory Judgment Action based on the Township – FSHC settlement; and
- WHEREAS, in August of 2019, as developer of lands within the Township referred to as the “H&B Site”, and as intervenor in the Township Declaratory Judgment Action, Atlantic Realty appealed the July 2, 2019 Order of the Superior Court of New Jersey, Appellate Division, captioned I/M/O The Township of West of Windsor, Docket No. A-005412-18 (“the Appeal”); and
- WHEREAS, on September 13, 2019, Howard Hughes Corporation, through its affiliate Princeton Lands, LLC (“PL”), titleholder to approximately 650 acres (the “HHC Site”), filed a prerogative writ action, captioned: Atlantic Realty Development Corporation v. The Mayor and Council of the Township of West Windsor and the Township of West Windsor assigned Docket No. MER-L-1947-18, as titleholder to approximately 650 acres (“the HHC Action”) seeking residential rezoning of the HHC Site ; and
- WHEREAS, Atlantic Realty acquired title to the HHC site on or about October 29, 2019, and through Court Orders, succeeded to the positions of Howard Hughes Corporation and PL in the Appeal and in the HHC Action; and

WHEREAS, Atlantic Realty and the Township have, through respective legal counsel, negotiated terms of settlement agreement providing for the dismissal of the Appeal and the HHC Action regarding the H&B Site and the HHC Site under terms and conditions set forth in a proposed Stipulation of Settlement with Consent Order (“SCO”) resolving both the Appeal and the HHC Action; and

WHEREAS, the Council has: reviewed the SCO, has consulted with its professionals, heard comment by the public and has determined that it would be in the best interests of the Township to approve the SCO and terms of the settlement agreement memorialized therein.

NOW THEREFORE BE IT RESOLVED, on this, the 30th day of November, 2020 by the West Windsor Township Council, that the Township's counsel is hereby authorized and directed to execute the SCO attached hereto, or in a form substantially equivalent thereto, approved by Township Council, and the Mayor, and the Township Clerk, are hereby authorized to execute on behalf of the Township all documents contemplated within the SCO and to otherwise do all things necessary or convenient to implement the terms of the settlement agreement memorialized therein

ADOPTED: November 30, 2020,

I hereby certify that the above resolution was adopted by the West Windsor Township Council at their meeting held on the 30th day of November, 2020.

Gay M. Huber
Gay M. Huber
Township Clerk
West Windsor Township

Exhibit D

Required	Ending Remainder (Overhead Allocation Distribution)					Provided
	A1	B1	C1-1	C1-2	E1	
Net Sales (A)	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
Manufacturing Cost	300	300	300	300	300	300
Non-Value Added	200	200	200	200	200	200
Direct Labor	100	100	100	100	100	100
Fixed Overhead	100	100	100	100	100	100
Variable Overhead	100	100	100	100	100	100
Total Manufacturing Cost	400	400	400	400	400	400
Direct Materials	200	200	200	200	200	200
F&B	100	100	100	100	100	100
Sales Commissions	100	100	100	100	100	100
Administrative Expenses	100	100	100	100	100	100
Interest Income Less Commissions	100	100	100	100	100	100
Net Income	100	100	100	100	100	100

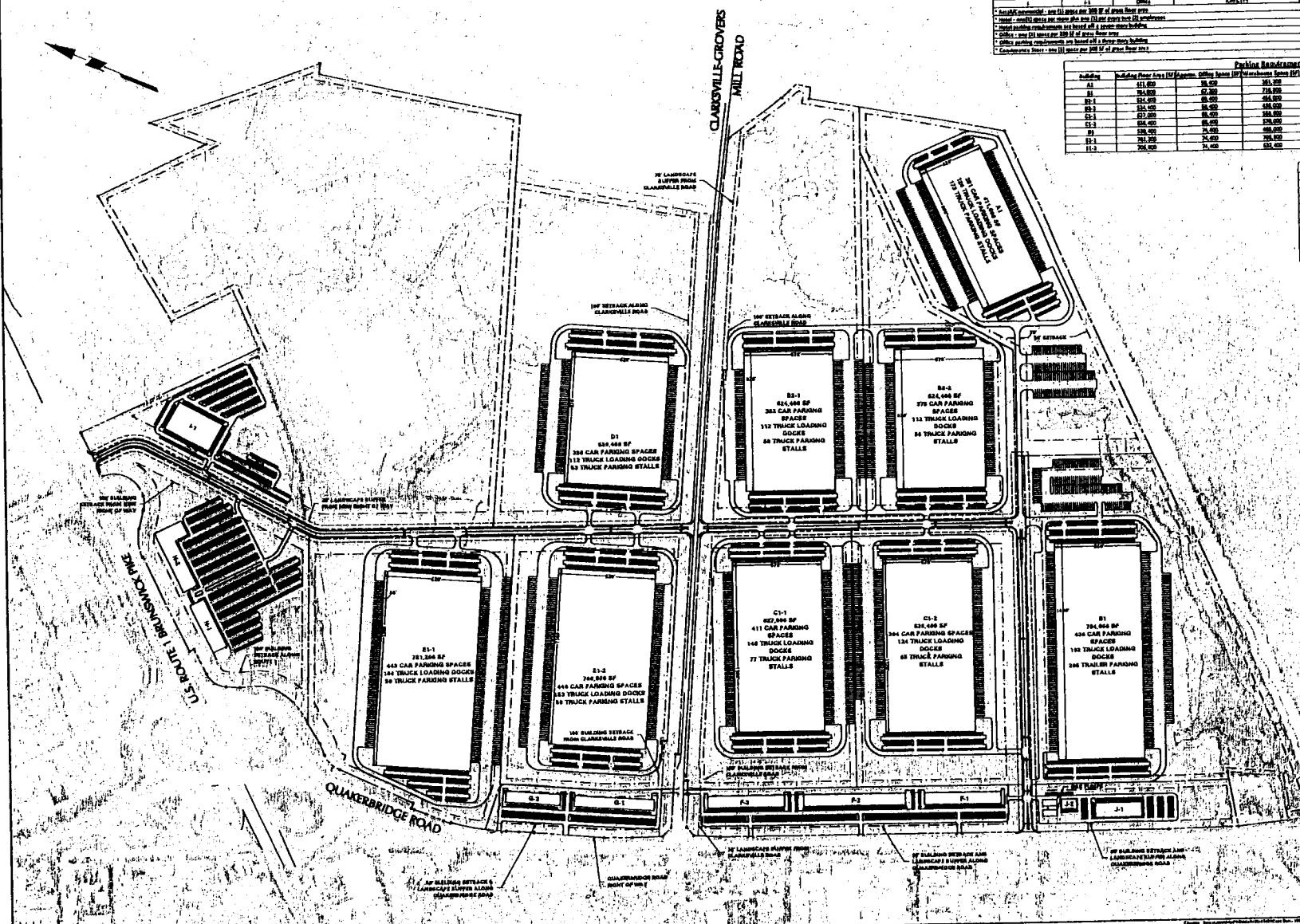
Profile Requirements (Other Business)						
Ref	Business	Imp	Set Action (SIS)	Established From (ES)	Selected Profile	Selected Profile (Final)
1	P-1	Compliance Basis	A001,443	100	100	100
	P-2	SIS Status		100	100	100
2	P-3	Bank/Commercial	0001,17	100	100	100
	P-4	Agri/Commercial		100	100	100
3	P-5	Agri/Commercial	0001,17	100	100	100
	P-6	Agri/Commercial		100	100	100
4	P-7	Agri/Commercial	0001,17	100	100	100
	P-8	Agri/Commercial		100	100	100
5	P-9	Agri/Commercial	0001,17	100	100	100
	P-10	Agri/Commercial		100	100	100

5 **6-1**

- **Ass. JK numbers:** - one (1) space over 200' of gross floor area
- **Hotel - one (1) space per room plus one (1) space every 100' of gross floor area.**
- **Hotel parking requirements are based off a seven-story hotel.**
- **Office - one (1) space per 200' of gross floor area.**
- **Office parking requirements are based off a three-story office building.**
- **Condominiums - one (1) space per 300' of gross floor area.**

Parking Requirements (Warehouse/Distribution)										
Building	Building Area (sq ft)	Leaves	Offices (sq ft)	Warehouse Space (sq ft)	Other	Parking Required	Surface	Indoor	Total Parking Required	Total Provided
A1	441,620	10	10,000	361,200	30	72	42	30	72	442
B1	364,800	12	8,000	272,000	20	64	32	32	64	646
C1	344,000	10	8,000	252,000	20	52	26	26	52	520
D1	334,400	8	6,000	248,000	20	48	24	24	48	481
E1	327,000	8	6,000	240,000	20	44	22	22	44	440
F1	327,000	8	6,000	240,000	20	44	22	22	44	440
G1	326,000	8	6,000	240,000	20	44	22	22	44	440
H1	326,000	8	6,000	240,000	20	44	22	22	44	440
I1	326,000	8	6,000	240,000	20	44	22	22	44	440
J1	326,000	8	6,000	240,000	20	44	22	22	44	440
K1	326,000	8	6,000	240,000	20	44	22	22	44	440
L1	326,000	8	6,000	240,000	20	44	22	22	44	440
M1	326,000	8	6,000	240,000	20	44	22	22	44	440
N1	326,000	8	6,000	240,000	20	44	22	22	44	440
O1	326,000	8	6,000	240,000	20	44	22	22	44	440
P1	326,000	8	6,000	240,000	20	44	22	22	44	440
Q1	326,000	8	6,000	240,000	20	44	22	22	44	440
R1	326,000	8	6,000	240,000	20	44	22	22	44	440
S1	326,000	8	6,000	240,000	20	44	22	22	44	440
T1	326,000	8	6,000	240,000	20	44	22	22	44	440
U1	326,000	8	6,000	240,000	20	44	22	22	44	440
V1	326,000	8	6,000	240,000	20	44	22	22	44	440
W1	326,000	8	6,000	240,000	20	44	22	22	44	440
X1	326,000	8	6,000	240,000	20	44	22	22	44	440
Y1	326,000	8	6,000	240,000	20	44	22	22	44	440
Z1	326,000	8	6,000	240,000	20	44	22	22	44	440

Yield Table (Warehouses/Distributors)			
Refugee	Refugee Population (Ref)	Car Pending Status	Total Location Status
Al	511,000	100	100
Ar	324,000	100	100
Br	324,000	100	100
Ca	324,000	100	100
Co	324,000	100	100
Cr	324,000	100	100
Da	324,000	100	100
Er	324,000	100	100
Fr	324,000	100	100
Ge	324,000	100	100
Hu	324,000	100	100
Ia	324,000	100	100
It	324,000	100	100
Ke	324,000	100	100
Li	324,000	100	100
Mi	324,000	100	100
Pe	324,000	100	100
Ro	324,000	100	100
Si	324,000	100	100
Ta	324,000	100	100
Tr	324,000	100	100
Vi	324,000	100	100
Wa	324,000	100	100
Ye	324,000	100	100
Total	5,127,200	1,945	1,241



**THIS PLAN IS FOR PROPOSED CHARGEBACK
ILLUSTRATIVE PURPOSES ONLY**

Date	Democracy Score	
	DEMOCRATIC	

JANGAN

**Langen Engineering and
Environmental Services, Inc.**
348 Loma Drive, Suite 134
Livermore, CA 94550

3: 000-382-26000 F: 000-222-20000
AU CERTIFICATE OF AUTHENTICATION NO. 201000000000

WEST WINDSOR TOWNSHIP

**ILLUSTRATIVE
SITE PLAN**

—
—
—

1000-02-100

SB-8

CP-0

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Checked by

Page 1 of 1

[View all posts by admin](#)

CB 01

Exhibit E

ORDINANCE 2020-25

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 200 OF THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999) BY CREATING THE PLANNED COMMERCIAL DISTRICT (PCD)

WHEREAS, the Planning Board of West Windsor adopted a Land Use Element of the Master Plan on February 12, 2020 (2020 Land Use Plan Element); and

WHEREAS, the 2020 Land Use Plan Element recommends a Planned Commercial District encompassing lots commonly referred to as the Howard Hughes Tract which are identified by municipal tax records as Block 8 Lots 1, 2, 2 (QFarm), 3, 16, 20, 28, 32.01, 39, 40, 41, 45, 46, and 49 as well as Block 15.14 Lots 18, 18 (QFarm), 19, 19 (QFarm), 20, 20 (QFarm), 22 (QFarm), 26 (QFarm), and 75; and

WHEREAS, the 2020 Land Use Plan Element recommends a variety of research, industrial, and commercial land uses to be permitted in this PCD; and

WHEREAS, the intent of the PCD is to support a wide variety of nonresidential uses to facilitate the redevelopment of the tract, while also ensuring that any such development will be complementary to the surrounding area, protect existing environmental constraints, minimize undue strain on the Township's community facilities, and avoid any substantial adverse impacts to the existing traffic and circulation patterns of Clarksville Road, Quakerbridge Road, and the US Route 1 corridor.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of West Windsor, County of Mercer, State of New Jersey, as follows:

Section 1. Chapter 200 of the Code of the Township of West Windsor (1999), Land Use, Part 1, Site Plan Review, Article II, Terminology, Section 200-4, Definitions, Subsection B is amended by adding the following NEW definitions.

DISTILLERY – A facility which produces by distillation spirits for consumption, the sales and distribution of which are subject to regulation by the State of New Jersey.

OUTPATIENT SURGICAL FACILITY – A facility providing surgical treatment to patients not requiring hospitalization. It is not part of a hospital but is organized and operated to provide medical care to out-patients. Patients shall be served solely on an out-patient basis, and no patients shall be kept overnight on the premises.

PERFORMING ARTS FACILITY – A multi-use establishment that is intended for use by various types of the performing arts, including but not limited to dance, music, and theater.

PET DAY CARE FACILITY – A facility where dogs, cats, and other domestic household pets are temporarily boarded for pay or remuneration of any sort. A pet day care service is distinguished from a kennel in that pets are typically boarded for the day,

although overnight may be available. A pet day care establishment may also offer accessory services, such as retail sales of pet care supplies, veterinary services, and animal grooming. The breeding and/or selling of animals at these facilities is not permitted.

SPA – A commercial establishment offering health and beauty treatment through such means as steam baths, message, and similar services.

WINERY – A licensed facility comprising the building or buildings used to convert fruit or fruit juices to wine, and to age, bottle, store, distribute, and sell said wine. A winery includes crushing, fermenting and refermenting, bottling, blending, bulk and bottle storage, aging, shipping, receiving, laboratory equipment and maintenance facilities, sales, and administrative office functions, and may include tasting and promotional events.

Section 2. Chapter 200 of said Code, Land Use, Part 4, Zoning, Article XXVI, Titles, Purposes, Establishment of Districts; General Conditions, Section 200-143, Zoning Map, is amended to read as follows:

The boundaries of said zoning district is hereby established as shown on the Zoning Map, Township of West Windsor, dated August 17, 2020, and revised through _____, which, with all explanatory matter thereon, is hereby adopted and made part of this Part 4. An official copy of said Map, indicating the latest amendments shall be kept up-to-date in the office of the Land Use Manager for the use and benefit of the public and shall have the most current revision date shown thereon. The Zoning Map for that shall be the official reference as to the current zoning classification of the land within the boundaries of the Township of West Windsor.

Section 3. Chapter 300 of the Code of the Township of West Windsor (1999), Land Use, Part 4, Zoning, Article XXVIII, Regulations for Business Districts, Section 200-207.3, PCD Planned Commercial District use regulations, is hereby created as follows.

§ 200-207.3 PCD Planned Commercial District use regulations.

- A. Intent. The intent of the PCD is to support a wide variety of nonresidential uses to facilitate the redevelopment of the tract, while also ensuring that any such development will be complementary to the surrounding area, protect existing environmental constraints, minimize undue strain on the Township's community facilities, and avoid any substantial adverse impacts to the existing traffic and circulation patterns of Clarksville Road, Quakerbridge Road, and the US Route 1 corridor. Retail, service commercial, entertainment and hospitality uses are to be located along Quakerbridge Road and US Route 1 in order to maintain the commercial character of those corridors. Warehouse and distribution uses are encouraged within the remainder of the district. The PCD is also intended to

promote an attractive comprehensive integrated design and encourage a high level of investment.

- B. Permitted uses. In the PCD, no building or premises shall be used and no building shall be erected or altered which is arranged, intended, or designed to be used except for one or more of the following uses, and all such uses shall be subject to the performance standards set forth in Part 1, Site Plan Review, of this chapter unless otherwise noted.
- (1) General, corporate, administrative, and professional offices.
 - (2) Research, testing, analytic laboratories.
 - (3) Product development laboratories.
 - (4) Pilot plant facilities.
 - (5) Warehousing and distribution facilities.
 - (6) Finishing and assembly of products.
 - (7) Limited manufacturing.
 - (8) Data processing and computer centers.
 - (9) Business support uses.
 - (10) Banks with or without drive-through lanes.
 - (11) Retail stores and shops.
 - (12) Personal service establishments.
 - (13) Restaurants, including but not limited to establishments offering indoor dining, outdoor dining, take out, delivery, curbside pickup, and drive-through lanes.
 - (14) Taverns offering alcoholic beverages for sale and consumption on the premises.
 - (15) Brew pubs.
 - (16) Fast food restaurants with or without drive-through lanes.
 - (17) Gas stations in conjunction with a convenience store and/or vehicle wash.
 - (18) Health clubs.
 - (19) Fitness centers.
 - (20) Commercial recreation facilities.
 - (21) Spas.
 - (22) Performing art facilities.
 - (23) Legitimate theaters.
 - (24) Motion-picture theaters.
 - (25) Cultural facility buildings or structures.
 - (26) Hotels with one hundred (100) or more guest rooms.

- (27) Conference centers.
 - (28) Child care centers.
 - (29) Senior day care centers.
 - (30) Medical offices.
 - (31) Urgent care medical facilities.
 - (32) Outpatient surgical facilities.
 - (33) Breweries.
 - (34) Wineries.
 - (35) Distilleries.
 - (36) Veterinary clinics.
 - (37) Pet day care facilities.
 - (38) Mixed use planned developments pursuant to Section 200-209A.(8), except for affordable housing.
 - (39) A community landmark sign serving as a gateway to the community and which may include an electronic sign with changeable type, which shall display information regarding municipal, civic, and community events as well as emergency messaging. It may also display on-premises and off-premises advertising.
 - (40) Any existing wastewater treatment plant or electrical substation which existed prior to the date of the adoption of this ordinance.
 - (41) Any kennel which existed prior to the date of the adoption of this ordinance.
 - (42) Any combination of the above permitted uses in one or more principal buildings on a lot.
- C. Accessory uses. In the PCD, the following uses may be permitted as accessory uses.
- (1) Accessory uses and accessory buildings incidental to the above uses located on the same lot and within the same zoning district permitting the principal use.
 - (2) Outdoor and rooftop dining for restaurants, hotels, taverns, breweries, brewpubs, and wineries.
 - (3) A restaurant or cafeteria primarily for supplying meals only to employees and guests of the principal use.
 - (4) In-service training schools for employees.
 - (5) Custodial living quarters.
 - (6) Indoor and outdoor recreation facilities, provided that all such accessory buildings and uses shall be planned as an integral part of the principal use.

- (7) Assembly halls for meetings incidental to the business of the principal use.
 - (8) Maintenance, utility, and storage facilities incidental to the principal use.
 - (9) Guard houses.
 - (10) Public and private utility (e.g. electric, gas, telephone, cable, water, sewer, etc.) substations, electric and gas facilities to service the permitted uses. Such facilities shall be subject to the requirements contained in Article XXVII, Section 200-156B, except that the requirements of Section 200-156B(6)b shall not apply.
 - (11) Electric vehicle charging stations.
- D. Conditional uses. In the PCD, the following uses may be permitted as conditional uses.
- (1) Transmission lines, transmitting and receiving antennae or aerials subject to the requirement set forth in Article XXVII, Section 200-156B.
 - (2) Public utilities (e.g. electric, gas, telephone, cable, water, sewer, etc.) substation, electric and gas facilities subject to the requirements contained in Article XXVII, Section 200-156B, except those utilities which are necessary to service the permitted uses.

Section 4. Chapter 200 of the Code of the Township of West Windsor (1999), Land Use, Part 4, Zoning, Article XXVIII, Regulations for Business Districts, Section 200-207.4, PCD Planned Commercial District bulk and area regulations, is hereby created as follows.

§ 200-207.4 PCD Planned Commercial District bulk and area regulations.

- A. Minimum lot area: None.
- B. Minimum lot frontage: 300 feet.
- C. Minimum lot width: 300 feet.
- D. Minimum lot depth: None.
- E. Minimum front yards:
 - (1) Along Quakerbridge Road: 50 feet.
 - (2) Along Clarksville Road: 100 feet.
 - (3) Along US Route 1: 100 feet.
 - (4) Along proposed roads generally consistent with the Master Plan: 100 feet.
 - (5) Along other roadways: 50 feet.
- F. Minimum rear yard: 40 feet.
- G. Minimum side yard:
 - (1) For buildings less than or equal to 40 feet in height: 25 feet.
 - (2) For buildings greater than 40 feet in height: 40 feet.
- H. Yards abutting residential districts. The above yards shall be increased by 25 feet in those instances where they abut, in whole or in part, a residential zone district or lot line.
- I. Minimum building setback from US Route 1 or Quakerbridge Road for warehouse and distribution facilities: 300 feet.
- J. Minimum distance between buildings: 25 feet.
- K. Maximum improvement coverage: 70%
- L. Maximum building height:
 - (1) The maximum building height shall be three (3) stories and forty-five (45) feet for all uses except warehouse and distribution facilities as well as hotels located along US Route 1.
 - (2) The maximum building height shall be two (2) stories and sixty (60) feet for warehouse and distribution facilities.
 - (3) The maximum building height shall be six (6) stories and seventy-five (75) feet for hotels along US Route 1 provided that:

- (a) Four (4) or more storied buildings shall be located only within a band one thousand and eight hundred (1,800) feet in width as measured from the right of way line of US Route 1.
- (b) The minimum setback requirements shall be increased an additional three (3) feet of setback for one (1) foot of building height which exceeds forty-five (45) feet.

M. Maximum Retail Building Space.

- (1) The maximum size of a retail building shall be twenty-five thousand (25,000) square feet.
- (2) The total combined retail area of the PCD shall not exceed one hundred and fifty thousand (150,000) square feet, not including restaurants and/or shops associated with the hotel use.

N. Parking in yards. Parking shall be permitted in the front, rear, and side yard setbacks subject to the following:

- (1) Parking lots shall maintain a twenty-five (25) foot minimum grassed or landscaped separation on each lot to an adjoining lot, except that a seven and one-half (7.5) foot minimum grass or landscaped separation on each lot may be provided in those instances where a warehouse and distribution facility abuts an adjacent warehouse and distribution facility.
- (2) Parking shall not be permitted in any landscape buffer required by this chapter.

O. Parking for warehouse and distribution facilities. Parking at warehouse and distribution facilities shall be computed as the sum of the parking required for the floor area of the facility used as office space plus the parking required for the floor area of the building used for warehousing or distribution space. The parking ratios to be used in this computation are as follows:

- (1) One (1) space for each five thousand (5,000) square feet of building floor area devoted to warehousing and/or distribution space.
- (2) One (1) space for each two hundred and fifty (250) square feet of building floor area that is devoted to office space.

P. PCD Performance Standards. All uses permitted in the PCD shall be subject to the performance standards set forth in Part 1, Site Plan Review, of this chapter, except as modified below.

- (1) The provisions of Section 200-36.1 shall not apply to warehouse and distribution facilities. The provisions of Section 200-36.1 shall apply to all other uses, except that sidewalks in the PCD may be constructed of impervious materials.
- (2) The provisions of Section 200-28.D(1) shall not apply.

- (3) Parking and loading is permitted between the fronts of buildings and the street line. No parking is permitted within any landscaped buffer as required herein.
 - (4) Aisles for the movement and circulation of vehicles shall be permitted in all yard setback areas. No aisle, except those required for access into and out of the site, shall be permitted in landscaped buffer as required herein.
 - (5) Trailer parking spaces and loading docks shall be permitted within building yard setbacks for warehouse and distribution facilities.
 - (6) Acceleration and deceleration lanes shall not be required at warehouse and distribution facility entrances along the master plan road located between US Route 1 and Quakerbridge Road.
 - (7) Impervious cover, including but not limited to buildings, sidewalks, or other constructed surface, shall be permitted within two hundred (200) feet of the centerline of any stream, ditch, or watercourse not identified on Attachment A. The construction of any such impervious cover shall be in accordance with all outside agency regulations as applicable.
 - (8) Existing trees may be removed in accordance with all outside agency regulations and pursuant to site plan approval.
 - (9) Bicycle parking shall not be required for warehouse and distribution facilities.
- Q. Additional standards pertaining to banks and fast-food restaurants with drive-through lanes. The following additional standards shall apply to drive through lanes in the PCD.
- (1) The minimum distance between the edge of a drive-through lane and any property line shall be thirty (30) feet, or fifty (50) feet if the property adjoins a residential district.
 - (2) Direct access to and from drive-throughs shall not be permitted from public streets. Such access shall be provided from within the lot or the internal road system servicing the primary use. Ingress and egress points shall be coordinated so as not to impede the main traffic flow to, from, or passing by the drive-through lanes.
 - (3) For banks, no more than four (4) drive-through teller windows shall be provided, not including an ATM drive-up lane.
- R. Additional standards pertaining to veterinary clinics. The following additional standards shall apply to veterinary clinics in the PCD.
- (1) The veterinary clinic building shall be sited at least one hundred and fifty (150) feet from any residential use or zoning district.
 - (2) Buildings housing animals shall be soundproofed to a maximum transmission of 65 dB measured on the outside of the exterior wall. Other soundproofing requirements may be imposed by the board of jurisdiction,

such as, but not limited to the following: non-opening windows and forced-air ventilation, solid core doors and sound-absorbent ceilings.

- (3) Proper and ample ventilation of all animal areas in buildings shall be demonstrated to the satisfaction of the board of jurisdiction and shall meet all state licensing requirements.
- (4) Animals may be kept overnight for medical reasons only.
- (5) Animals shall be housed indoors and may be allowed outside only for short periods under staff supervision for hygienic or medical reasons. When they are outside, they shall be kept in a completely enclosed area.
- (6) A maximum percentage of floor area for overnight holding of animals shall be limited to 30% of the gross floor area of the veterinary clinic/hospital building.
- (7) No cremation or disposal of dead animals is allowed on the premises. Disposal of used and contaminated veterinary medical supplies shall meet low-level hazardous waste disposal requirements.
- (8) The curbing of pets shall be addressed.

S. Additional standards pertaining to pet day care facilities. The following additional standards shall apply to pet day care facilities in the PCD.

- (1) All buildings and structures, including outdoor play areas or other enclosures in which the animals are to be kept, shall be located at least one hundred fifty (150) feet from any residential use or zoning district.
- (2) Buildings housing animals shall be soundproofed to a maximum transmission of 65 dB measured on the outside of the exterior wall. Other soundproofing requirements may be imposed by the board of jurisdiction, such as, but not limited to the following: non-opening windows and forced-air ventilation, solid core doors and sound-absorbent ceilings.
- (3) All buildings shall be of adequate construction, maintained in good repair, and secured in order to protect animals from injury or escape.
- (4) Proper and ample ventilation of all animal areas in buildings shall be demonstrated to the satisfaction of the board of jurisdiction and shall meet all state licensing requirements.
- (5) All animals housed in the facility shall be kept within the confines of a building between the hours of 9:00 p.m. and 8:00 a.m.
- (6) Outdoor facilities:
 - (a) A wall or fence shall be installed to secure the pets from other domestic animals and unauthorized individuals.
 - (b) Outdoor animal areas shall be sufficient to protect the animal from sunlight, rain, snow or weather detrimental to the animal's health or shall allow indoor access.

- (c) Provisions shall be made for the removal and proper disposal of animal food, waste, bedding, and debris.
- (d) All outdoor areas where animals are kept shall have impermeable flooring that can easily be cleaned and sanitized or shall have a minimum of six inches of animal-appropriate gravel which is replaced on a regular schedule which is consistent with the maintenance of sanitary conditions.

T. Additional standards pertaining to community landmark signs. The following additional standards shall apply to community landmark signs in the PCD.

- (1) One (1) Community Landmark Sign shall be permitted along Quakerbridge Road, and one (1) Community Landmark Sign shall be permitted along the US Route 1 corridor
- (2) A Community Landmark Sign shall serve as a gateway sign into the community and as such, such sign shall provide sufficient availability for community information.
- (3) A Community Landmark Sign shall provide availability and display time for municipal, civic or emergency messaging use and may display on-premises and off-premises advertising.
- (4) The nearest edge of the Community Landmark Sign display face shall have a setback of thirty-five (35) feet from any right-of-way.
- (5) No Community Landmark Sign shall exceed fifty (50) feet in height measured from the top of the sign to the grade at the base of the sign.
- (6) Each Community Landmark sign may have up to two display faces, placed either back to back or in a V-shaped configuration. Each display face shall have a maximum area of three hundred and seventy-eight (378) square feet.
- (7) Community Landmark Signs shall be permitted to operate twenty-four (24) hours a day.
- (8) All message or copy change of the Community Landmark Sign display face shall be instantaneous. Scrolling, fading, animated, flashing or moving messages or copy is prohibited. No display face shall change message or copy more than once every eight (8) seconds.
- (9) A Community Landmark Sign display face may not message or advertise adult or sexually oriented businesses or materials, hate speech, or use any form of profane language or promotion of any message that would be obscene in nature.
- (10) All Community Landmark Signs shall incorporate ambient light sensors that measure the levels of surrounding light and automatically reduce the intensity of illumination during periods of darkness or increase the intensity of illumination during periods of brightness. No Community

Landmark Sign display face shall exceed a maximum illumination intensity of 500 nits during nighttime hours (dusk until dawn) and 7,500 nits during daytime hours (dawn until dusk) when the display face is in direct sunlight. A Community Landmark Sign display face shall not spill light or glare exceeding 0.3-foot candles of light above the ambient light level.

- (11) The architecture of a Community Landmark Sign shall incorporate visual art or architecture elements in addition to its messaging function thereby creating a unique or distinctive architectural design. A Community Landmark Sign design shall incorporate one or more of the following architectural elements: natural or reproduced stone, stucco, wood, brick, ornamental iron or decorative steel. Any Community Landmark Sign design that incorporates landscaping shall require the operator (the entity, person, or individual who owns the New Jersey Department of Transportation outdoor advertising sign permit for the specific Community Landmark Sign display area) to permanently maintain the landscaping. The owner or operator of the Community Landmark Sign shall continuously maintain the structure and surrounding associated area. The Township may require a Community Landmark Sign to display the name of the municipality, county or local identifiable community area as part of the structure.
- (12) Community Landmark Signs shall not be considered a principal use or structure on a lot and shall be allowed on lots that already have principal uses or structures.

U. Buffers. Landscape buffers in the PCD shall be provided as follows.

- (1) Landscape transition buffer. A landscape transition buffer of not less than twenty-five (25) feet in width shall be provided and maintained by the owner or lessee of a property between any nonresidential use and contiguous residentially zoned districts.
- (2) A landscape buffer of fifty (50) feet in width shall be provided along US Route 1 and Quakerbridge Road.
- (3) A landscape buffer of seventy-five (75) feet shall be provided along Clarksville Road.
- (4) A landscape buffer of twenty-five (25) feet shall be provided along the master plan road located between US Route 1 and Quakerbridge Road.
- (5) No parking or loading shall be permitted in a landscape buffer.
- (6) Yard requirements shall be deemed to be counted as part of the landscape buffer area. Where yard areas are less than the required buffer area, they shall be increased accordingly.

- (7) Suitably landscaped and bermed stormwater basins in the PCD may be located within any yard setbacks or landscaped buffers required by this Chapter, provided that a maximum of fifty percent (50%) of the basin may be located within the buffer area.

Section 5. In the event of any conflict between the provisions and requirements of this section and the provisions and requirements of any other section of this chapter, the provisions and requirements of this section shall govern.

Section 6. This ordinance shall take effect twenty days after action or inaction by the Mayor as approved by law, or an override of a mayoral veto by the Council, whichever is applicable; upon filing with the Mercer County Planning Board; and upon publication according to law.

Introduction: November 30, 2020

Planning Board Approval:

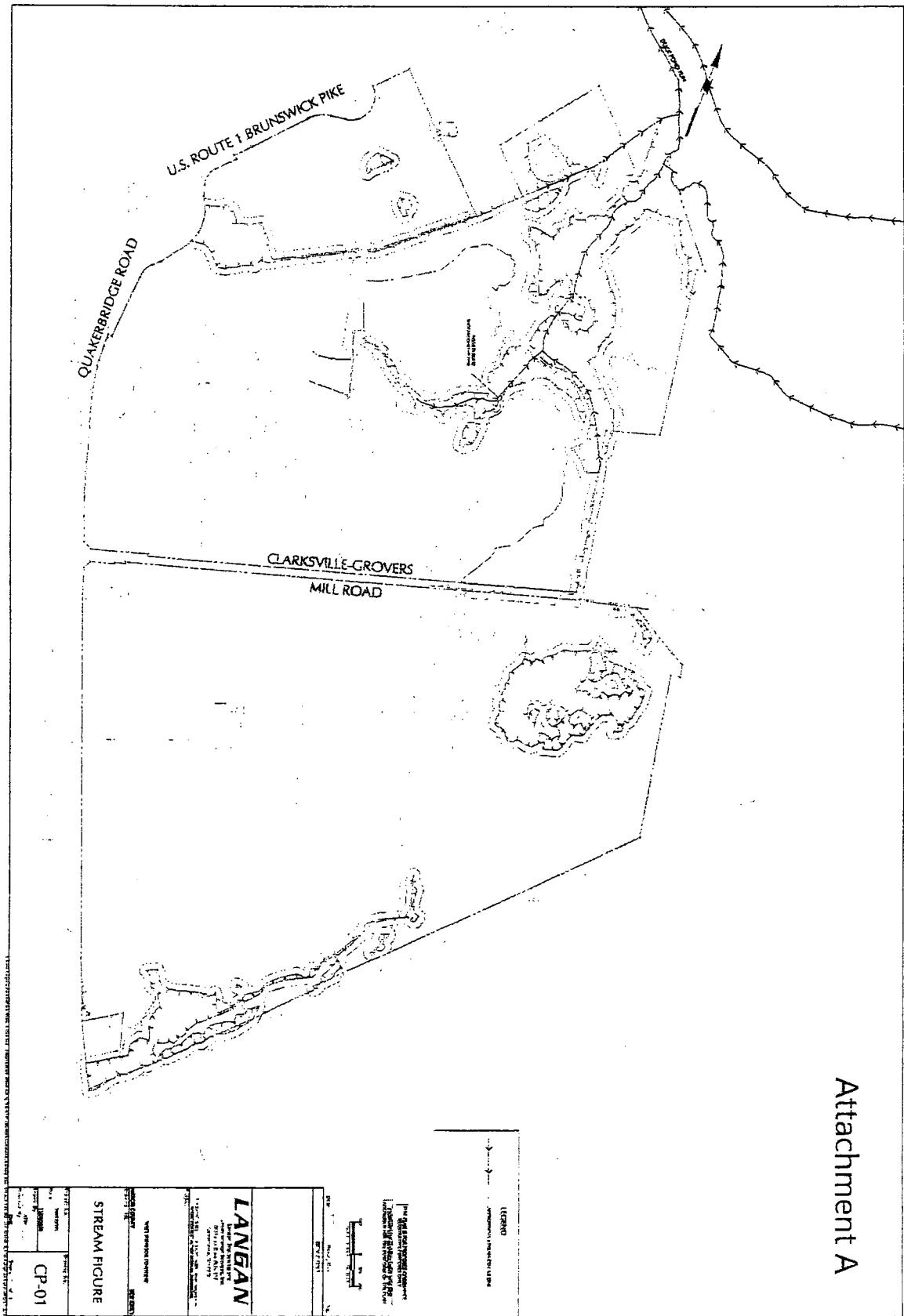
Public Hearing:

Adoption:

Mayor Approval:

Effective Date:

Attachment A



EXHIBIT

F

Kenneth D. McPherson, Jr., Esq. (Attorney ID No. 028501982)
Jessica CM Almeida, Esq. (Attorney ID No. 058132013)
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Attorneys for Intervener/Appellant, Atlantic Realty

: SUPERIOR COURT OF NEW JERSEY
: APPELLATE DIVISION
: Docket No.: A-005412-18 T2
:
: Civil Action
:
: ON APPEAL FROM THE SUPERIOR
: COURT OF NEW JERSEY, LAW
: DIVISION, MERCER COUNTY
:
**(Mount Laurel Declaratory
Judgement Action)** : DOCKET NO. MER-L-1561-15
:
: Sat Below: Hon. Mary C.
: Jacobson, A.J.S.C.
:
:
:

STIPULATION OF SETTLEMENT OF APPEAL

WHEREAS the captioned appeal ("the Appeal") was commenced by Notice of Appeal, filed by Intervener-Appellant Atlantic Realty Development Corporation ("Atlantic"), on August 14, 2019, seeking relief from the Orders of the Trial Court below, dated January 11, 2019 and July 2, 2019, entered in Plaintiff-Respondent Township of West Windsor's ("Township") Mount Laurel IV Declaratory Judgment action, commenced under the caption: I/M/O Declaratory Judgment Action of Township of West Windsor, Mercer County Superior Court,

Law Division, assigned Docket No. MER-L-1561-15 ("Township DJ Action"),

WHEREAS the foregoing orders now on appeal, respectively:

- a) Approved the Township's settlement agreement with Intervener-Respondent Fair Share Housing Center ("FSHC") following Settlement/Fairness Hearing, through which the Township and FSHC stipulated, subject to Court review, to a Township Housing Element and Fair Share Plan ("HEFSP") in satisfaction of the Township's constitutional affordable housing obligation, as set forth in order dated January 11, 2019 on appeal; and
- b) Granted the Township Judgment of Immunity and Repose from Builder's Remedy suits, through Order now on appeal dated July 2, 2019;

WHEREAS within the Appeal, Atlantic filed an appeal Case Information Statement, Appeal Brief, and Appendices with the Appellate Division, seeking, in substance, relief from the terms of the foregoing Orders, which, in effect, accept the Township's HEFSP without inclusion of certain properties intended for development by Atlantic as inclusionary housing sites, located within the Township, respectively referred to as:

- a) the H&B Site, comprised of approximately 28 acres, located in the Eastern quadrant of the Township, more specifically

identified in Atlantic's filings within the Township DJ Action, and

b) the Howard Hughes Corporation ("HHC") Site, comprising approximate 660 acre site, also located within the Township, with frontage on US Route 1 as also more specifically described in filings below, the rights to develop of the HHC Site having been acquired by Atlantic following the filing of the Appeal, with the Appellate Division thereafter entering orders recognizing Atlantic's appeal position as encompassing both the H&B and the HHC Sites;

WHEREAS, the Appeal was referred to the Civil Appeal Settlement Program ("CASP"), with Atlantic, the Township, and FSHC initially conferring before the Hon. Robert A. Fall, P.J.A.D. (Retired, Temporarily Assigned) as Parties submitting CASP Statements through their respective counsel, with Waters, McPherson, McNeill, P.C., appearing on behalf of Atlantic (Kenneth D. McPherson, Jr., attending), Miller, Porter and Muller, P.C., appearing on behalf of the Township (Gerald J. Muller, attending), with Intervener FSHC attending through its Counsel and Executive Director, Adam Gordon;

WHEREAS, in separate action commenced in Mercer County Superior Court Law Division, under the caption: Princeton Land, LLC v. The Township of West Windsor, Docket No. MER-L-1947-18,

relief from zoning of the HHC site was separately sought through Complaint filed September 13, 2018, along with related claims for land use relief, to which Atlantic succeeded as a Party-Plaintiff-in-Interest through order of substitution following Atlantic's aforesaid acquisition of rights to development of the HHC site ("the HHC Site Action") ,

WHEREAS, contemporaneously with the conduct of CASP process in the Appeal, principals for Atlantic and the Township directly conferred regarding the HHC Action, and with leave of the Assignment Judge presiding in the HHC Action, further settlement exchanges were conducted by Atlantic and the Township through their respective counsel, culminating in the Township and Atlantic's execution of a Stipulation of Settlement and Consent Order ("SCO") under the caption of the HHC Action, subject to both Township Council review thereof and adoption of approval resolution and entry of the SCO by the presiding Judge, with the entry and execution of the instant stipulation dismissing the Appeal ("Appeal Dismissal Stipulation") having been made a term and condition of Atlantic's and the Township's settlement of the HHC Action and the Appeal, both settlements together involving rezoning and use of the HHC Site and H&B Site;

WHEREAS, following the aforesaid CASP conference, Atlantic filed its principal brief and appendix for the Appeal pursuant to

Amended Appeal Brief Scheduling Order, with dates for further responding briefing in the Appeal being suspended by the presiding CASP Judge at the joint request of Atlantic and the Township pending further settlement discussion;

WHEREAS, Atlantic and the Township have further conferred, and, on notice to FSHC, have reached agreement memorialized herein ("Appeal Settlement Stipulation") for the disposition of the Appeal and settlement of appeal issues regarding the HHC Site and H&B Site addressed herein;

IT IS on this _____ day of _____, 2020, therefore further stipulated and agreed by Atlantic, the Township, and FSHC, as follows:

1. Atlantic shall sign, through counsel, a stipulation dismissing the Appeal with prejudice, in the form attached hereto as Exhibit A ("Appeal Dismissal Stipulation"), immediately dismissing the Appeal upon Township adoption and publication of a resolution by the Municipal Council of the Township ("Settlement Resolution"), authorizing and directing:

a) the Township's execution, through counsel, and delivery to counsel for Atlantic, of a Township counterpart of both the instant Appeal Settlement Stipulation , executed on behalf of the Township, together with execution and delivery of a

Township counterpart of the aforesaid SCO, resolving the HHC Action under terms and conditions stated therein; and

b) the Township Council's introduction of proposed zoning code, in form attached hereto as Exhibit B, for consideration, within time provided for within the SCO, together with the recommendations and pertinent advices of: the Township Planner, the Township Civil Engineer, and Township Real Estate Manager), as proposed new zoning of the H&B site which, subject to further action of the Township Council, would be adopted, allowing improvement of the H&B Site for uses consistent with the H&B Site concept plan attached to this Appeal Settlement Stipulation as Exhibit C hereto ("H&B Site Non-Residential Rezoning"), with the Settlement Resolution further resolving that due consideration shall be given to H&B Site Non-Residential Rezoning without necessity of additional studies thereof, at regularly scheduled meeting, or as soon thereafter that the that H&B Site Non-Residential Rezoning may be attend to, within the time frames contemplated within the SCO;

2. Upon publication of the Settlement Resolution, Atlantic shall deliver to counsel for the Township, the executed Appeal Dismissal Stipulation, to be held in escrow by counsel for the Township for filing with the Clerk of Appellate Division,

immediately upon the Presiding Judge's entry of the SCO in the HHC Action on prompt application by Atlantic for entry of the SCO pursuant to the terms thereof, and exchange of executed counterparts of the instant Appeal Dismissal Stipulation;

3. Atlantic further stipulates and agrees herein that the Township Council's timely adoption of H&B Site Non-Residential Rezoning by final non-appealable Ordinance, through meetings of the Township Council scheduled within the timeframe contemplated within the SCO, shall constitute and effectuate a self-executing release of all claims of Atlantic and any successors thereof, to residential uses of the H&B site, binding Atlantic to acceptance of the H&B Site Non-Residential Rezoning as authorized uses of the H&B Site;

4. In the event that H&B Site Non-Residential Rezoning shall not be timely adopted as final and non-appealable Ordinance ("Failure of H&B Site Non-Residential Rezoning"), Atlantic shall nonetheless remain bound by the Appeal Dismissal Stipulation, and Atlantic's sole recourse with respect to the H&B Site shall be regularly available petitioning of municipal government for zoning revision, and/or litigating for rezoning of the H&B Site and other related legal and equitable relief, with the prior entry of the Appeal Dismissal Stipulation and Settlement Resolution being without prejudice to the Township in such event, with the Township

retaining all available legal defenses to any action by Atlantic hereunder. (While the entry of the Appeal Dismissal Stipulation shall preclude Atlantic from contesting either the settlement of the Township's total affordable unit obligation or the award of immunity from Builder's Remedy suits within the Township Declaratory Judgment Action, in the event of Failure of H&B Site Non-Residential Rezoning, Atlantic may participate in annual and midpoint reviews of Township progress with implementation of the HEFSP and may advocate for authorization of inclusionary housing on the H&B Site as a remedy for any insufficiency of Township advancement of the HESFP, as may be determined by the Judge presiding in the Township DJ Action, with the Township retaining all defenses and responses thereto otherwise available to it.); and

5. **Counterparts.** This Appeal Settlement Stipulation and may be signed in counterparts with service of an electronic reproduction thereof being effective as though it were an original.

Waters, McPherson, McNeill, P.C.
Counsel for Intervener-Appellant
Atlantic Realty Development Corporation

By: /s/ Kenneth D. McPherson Jr.
Kenneth D. McPherson, Jr.

Dated: _____

Miller, Porter, and Muller
Special Counsel to Plaintiff-Respondent
Township of West Windsor

By: Gerald J. Muller
Gerald J. Muller, Esq.
Dated: _____

Fair Share Housing Center
Intervener-Respondent
Counsel of Record and
Executive Director

By: _____
Adam M. Gordon, Esq.

Dated: _____

1206443.1

EXHIBITS TO BE APPENDED

EXHIBIT A	Appeal Dismissal Stipulation
EXHIBIT B	Settlement Zoning Code for H&B Site
EXHIBIT C	H&B Site Concept Plan

Exhibit A

Kenneth D. McPherson, Jr., Esq. (Attorney ID No. 028501982)
Jessica CM Almeida, Esq. (Attorney ID No. 058132013)
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Tel. (201) 863-4400
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jalmeida@lawwmm.com
Attorneys for Intervener/Appellant, Atlantic Realty

I/M/O THE TOWNSHIP OF : SUPERIOR COURT OF NEW JERSEY
WEST WINDSOR : APPELLATE DIVISION
: Docket No.: A-005412-18 T2
: :
: Civil Action
: :
: ON APPEAL FROM THE SUPERIOR
: COURT OF NEW JERSEY, LAW
: DIVISION, MERCER COUNTY
(Mount Laurel Declaratory : DOCKET NO. MER-L-1561-15
Judgement Action) :
: Sat Below: Hon. Mary C.
: Jacobson, A.J.S.C.
:
: STIPULATION OF DISMISSAL OF
: APPEAL PURSUANT TO RULE 2:8-2

The matters in the above-captioned appeal ("the Appeal") that Intervener-Appellant, Atlantic Realty Development Corporation ("Atlantic") had placed in dispute with Plaintiff-Respondent Township of West Windsor ("Township") and Intervener-Respondent Fair Share Housing Center ("FSHC"), by filing of the instant Appeal seeking relief of Orders entered before the Trial Court, which among other things, approved agreement between the Township and FSHC settling the Township's Mount Laurel inclusionary housing obligation from which the Appeal was taken by Atlantic, having now

been amicably adjusted, with the consent of the Township and FSHC, memorialized through execution of the instant stipulation by respective counsel below, and, on notice to all other Parties of record below through e-Court's filing of the instant stipulation of dismissal, pursuant to Rule 2:8-2, Atlantic does hereby dismiss the Appeal with prejudice and without costs.

Waters, McPherson, McNeill, P.C.
Counsel for Intervener-Appellant
Atlantic Realty Development Corporation

By: /s/ Kenneth D. McPherson Jr.
Kenneth D. McPherson, Jr.

Dated: _____, 2020

Miller, Porter, and Muller
Special Counsel to Plaintiff-Respondent
Township of West Windsor

By: Gerald J. Muller
Gerald J. Muller, Esq.
Dated: _____, 2020

Fair Share Housing Center
Intervener-Respondent
Counsel of Record and
Executive Director

By: _____
Adam M. Gordon, Esq.

Dated: _____, 2020

1185418.3

Exhibit B

ORDINANCE 2020-24

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 200 OF THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999) BY MODIFYING PROVISIONS PERTAINING TO THE ROM-3 INDUSTRIAL DISTRICT – (Research, Office, Limited Manufacturing)

WHEREAS, the Planning Board of West Windsor adopted a Land Use Element of the Master Plan on February 12, 2020 (2020 Land Use Plan Element); and

WHEREAS, the 2020 Land Use Plan Element recommends expanding the list of permitted uses in the ROM-3 District to include self-storage and warehousing; and

WHEREAS, the intent of the ROM-3 District is to promote a high-quality level of development at a scale that will also provide substantial compatibility with the residential and agricultural nature of the surrounding area, protect any associated existing or proposed areas of Township Greenbelt and limit both environmental impacts and potential conflicts with surrounding neighborhoods to the greatest degree possible.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of West Windsor, County of Mercer, State of New Jersey, as follows:

Section 1. Chapter 300 of the Code of the Township of West Windsor (1999), Land Use, Part 4, Zoning, Article XXIX, Regulations for Research/Office/Manufacturing, Research/Office and Research and Development Districts, Section 200-213, ROM-3 Industrial District (research, office, limited manufacturing) use regulations, is hereby amended as follows. Added text is underlined, and text being eliminated is ~~struck-through~~.

§ 200-213 ROM-3 Industrial District (research, office, limited manufacturing) use regulations.

- A. Permitted uses. In an ROM-3 District, no building or premises shall be used and no building shall be erected or altered which is arranged, intended or designed to be used except for one or more of the following uses, and all such uses shall be subject to the performance standards set forth in Part 1, Site Plan Review, of this chapter.
 - (1) All those permitted uses as listed for an ROM-2 District.
 - (2) Research-office. Limited manufacturing park developments, notwithstanding any other requirements of this chapter, shall be subject to those special requirements as listed herein for a ROM-1 Park District, except as changed herein:
 - (a) Minimum park area: 12 acres in contiguous parcels.
 - (b) Minimum lot area: three acres.

(c) Minimum park and lot frontage: 250 feet.

(d) Maximum building height: three stories, but not to exceed 45 feet.

(3) Warehousing and distribution facilities.

(4) Finishing and assembly of products.

(5) Self-storage facilities.

B. Accessory Uses. In the ROM-3 District, the following uses may be permitted as accessory uses.

(1) Accessory uses and accessory buildings incidental to the above uses located on the same lot and within the same zoning district permitting the principal use.

(2) Uses and buildings incidental to permitted uses within the same zoning district permitting the principal use.

(3) A restaurant or cafeteria primarily for supplying meals only to employees and guests of the principal use.

(4) In-service training schools for employees.

(5) Custodial living quarters.

(6) Indoor and outdoor recreation facilities, provided that all such accessory buildings and uses shall be planned as an integral part of the principal use.

(7) Assembly halls for meetings incidental to the business of the principal use.

(8) Maintenance, utility and storage facilities incidental to the principal use.

(9) Guard houses.

(10) Public and Private utility (e.g., electric, gas, telephone, cable, water, sewer, etc.) substations, electric and gas facilities to service the permitted uses. The facilities shall be subject to the requirements contained in Article XXVII, §200-156B, except that the requirement of 200-156B(6)b shall not apply.

(11) Electric vehicle charging stations.

B. C. Conditional uses. In an ROM-3 District, the following uses may be permitted as conditional uses:

(1) Any use permitted by condition in an ROM-2 District, with the exception of §§ 200-211B(3).

(2) Transmission lines, transmitting and receiving antennae or aerials subject to the requirement set forth in Article XXVII, Section 200-156B.

(3) Public utilities (e.g. electric, gas, telephone, cable, water, sewer, etc.) substation, electric and gas facilities subject to the requirements contained in Article XXVII, Section 200-156B, except those utilities which are necessary to service the permitted uses.

Section 2. Chapter 300 of the Code of the Township of West Windsor (1999), Land Use, Part 4, Zoning, Article XXIX, Regulations for Research/Office/Manufacturing, Research/Office and Research and Development Districts, Section 200-214, ROM-3 District bulk and area regulations, is hereby amended as follows. Added text is underlined, and text being eliminated is struck through.

§ 200-214 ROM-3 Industrial District (research, office, limited manufacturing) use regulations.

The following shall be the standards for the ROM-3 District

- A. Minimum lot area: five acres.
- B. Minimum lot area for warehouse and distribution facilities: twenty-five (25) acres.
- B. C. Minimum lot frontage: 300 feet.
- C. D. Minimum lot width: 300 feet.
- D. E. Minimum lot depth: not applicable.
- E. F. Minimum Yards
 - (1) Front yard: 125 feet, with a seventy-five foot landscape area at the street right of way.
 - (2) Rear yard: 40 feet.
 - (3) Side yard: There shall be two side yards with a minimum of 40 feet each.
 - (a) For buildings less than or equal to forty (40) feet in height: twenty-five (25) feet.
 - (b) For buildings greater than forty (40) feet in height: forty (40) feet.
 - (c) For warehouse and distribution facilities, a side yard setback of three hundred (300) feet shall be provided from the westerly boundary line of the ROM-3 District.
 - (4) Yards abutting residential districts. The above yard, including the landscape transition buffer and screen requirements, shall be increased by 20 feet in those instances where they abut, in whole or in part, a residential district or lot line. Side and rear yards shall be increased by twenty-five (25) feet in those instances where they abut, in whole or in part, a residential zone district or lot line. This provision shall not apply to the aforementioned three hundred (300) foot setback from the westerly boundary line of the ROM-3 District established for warehouse and distribution facilities.
- G. Minimum distance between buildings: 25 feet.

F. H. Maximum FAR. There shall be no FAR for the ROM-3 District. The maximum permitted FAR shall be allowed to vary according to the following schedule, depending on the intended use and building height:

Primarily [†] Research/Office Uses [‡]	Maximum FAR
In one-story buildings	0.22
In multistory buildings	0.30
Primarily [†] Manufacturing/Warehousing Uses [‡]	Maximum FAR
In one-story buildings	0.30
In multistory buildings	0.40

NOTE:

[†]"Primarily" shall mean more than 80% of total building use on a lot. The maximum FAR shall be adjusted proportionately where less than 80% of the designated building uses are proposed for a lot.

G. I. Maximum improvement coverage: 50% 70%.

H. J. Maximum building height: three stories, but not to exceed 45 feet.

- (1) The maximum building height shall be three stories and forty-five (45) feet for all uses except warehouse and distribution facilities.
- (2) The maximum height shall be two (2) stories and forty-five (45) feet for warehouse and distribution facilities.

K. Parking in yards. Parking shall be permitted in the front, rear, and side yard setbacks subject to the following:

- (1) Parking lots shall maintain a twenty-five (25) foot minimum grassed or landscaped separation on each lot to an adjoining lot, except that a seven and one-half (7.5) foot minimum grass or landscaped separation on each lot may be provided in those instances where a warehouse and distribution facility abuts an adjacent warehouse distribution facility.
- (2) Parking shall not be permitted in any landscape buffer required by this chapter.

L. Parking for warehouse and distribution facilities. Parking at warehouse and distribution facilities shall be computed on a pro rata basis as the sum of the parking required for the floor area of the facility used as office space plus the parking required for the floor area of the building used for warehousing or distribution space. The parking ratios to be used in this computation are as follows:

- (1) One (1) space for each five thousand (5,000) square feet of building floor area devoted to warehousing and/or distribution space.
- (2) One (1) space for each two hundred and fifty (250) square feet of building floor area that is devoted to office space.

M. ROM-3 District Performance Standards. All uses permitted in the ROM-3 District shall be subject to the performance standards set forth in Part 1, Site Plan Review, of this chapter, except as modified below.

- (1) The provisions of Section 200-36.1 shall not apply to warehouse and distribution facilities. The provisions of Section 200-36.1 shall apply to all other uses, except that sidewalks in the ROM-3 District may be constructed of impervious materials.
- (2) The provisions of Section 200-28.D(1) shall not apply.
- (3) Parking and loading is permitted between the fronts of buildings and the street line. No parking is permitted within any landscaped buffer as required herein.
- (4) Aisles for the movement and circulation of vehicles shall be permitted in all yard setback areas. No aisle, except those required for access into and out of the site, shall be permitted within any landscaped buffer as required herein.
- (5) Trailer parking spaces and loading docks shall be permitted within building yard setbacks for warehouse and distribution facilities.
- (6) Existing trees may be removed in accordance with all outside agency regulations and pursuant to site plan approval.
- (7) Bicycle parking shall not be required for warehouse distribution facilities.

O. Buffers. Landscape buffers in the ROM-3 District shall be provided as follows.

- (1) A landscape buffer of seventy-five (75) feet shall be provided at the street line.
- (2) For warehouse and distribution facilities, a landscape buffer of one hundred (100) feet shall be provided from the westerly boundary line of the ROM-3 District.
- (3) No parking or loading shall be permitted in a landscape buffer.
- (4) Yard requirements shall be deemed to be counted as part of the landscape buffer area. Where yard areas are less than the required buffer area, they shall be increased accordingly.
- (5) Suitably landscaped and bermed stormwater basins in the ROM-3 District may be located within any yard setbacks or landscaped buffers required by this Chapter, provided that a maximum of fifty percent (50%) of the basin may be located within the buffer area.

Section 3. In the event of any conflict between the provisions and requirements of this section and the provisions and requirements of any other section of this chapter, the provisions and requirements of this section shall govern.

Section 4. This ordinance shall take effect twenty days after action or inaction by the Mayor as approved by law, or an override of a mayoral veto by the Council, whichever is applicable; upon filing with the Mercer County Planning Board; and upon publication according to law.

Introduction: November 30, 2020

Planning Board Approval:

Public Hearing:

Adoption:

Mayor Approval:

Effective Date:

571

Fill with GP-7
Approx. 8,800 sf
(0.20 ac.)

Fill with GP7
(if needed)

50 foot wetland transition
area (buffer)

Cannot Fill - Will also have 50' buffer
(eliminate or move parking)

50' foot wetland transition
area (buffer)

110'
109'
108'
107'
106'
105'
104'
103'
102'
101'
100'

301 100 st industrial building
0.63 block doors
2 drive-thru
70 trailer parking positions
345 car parking positions

Fill with GP7
(if needed)

60'
59'
58'
57'
56'
55'
54'
53'
52'
51'
50'
49'
48'
47'
46'
45'
44'
43'
42'
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11'
10'
9'
8'
7'
6'
5'
4'
3'
2'
1'
0'

Cannot Fill - Will also have 50' buffer
(eliminate or move trailer parking)

West Windsor Township
Block 23, Lot 5
27.86 acres
Option #5b