

# Housing Plan Element and Fair Share Plan

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Borough of Hopewell  
Mercer County, New Jersey

*June 4, 2025*

*Adopted:*

*June 4, 2025*

*Amended February 2026*

***Prepared by  
Hopewell Borough Land Use Board***

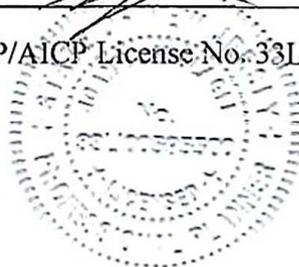
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The original of this report was signed and sealed  
in accordance with N.J.A.C. 13:41-1.3



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## EXECUTIVE SUMMARY

This amended Housing Element and Fair Share Plan sets forth the manner in which Hopewell Borough will address its cumulative affordable housing obligations through the fourth round based on the amended Fair Housing Act (FHA). A summary of the cumulative affordable housing obligations, certified units to date, and determination of Realistic Development Potential for the Borough are identified in Table 1:

**Table 1: Hopewell Borough's Cumulative Affordable Housing Obligation**

	<b>Number of Affordable Units</b>
2 <sup>nd</sup> Round obligation (Jacobson Decision)	+ 29
2 <sup>nd</sup> Round credits through RCA	- 9
3 <sup>rd</sup> Round Obligation (Jacobson Decision)	+ 101
4 <sup>th</sup> Round Present Need Obligation (rehabilitation)	0
4 <sup>th</sup> Round Obligation (DCA October Report)	+ 39
<b>Cumulative Obligation</b>	<b>=160</b>
Obligation Utilizing VLA/RDP	
Preliminary VLA/RDP Adjustment (To be Addressed Units)	32 (Round 3) 0 (Round 4)
Unmet Need (Cumulative Round)	128
Obligation (VLA/RDP + Unmet = Cumulative Obligation)	=160
Affordable Housing Credit 3 <sup>rd</sup> Round Credits addressing the VLA/RDP adjustment (deducted from cumulative obligation)	-32
<b>Remaining Cumulative Obligation (Unmet Need)</b>	<b>128</b>

## HOPEWELL BOROUGH'S AFFORDABLE HOUSING COMPLIANCE

This is Hopewell Borough's Fourth Round Fair Share Plan and Housing Plan Element. This Plan is part of the Borough's ongoing commitment and compliance to provide affordable housing and a diverse housing stock within the Borough. The Borough received first round certification on November 7, 1990, which the Borough had a zero (0) unit obligation. The Borough participated in the second round (1993-1999) receiving substantive certification on December 6, 2000, which was extended to December 6, 2006. The plan included an original affordable housing obligation of 37 units, which was reduced to 29 units based upon an approved vacant land adjustment (VLA). The certified second round plan addressed the 29 units and 8 rehabilitation units. In May 2000, nine (9) RCA units were authorized to the City of Trenton, which were completed in November 2001. Additionally, three (3) accessory apartments were authorized in 2006.

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In January 2007 the NJ Appellate Division overturned COAH's substantive rules as a result of a challenge and suspended any further COAH substantive certifications of municipal Third Round Plans. In the Matter of the Adoption of N.J.A.C. 5:94 and 5:95 by New Jersey Council on Affordable Housing, 390 N.J. Super. 1 (App. Div.), *certif. denied* 192 N.J. 72 (2007). (2007 Case). The Court ordered COAH to revise its rules, and COAH adopted the revised third round rules in September 2008, which became effective on October 20, 2008. (2008 Rules). As a result, the 562 municipalities that were not certified prior to ruling in the 2007 Case were required to repetition COAH in order to remain under COAH's protection from "builder's remedy" lawsuits.

On October 2008, Hopewell adopted its Third Round Plan, and in February 2009 petitioned the NJ Council on Affordable Housing (COAH) for Third Round Substantive Certification. However, by this time COAH had suspended substantive certification and thus the plan was never certified. The 2008 plan identified compliance mechanisms and affordable housing techniques that would have fully satisfied Hopewell's Third Round (then 2004 to 2014) and prior round affordable housing obligations as found in COAH's regulations.

The Appellate Division again invalidated COAH's Third Round Rules (Chapter 97) and ordered revised rulemaking. COAH attempted to adopt a third set of Third Round Rules (proposed Chapter 99) but failed to garner a sufficient number of votes on the Council to adopt the rules. As a result, the Chapter 97 Rules remained invalid with no revised rules in place to guide municipal Third Round Mount Laurel compliance. Simultaneously, with these developments, the NJ Supreme Court heard an appeal of the Appellate Division decision invalidating Chapter 97 (and the attendant "procedural rules" entitled Chapter 96) and ruled in the matter of on March 10, 2015. In the Matter of the Adoption of N.J.A.C. 5:96 and 5:95 by the New Jersey Council on Affordable Housing, 221 N.J. 1, 42 (2015).

The Borough adopted a Housing Element and Fair Share Plan in response in response to the NJ Supreme Court's March 10, 2015 decision and order, which dissolved the NJ Fair Housing Act's (FHA) exhaustion-of-administrative-remedies requirement and authorized the Courts to hear and decide actions addressing municipal compliance with Mount Laurel obligations by the municipalities that had sought the protections of the Fair Housing Act (FHA) through COAH. The Supreme Court transferred jurisdiction of Mount Laurel constitutional compliance from COAH to the Courts because COAH failed to adopt new third round rules as ordered by the Court in September 2013. The Supreme Court's March 15, 2015 order assigned the task of assigning municipal third round fair share obligations to the trial courts.

In July 2015, Hopewell Borough filed a declaratory judgment to provide an additional five months to prepare a Housing Element and Fair Share Plan. However, the Borough had withdrawn their declaratory judgment due to mounting financial strain associated with the process. Despite not participating in the declaratory judgment process, the Borough continued to address its constitutional obligation to provide affordable housing by creating affordable units through use variance applications and redevelopment opportunities.

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On March 20, 2024, Governor Murphy signed into law an amendment to the Fair Housing Act (FHA). The amended FHA formally abolishes COAH and establishes the Affordable Housing Dispute Resolution Program (The Program), which is administered through the Administrative Office of Courts. The amended FHA establishes new and amended procedures and regulations regarding affordable housing. The amended FHA required the New Jersey Department of Community Affairs (NJDCA) to prepare a report and calculations to determine municipal affordable housing obligations which was released in October 2024. The amended FHA establishes specific timelines to prepare affordable housing plans, including the adoption of a Housing Element and Fair Share Plan by June 30, 2025.

This amended Plan identifies existing and proposed affordable housing that will satisfy Hopewell Borough's affordable housing obligations.

### **STATUTORY AFFORDABLE HOUSING REQUIREMENTS**

This Housing Plan Element has been prepared in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-28b(3)) and the Fair Housing Act as amended (N.J.S.A. 52:27D-310), to address the Borough's cumulative housing obligation. N.J.S.A. 52:27D-310 outlines the mandatory requirements for a Housing Plan Element.

The Municipal Land Use Law at N.J.S.A. 40:55D-28.b(3), identifies the following requirements for a Housing Plan Element:

(3) A housing plan element pursuant to section 10 of P.L.1985, c.222 (C.52:27D-310), including, but not limited to, residential standards and proposals for the construction and improvement of housing;

The Content of a Housing Element as outlined at prior regulations found at subsection *(a) of N.J.A.C. 5:97-2.3*, required that a Housing Element submitted to the Council should include the minimum requirements prescribed by N.J.S.A 52:27D-310 which provides that

“a municipal housing element shall be designed to achieve the goal of access to affordable housing to meet present and prospective housing needs, with particular attention to low- and moderate-income housing, and shall contain at least:

a. An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low and moderate income households and substandard housing capable of being rehabilitated, and in conducting this inventory the municipality shall have access, on a confidential basis for the sole purpose of conducting the inventory, to all necessary property tax assessment records and information in the assessor's office, including but not limited to the property record cards;

b. A projection of the municipality's housing stock, including the probable future construction of low- and moderate-income housing, for the next ten years, taking into

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account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;

c. An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age;

d. An analysis of the existing and probable future employment characteristics of the municipality;

e. A determination of the municipality's present and prospective fair share for low and moderate income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low and moderate income housing; and

f. A consideration of the lands that are most appropriate for construction of low and moderate income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low and moderate income housing, including a consideration of lands of developers who have expressed a commitment to provide low and moderate income housing.”

g. An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c.273 (C.52:27D-329.20);

h. For a municipality located within the jurisdiction of the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), an analysis of compliance of the housing element with the Highlands Regional Master Plan of lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands-conforming municipalities. This analysis shall include consideration of the municipality’s most recent Highlands Municipal Build Out Report, consideration of opportunities for redevelopment of existing developed lands into inclusionary or 100 percent affordable housing, or both, and opportunities for 100 percent affordable housing in both the Highlands Planning Area and Highlands Preservation Area that are consistent with the Highlands regional master plan; and (*Not applicable to Hopewell Borough*)

i. An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

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## PRESENT NEED OBLIGATION

Present need obligation is the obligation associated with the number of deteriorated housing units occupied by low- and moderate-income households. The DCA October 2024 report identified that the Borough has a 0-unit present need obligation.

## FIRST AND SECOND ROUND OBLIGATION

Hopewell Borough's first round obligation was zero (0) and second round obligation of 29 units. The Borough prepared a second round plan which was adopted in October 1996 and certified by COAH on December 6, 2000, and was granted an extension through December 6, 2006. The Borough's obligation at that time was 37 units, which was reduced to 29 units based on an approved vacant land analysis. The Borough participated in a Regional Contribution Agreement (RCA) with the City of Trenton for nine (9) units towards that obligation, leaving an unmet need of 20 units (Table 2).

**Table 2: Allocation of Units and Credits to Address Prior Round Obligation of 29 Units**

Project	Type of unit	Number of units
RCA with City of Trenton	RCA	9
2 <sup>nd</sup> Round Obligation		29
<b>Total Remaining Obligation</b>		<b>20</b>

## VACANT LAND AND REALISTIC DEVELOPMENT POTENTIAL ANALYSIS

Hopewell Borough has historically been granted a vacant land adjustment based on the lack of available land for new construction and development. The Borough's first round obligation was zero and the second round obligation of 37 was reduced to 29 based on an approved VLA. Under COAH Third Round regulations, the Borough is entitled to rely on its prior vacant land adjustment. N.J.A.C. 5:97-5.1 (d). Although COAH was abolished as a result of the amended Fair Housing Act, the Borough is entitled to rely on COAH's Third Round regulation since it has not been contradicted by statutory amendment or a binding court decision. COAH regulations recognized that a municipality secured a vacant land adjustment should not be required to do that analysis again:

“COAH regulations N.J.A.C. 5:97-5.1 (d): A vacant land adjustment that was granted as part of a first round certification or judgment of compliance shall continue to be valid provided the municipality has implemented all of the terms of the substantive certification or judgment of compliance, and received or petitioned to the Council for second round substantive certification or was under the Court's jurisdiction for second round. If the municipality failed to implement the terms of the substantive certification or judgment of compliance, the Council may reevaluate the vacant land adjustment.”

As noted, COAH determined that the Borough had an RDP of zero (0) when it certified the Borough's plan in the First Round and reduced the obligation to 29 when it certified the Borough's obligation in Second Round. The Borough lacked sufficient land to satisfy its Prior Round Obligation of 29 and was able to address 9 units through an RCA with Trenton. The available land base has since been reduced in

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the Borough, and therefore lacks sufficient land to satisfy the additional 101 obligation imposed in the Third Round and the 39-unit fourth round obligation.

The Borough has conducted and updated VLA and Realistic Development Potential (RDP) analysis in response to the reduction in the Borough’s land base for new construction and to identify new redevelopment opportunities ([Appendix A](#)), which results in an RDP of zero (0) units for the fourth round.

**THIRD ROUND AFFORDABLE HOUSING PLAN**

Hopewell has a third-round prospective obligation of 101 units and a 20-unit second round unmet need obligation, for a cumulative obligation of 121 units, adjusted to an RDP of 32 units.

**Third Round Compliance**

The Borough did not participate in the ongoing Declaratory Judgment actions of the Third Round but continued to address its affordable housing obligations as opportunities became available. As required in the FHA, Table 3 and Figure 1 identifies the mechanisms addressing the prior round obligation.

**Table 3: Mechanisms to Address Third Round RDP**

Name	Mechanism	Status	Units	Bonus	Affordable Credits
Hopewell Special, LLC/ 19 West Broad Street	Family Rental	Completed	1	1*	2
HVIB Holdings, LLC/ Hopewell Inn/15 East Broad Street	Family Rental	Under Construction	1	1*	2
Sawdust Townhouse Redevelopment Plan/ 24 Model Avenue	Family Rental	Approved	2	2*	4
Hopewell 57, LLC/ 57 Hamilton Avenue	Family Rental	Redevelopment Plan Approved and Site Plan Application Pending	24	<i>12** Upon Completion</i>	<i>24 36 total upon completion</i>
<b>TOTAL CREDITS</b>			<b>28</b>	<b>4</b> <i>16 total pending Hopewell 57</i>	<b>32</b> <i>44 total pending Hopewell 57</i>

*\*Bonus credits under third round regulation 1: 1 bonus for family rental units*

*\*\*Bonus credits under fourth round regulation 1: 0.5 bonus for conversion of non-residential to residential*

**Hopewell Special, LLC, Block 25, Lot 76, 19 West Broad Street**

Hopewell Special, LLC, formerly known as the Blackwell Farmstead and more recently the Runyon House, is a historic farmstead in the Borough dating back to 1750. The approved use variance and

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preliminary and final site plan provide for the preservation of the historic home, converting it to a two-family unit, and the construction of four (4) duplex units for a total of 8 units to the rear of the home. The developer provided an off-site deed restricted unit located at 25 West Broad Street ([Appendix B](#)). The unit is currently occupied by a tenant but, upon the tenant's departure, the unit will be affirmatively marketed for an income-qualified tenant and the 30-year deed restriction will commence.

### **Hopewell Inn, Block 28, Lot 5, 15 East Broad Street**

The Hopewell Inn, formerly the Hopewell Bistro, is located at 15 East Broad Street at the intersection with Seminary Avenue. The Inn is a historic structure in the Borough and located within the Borough's Historic District. The original structure dates back to 1875 and has been a hotel and tavern for the majority of its history. Most recently, the Hopewell Bistro consisted of a first-floor restaurant and bar with the upper floors remaining vacant. The Hopewell Inn received use variance and preliminary and final site plan approval to reconstruct the Inn to its 1890s appearance and will include a first-floor restaurant and five (5) apartments on the second- and third-floors. One of the apartments has been deed restricted for affordable housing. The Hopewell Inn is currently under construction and a deed restriction for the affordable unit has been approved ([Appendix C](#)).

### **Designated Redevelopment Sites and Suitability**

The remaining two properties contributing to affordable housing in the third round are designated Areas in Need of Redevelopment and have adopted Redevelopment Plans. In 2016 the Borough designated three areas in the Borough as Areas in Need of Redevelopment, as depicted on ([Appendix D](#)). All three areas are currently non-residential with the goal to provide redevelopment consisting of residential or mixed use to reflect the surrounding land uses and neighborhood character. The redevelopment of these sites is beneficial to those who will eventually occupy the units, and also takes into consideration the character of the adjoining uses, the availability of infrastructure, transportation, access to nearby services, and provides for a diverse housing stock and affordable housing in key areas of the Borough. A site suitability analysis was conducted for each site in accordance with COAH suitability criteria which states:

- (a) Sites designated to produce affordable housing shall be available, approvable, developable and suitable, according to the following criteria:
1. The site has a clear title and is free of encumbrances which preclude development of affordable housing;
  2. The site is adjacent to compatible land uses and has access to appropriate streets;
  3. Adequate sewer and water capacity, as defined under N.J.A.C. 5:97-1.4, shall be available to the site or the site is subject to a durational adjustment pursuant to N.J.A.C. 5:97-5.4; and
  4. The site can be developed consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21, where applicable. Deviations from those standards are to be done in accordance with N.J.A.C. 5:21-3.

**24 Model Avenue/ Block 11, Lot 26/Lumberyard**

The Borough adopted a Redevelopment Plan establishing the “Townhouse Residential” Zone in June 2018 ([Appendix E](#)). The property is 1.146 acres and is currently developed with a lumberyard. The Redevelopment Plan adopted zoning to allow 13 townhouse residential units (11.3 units per acre) of which two would be deed restricted for affordable housing. In 2022, the redeveloper submitted a site plan application to the Planning Board and received approval in July 2022 (Res. PB #2022-08). The approved site plan allowed for 13 attached townhouse units, of which one includes a 2-unit apartment, each with two bedrooms. While the site has already demonstrated suitability, the following addresses the specific requirements under the regulations:

1. The site has a clear title and is free of encumbrances which preclude development of affordable housing;
2. The site is within a residential area and adjacent to compatible land uses consisting of single-family dwellings and multifamily buildings with access to Model Avenue. The existing lumberyard is a pre-existing non-conforming use and its conversion to residential use is more compatible with the character of the surrounding land uses.
3. The Borough is serviced by public water and sewer with the current capacity able to service the development.
4. The site is able to be developed consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21, where applicable, as demonstrated through the site plan approval process.

**57 Hopewell, LLC/Block 18, Lot 1 & Block 12, Lot 7/57 Hamilton Avenue**

The Borough established the “Multi-Family Residential Housing” Zone through the Redevelopment Plan adopted on July 1, 2024, and amended on October 2024 ([Appendix F](#)). The Redevelopment Area consists of two lots totaling 4.28 acres. Block 18, Lot 1 includes the existing “Hopewell Center” building with frontage on Somerset Street, Hamilton Avenue, and Lafayette Street. Block 12, Lot 7, consists of the existing parking lot north of the building, across Somerset Street.

The redevelopment plan provides for a multi-family development that is more compatible with the surrounding land uses, provides more diverse housing options in the Borough, and remediates environmental contamination on site. The zone permits multi-family dwelling units at 30 units per acre with a 20% set-aside for affordable housing units to contribute to the Borough’s mandated affordable housing obligation. The zone will provide for the development of this property with a cohesive neighborhood plan consisting generally of two “stacked” townhouse buildings, one four-story apartment building, and a common clubhouse building.

The Redeveloper is currently preparing the site plan and anticipates submission to the Planning Board for public hearing this summer. The site is suitable for affordable housing as follows:

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1. The site has a clear title and is free of encumbrances that preclude development of affordable housing;
2. The site is adjacent to compatible land uses and has access to appropriate streets. The site has frontage to three public streets, Hamilton Avenue, Lafayette Street, and Somerset Street. The area consists of diverse land uses including single family and duplex residential uses, office, retail, and service spaces. The redevelopment of the site into multi-family residential uses is more compatible with the surrounding land uses and acts as a transition area between the residential and non-residential uses in this part of the Borough.
3. The Borough currently has enough water and sewer to service the proposed development through the Borough's system.
4. The site can be developed consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21, where applicable.

#### **Fourth Round Fair Share Plan**

As identified above, the Borough has limited land capacity to develop and as such conducted a vacant land and realistic development potential analysis. The results of the analysis provided for an Round Four RDP of zero (0) units. The result is an unmet need from the third round of 89 units and fourth round obligation of 39 units, a cumulative total of 128 units of unmet need. The remaining obligation for the Fourth Round, therefore, consists of a 128-units of Unmet Need. The Borough will continue to utilize the strategies outlined in the third round plan, consisting of mandatory set-aside ordinance and the capture of units through variance or redevelopment. Units captured during the fourth round will be subject to the Amended FHA and UHAC regulations as listed below.

The Borough has two key remaining areas in designated areas of redevelopment, 71 East Broad Street and 54 Somerset Street. These two redevelopment areas currently represent the only two viable developable or redevelopable areas in the Borough. The remaining lands in the Borough are not able to support zoning to accommodate the remaining third round affordable housing obligation of 89 units, which will become unmet need. Unmet need units will be captured if and when land, redevelopment, or other opportunities become available that can support the creation of affordable units. To that end, the Borough will require a 20% affordable housing set aside for any development or redevelopment that includes residential uses and establish a mandatory set aside ordinance.

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**Table 4: Mechanisms to Address Third Round Unmet Need**

Name	Mechanism	Status	Affordable Credits
71 East Broad Mixed Use Redevelopment	Family Rental	Proposed	5
54 Somerset Street Redevelopment Area	Family Rental	Proposed	8
Service Zone Redevelopment Area	Family Rental	Proposed	-
Mandatory Set-Aside Ordinance	Family Rental	Proposed	-

The two remaining designated redevelopment areas are described below. These two areas have the most potential for redevelopment, which includes affordable housing opportunities, however, as of this date, there are no redevelopment plans adopted for the areas. The Borough's goal is to attract developers to these sites for residential and mixed-use opportunities.

**71 East Broad Street Study Area B/ Block 31, Lots 1, 2 and 19**

This site is currently developed with a vacant automotive repair shop. The site is ideally located along the Borough's main business area, East Broad Street, and a gateway property to the community. The site was designated an Area in Need of Redevelopment along with the others in 2016. The Borough's goal for the property is mixed use, retaining the current 1940s structure for non-residential uses, compatible with the downtown, and residential uses on the east and southern portions of the site. The site includes developmental challenges including inland flood hazard design areas and a piped stream running diagonally beneath the property that prohibits full development, which is the reason for applying the 12 unit per acre density, with a 20% affordable housing setaside, to the property given its limitations and realistic opportunity to redevelop at higher densities. The site suitability requirements for the property are:

1. The site has a clear title and is free of encumbrances that preclude development of affordable housing;
2. The site is adjacent to compatible land uses and has access to appropriate streets. The site has frontage to East Broad Street and Maple Avenue. East Broad Street in this area consists of mixed uses as typical in historic villages. The redevelopment of the site into a mixed use is more compatible with the surrounding land uses.
3. The Borough currently has adequate water and sewer to service the property.
4. The site can be developed consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21, where applicable.

**54 Somerset Street/ Block 12, Lot 8.01**

The last area in the Borough, which has a realistic opportunity for meaningful future development, is Block 12, Lot 8.01. This property is located on Somerset Street, which dead-ends at the municipal boundary with Hopewell Township. The site consists of 3.2 acres, relatively flat and free of constraints, however, it is included in the Rockwell groundwater contamination area and has a large area of historic fill running the length of the rear of the site. The Borough's goal for the property is residential or small-scale mixed use given its proximity to the 57 Hamilton redevelopment site. However, the Borough recognizes the challenges and unique location of the site and has tentatively placed a 12 units per acre density, with a 20% affordable housing setaside, to the property given its limitations and realistic opportunity to redevelop at higher densities. The site suitability for the property is:

1. The site has a clear title and is free of encumbrances that preclude development of affordable housing;
2. The site is adjacent to compatible land uses and has access to appropriate streets. The site has frontage to Somerset Street, however, Somerset Street dead-ends just to the east of the site at the Hopewell Township boundary. The redevelopment of the site into small scale residential or mixed use is compatible with the surrounding land uses.
3. The Borough currently has adequate water and sewer to service the property.
4. The site can be developed consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21, where applicable.

**Remaining Redevelopment Area A Scattered Sites**

Redevelopment Area A, encompassing the Service Zone, includes several developed and active properties, that currently have no indication of redevelopment opportunities. However, the inclusion of the sites in the redevelopment area provides a path for future redevelopment. To that end, the Borough will provide a 20% affordable housing set aside for any redevelopment that may occur in the fourth round in that area.

**Mandatory Set-aside Ordinance**

The Borough will adopt an updated affordable housing ordinance which includes a mandatory set-aside for use variance, rezoning, or redevelopment, and require a 20% affordable housing set-aside for any residential development with 5 or more units ([Appendix G](#)). Fractional affordable unit requirements shall be rounded down where the fraction is .49 or less and rounded up for those .50 or greater. All affordable units shall be restricted, regulated and administered consistent with the Borough's affordable housing regulations, the Uniform Housing Affordability Controls rules (N.J.A.C. 5:80-26.1 et seq.) and the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.). This shall include but is not limited to income distribution, bedroom distribution, and phasing.

**Third Round Affordable Housing Requirements**

The Third Round Affordable Housing requirements based on the 13-unit RDP are:

- a. At least 50%, 7 units of affordable units addressing the Third-Round obligation shall be affordable to low- and very low-income households.
- b. At least 25%, 3 units of the Third-Round fair share shall be rental units, half (50%), of which shall be affordable to families, or 2 units.
- c. At least one-half of all Third-Round affordable units, or 7 units, shall be available to families.
- d. Rental bonuses shall not exceed 25% of the Third-Round obligation or 6 units
- e. No more than 25%, 3 units of the Prior Round and Third Round fair share shall be addressed with age-restricted units.

All affordable housing units will meet the required bedroom distribution, controls on affordability and affirmatively marketed in conformance with the Uniform Housing Affordability Controls, UHAC, (N.J.A.C. 5:80-26.1) as shown through the adoption of an Affordable Housing Ordinance. Hopewell Borough has appointed an Administrative Agent and Affordable Housing Liaison, provided in [Appendix H](#). The Borough's affordable housing program will be administered in accordance with the Affirmative Marketing Plan provided in [Appendix I](#).

**Fourth Round Affordable Housing Requirements**

The amended Fair Housing Act includes the following affordable housing requirements (all exclusive of any bonus credits):

- No more than 30% of the units may be age restricted, or 4 units.
- A minimum of 50% of all affordable units must be available to families with children, or 7 units.
- A minimum of 25% of the affordable housing units must be rental and a minimum of 50% of those units must be available to families with children, or 4 units.

**FUNDING**

The Borough has amended the existing Development Fee Ordinance ([Appendix J](#)) in conformance with updated regulations. The Borough is seeking a waiver regarding the preparation of the Spending Plan at this time. The Borough has a development fee ordinance but has no funds in the Affordable Housing Trust Fund. The redevelopment of the remaining properties are intended to provide their fair share, 20%, of affordable housing units and therefore will not be subject to the development fee. As such, the Borough has no funds to expend from the Trust fund, and the mechanisms to address affordable housing do not involve Borough subsidies. At such time that the Borough should collect development fees, a spending plan in accordance with the Fair Housing Act (N.J.S.A. 52:27D-301) and the regulations of the Council on Affordable Housing (COAH) (N.J.A.C. 5:97-1 et seq. and

N.J.A.C. 5:96-1 et seq.) will be prepared. Therefore, the Borough is seeking a waiver under NJAC 5:93-15.1

## **MULTIGENERATIONAL FAMILY HOUSING**

The amended Fair Housing Act requires:

“An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the **Multigenerational Family Housing Continuity Commission**, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c.273 (C.52:27D-329.20);”

The duties of the Commission are to prepare and adopt recommendations on how governments, community groups, and private entities can advance the goal of enabling senior citizens to reside at the home of their extended families. The Borough ordinances do not impede the Commission's goals for seniors to live with extended family members. The definition of a family states, “*Any number of persons, whether or not related by blood, marriage or adoption, living together as a single housekeeping unit and using certain rooms and housekeeping facilities in common.*” Dwelling units in the Borough are intended as living facilities for a family. Therefore, the Borough’s ordinance does not inhibit the ability for seniors to reside with extended family members.

## **RELATIONSHIP TO STATE DEVELOPMENT AND REDEVELOPMENT PLAN**

The Borough’s affordable housing plan aligns with the goals and objectives of the 2001 State Development and Redevelopment Plan, and the pending updated State Development and Redevelopment Plan. The Borough is a historic village located in Planning Area 4, but was previously designated as a center. The Borough is an attractive place to live and work thanks to the long-standing planning goals to support economic vitality of East and West Broad Street, seek diverse housing opportunities for all residents, and continue to enhance the walkability of the community. The goals of the 2001 SDRP included providing diverse housing at a reasonable cost (Goal #6), integrated into the fabric of communities and in key areas that are located near a variety of services. The Borough’s walkable community and use of redevelopment and infill opportunities to provide affordable housing align with the smart growth principles of the current and pending State Plan.

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## HOUSING ELEMENT PLAN

### Inventory of Municipal Housing Conditions

The primary source of information for the inventory of the Borough's housing stock is the 2023 American Community Survey (ACS) 5-year estimates, which the Census now utilizes for many demographic and housing data reporting.

According to the 2023 Census, the Borough had 816 housing units, of which 747 (92%) were occupied. Table A1 identifies the units in a structure by tenure; as used throughout this Plan Element, "tenure" refers to whether a unit is owner-occupied or renter-occupied. While the Borough largely consisted of one-family, detached dwellings (72% of the total, compared to 45.3% in the County), there were 225 units in attached or multi-family structures. The Borough had a relatively low percentage of renter-occupied units, 20%, compared to 39.7% in Mercer County and 36.3% in the State. The borough's housing stock indicates a stable residential community with limited rental options. The relatively low number of multi-family units may restrict housing affordability and availability for lower-income groups.

**Table A1: Units in Structure by Tenure**

Units in Structure	Total Units	Vacant Units	Occupied Units		
			Total	Owner	Renter
1, detached	591	0	591	558	33
1, attached	65	4	61	25	36
2	68	16	52	11	41
3 or 4	82	49	33	0	33
5+	10	0	10	0	10
Other	0	0	0	0	0
Mobile Home	0	0	0	0	0
Total	816	69	747	594	153

*Source: 2023 ACS 5-year estimates B25032 and B25024*

Table A2 indicates the year housing units were built by tenure, while Table A3 compares the Borough to Mercer County and the State. The age of Hopewell's housing stock depicted 69% of the housing built prior to 1960. After the 1960's, the housing stock showed modest increases. Owner-occupied units follow the same pattern as the year structures were built with the majority of owner-occupied units being built prior to 1960. Renter-occupied units had the largest gains prior to 1950. Older housing stock suggests potential concerns for maintenance and modernization, particularly for renter-occupied units. The lack of significant construction post-1960 indicates limited new housing developments, impacting affordability and housing choice. The presence of an older housing stock is one of the factors that correlates highly with filtering. Filtering is a downward adjustment of housing needs that recognizes that the housing

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requirements of lower-income groups can be served by supply additions to the higher-income sections of the housing market.

**Table A2: Year Structure Built by Tenure**

Year Built	Total Units	% of Total	Vacant Units	Occupied Units		
				Total	Owner	Renter
2020 or later	0	0%	0	0	0	0
2010 - 2019	0	0%	0	0	0	0
2000 – 2009	46	6%	0	46	46	0
1990 – 1999	61	7%	0	61	61	0
1980 – 1989	41	5%	16	25	19	6
1970 – 1979	21	3%	0	21	18	3
1960 – 1969	84	10%	0	84	75	9
1950 - 1959	67	8%	0	67	58	9
1940 – 1949	48	6%	16	32	18	14
Pre-1940	448	55%	37	411	299	112
Total	816	100	69	747	594	153

*Source: 2023 ACS 5-year estimates DP04 and B25036*

Table A3 compares the year of construction for all dwelling units in the Borough to Mercer County and the State. Hopewell had a larger percentage of units built prior to 1940 than did the County or State and a smaller percentage of units built after 1940.

**Table A3: Comparison of Year of Construction for Borough, County, and State**

Year Built	%		
	Hopewell Borough	Mercer County	New Jersey
2020 or later	0%	1%	2%
2010 - 2019	0%	5%	6%
2000 – 2009	6%	10%	9%
1990 – 1999	7%	9%	8%
1980 – 1989	5%	13%	12%
1970 – 1979	3%	12%	12%
1960 – 1969	10%	13%	13%
1950 - 1959	8%	14%	13%
1940 – 1949	6%	4%	6%
Pre-1940	55%	18%	18%
Median Year	Pre-1940	1970	1970

*Source: 2023 ACS 5-year estimates B25034 and B25035*

The 2023 Census documented household size in occupied housing units by tenure, and the number of bedrooms per unit by tenure; these data are reported in Tables A4 and A5,

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respectively. Table A4 indicates that renter-occupied units generally housed smaller households, with 62% of renter-occupied units having 2 persons or fewer compared to 47.5% of owner-occupied units. This suggests that rental units cater primarily to small families or single-person households. A higher share of small renter households may indicate a lack of larger rental units, limiting options for families.

**Table A4: Household Size in Occupied Housing Units by Tenure**

Household Size	Total Units	Owner-occupied Units	Renter-occupied Units
1 person	200	98	102
2 persons	250	217	33
3 persons	124	115	9
4 persons	133	128	5
5 persons	35	31	4
6 persons	5	5	0
7+ persons	0	0	0
Total	747	594	153

*Source: 2023 ACS 5-year estimates B25009*

Table A5 indicates that renter-occupied units generally had fewer bedrooms, with 66.6% having two bedrooms or fewer, compared to 13.1% of owner-occupied units. Rental housing is limited in size, which may hinder accessibility for larger households. Expanding rental housing with three or more bedrooms accommodates diverse family needs.

**Table A5: Number of Bedrooms per Unit by Tenure**

Number of Bedrooms	Total Units	(%)	Occupied Units		
			Total	Owner	Renter
No bedroom	0	0.0%	0	0	0
1 bedroom	98	12.0%	49	0	49
2 bedrooms	178	21.8%	158	77	81
3 bedrooms	297	36.4%	297	278	19
4 bedrooms	200	24.5%	200	196	4
5+ bedrooms	43	5.3%	43	43	0

*Source: 2023 ACS 5-year estimates DP-04 and B25042*

Table A6 compares the Borough's average household size for all occupied units, owner-occupied units, and renter-occupied units in 2023 to those of the County and State. The Borough's average household size for both owner- and renter-occupied units was lower than State and County. Hopewell Borough has smaller household sizes (2.45 overall) compared to Mercer County (2.49) and New Jersey (2.58). Smaller household sizes reflect demographic

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trends such as an aging population or a higher proportion of single-person households, potentially influencing future housing demand.

**Table A6: Average Household Size for Occupied Units for Borough, County, and State**

Jurisdiction	All Occupied Units	Owner-occupied units	Renter-occupied units
Hopewell Borough	2.45	2.69	1.50
Mercer County	2.49	2.70	2.18
New Jersey	2.58	2.72	2.32

*Source: 2023 ACS 5-year estimates B25010*

The distribution of number of bedrooms per unit is shown in Table A7. The Borough had considerably fewer units with no bedroom or one bedroom and a higher percentage of four or more-bedroom units than the County or State. This distribution aligns with the borough's predominantly owner-occupied nature but may present affordability challenges for small households or individuals seeking rental housing.

**Table A7: Percentage of All Units by Number of Bedrooms**

Jurisdiction	None or one	Two or Three	Four or More
Hopewell Borough	12%	58%	30%
Mercer County	17%	57%	26%
New Jersey	18%	57%	26%

*Source: 2023 ACS 5-year estimates DP-04*

In addition to data concerning occupancy characteristics, the 2023 Census includes a number of indicators, or surrogates, which relate to the condition of the housing stock. These indicators are used in calculating a municipality's deteriorated units and indigenous need. The surrogates used to identify housing quality, in addition to age (Pre-1940 units in A82), are the following:

Persons per Room	1.01 or more persons per room is an index of overcrowding.
Plumbing Facilities	Inadequate plumbing is indicated by either a lack of exclusive use of plumbing or incomplete plumbing facilities.
Kitchen Facilities	Inadequate kitchen facilities are indicated by shared use of a kitchen or the non-presence of a sink with piped water, a stove, or a refrigerator.

Table A8 compares the Borough, County, and State for some of the above indicators of housing quality. The Borough has few units that have inadequate plumbing or kitchen facilities and had less overcrowding and inadequate kitchen and plumbing facilities than the County and State. These indicators suggest relatively high housing quality in the Borough, though older structures may require continued maintenance efforts to sustain livability.

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**Table A8: Housing Quality for Borough, County, and State**

Condition	%		
	Hopewell Borough	Mercer County	New Jersey
Overcrowding <sup>1</sup>	0%	3.5%	4%
Lacking Complete plumbing Facilities <sup>2</sup>	0%	.2%	.3%
Lacking Complete Kitchen Facilities <sup>2</sup>	0%	.5%	.8%

Notes: <sup>1</sup>The universe for these factors is occupied housing units.

<sup>2</sup>The universe for these factors is all housing units.

Source: 2023 ACS 5-year estimates DP-04

The last factors used to describe the municipal housing stock are the assessed housing values and gross rents for residential units. Most homes fall within the \$300,000–\$499,999 range, with a median home value of \$561,900. High home values reflect a stable housing market but may present affordability barriers for lower-income residents. Future housing initiatives may consider affordable housing expansion.

**Table A9: Value of Residential Units**

Value	Number	%
Less than \$50,000	7	1.2%
\$50,000 to \$99,999	0	0.0%
\$100,000 to \$149,999	0	0.0%
\$150,000 to \$199,999	0	0.0%
\$200,000 to \$299,999	3	0.5%
\$300,000 to \$499,999	214	36.0%
\$500,000 to \$999,999	360	60.6%
\$1,000,000 or more	10	1.7%
Median (dollars)	\$561,900	

Source: 2023 ACS 5-year estimates DP-04

The majority of rental units exceed \$1,500 per month, with a median rent of \$1,712. Rental affordability is a concern, as high rents may exclude lower-income households. Increasing affordable rental units could address housing accessibility challenges.

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**Table A10: Gross Rents for Specified Renter-Occupied Housing Units**

Contract Monthly Rent	Number	%
Less than \$500	6	4.0%
\$500 to \$999	21	14.1%
\$1,000 to \$1,499	28	18.8%
\$1,500 to \$1,999	46	30.9%
\$2,000 to \$2,499	23	15.4%
\$2,500 to \$2,999	12	8.1%
\$3,000 or more	13	8.7%
Median (contract rent)	\$1,712	

*Source: 2023 ACS 5-year estimates DP-04*

The data in Table A11 indicate that in 2023 there were 481 households earning less than \$35,000 annually. Many households earning under \$75,000 experience housing cost burdens, spending more than 30% of their income on housing. A figure of 30% is considered the limit of affordability for housing costs.

**Table A11: Household Expense in 2023 by as a Percentage of Household Income in 2023**

Income	Number of Households	Less than 30%	More than 30%
< \$20,000	34	0	34
\$20,000 – 34,999	22	6	16
\$35,000 - \$49,999	24	0	24
\$50,000 - \$74,999	96	15	81
\$75,000 +	562	461	101

*Note: <sup>1</sup>The universe for this Table is specified occupied housing units.*

*Source: 2023 ACS 5-year estimates S2503*

Table A12 and A13 depict Hopewell Borough’s housing production and demolitions from 2013 through 2024. As shown in Table A12, between 2010 and 2021, the Borough saw minimal net housing growth, with demolitions nearly matching new construction. In other words, the Borough see no net increase over the last 10 years of 1 and 2-family housing units. Should this trend continue, the Borough would see stagnant housing development and market expansion. However, the Borough’s efforts to provide additional affordable housing through redevelopment and other smaller opportunities will likely increase the average annual rate.

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**Table A12: Housing Units Authorized by Building Permits for New Construction 2013-2024**

Year	Total	1&2 family	Multifamily	Mixed use
2013	0	0	0	0
2014	2	2	0	0
2015	1	1	0	0
2016	12	12	0	0
2017	0	1	0	0
2018	0	1	0	0
2019	0	0	0	0
2020	2	4	0	0
2021	0	1	0	0
2022	0	0	0	0
2023	3	3	0	0
2024	0	0	0	0

*Source: New Jersey Department of Community Affairs, Development Trend Viewer*

**Table A13: Housing Units Demolished 2013-2024**

Year	Total	1&2 family	Multifamily	Mixed use
2013	2	2	0	0
2014	0	0	0	0
2015	3	3	0	0
2016	1	0	0	1
2017	1	1	0	0
2018	1	1	0	0
2019	1	1	0	0
2020	2	2	0	0
2021	1	0	0	1
2022	0	0	0	0
2023	0	0	0	0
2024	0	0	0	0

*Source: New Jersey Department of Community Affairs, Development Trend Viewer*

Table A14 depicts the issuance of certificates of occupancy for non-residential space. Commercial development fluctuates, with minimal retail or office space added in recent years. Limited non-residential development may indicate a lack of business growth, influencing employment opportunities and local economic strength. Efforts to encourage reinvestment and economic growth in the Borough will help to stabilize and strengthen the local business community.

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**Table A14: Square Feet of Non-residential Space CO**

<b>Year</b>	<b>Total</b>	<b>Office</b>	<b>Retail</b>	<b>Restaurant</b>	<b>Assembly</b>
<b>2013</b>	628	0	0	0	628
<b>2014</b>	0	0	0	0	0
<b>2015</b>	2,400	0	2,400	0	0
<b>2016</b>	0	0	0	0	0
<b>2017</b>	1,002	1,002	0	0	0
<b>2018</b>	800	0	0	800	0
<b>2019</b>	0	0	0	0	0
<b>2020</b>	0	0	0	0	0
<b>2021</b>	0	0	0	0	0
<b>2022</b>	175	175	0	0	0
<b>2023</b>	0	0	0	0	0
<b>2024</b>	0	0	0	0	0

*New Jersey Department of Community Affairs, CO Yearly Summary*  
<https://www.nj.gov/dca/codes/reporter/co.shtml>

**Analysis of Demographic Characteristics**

As with the inventory of the municipal housing stock, the primary source of information for the analysis of the demographic characteristics of the Borough's residents is the 2023 U.S. Census. The Census data provide a wealth of information concerning the characteristics of the Borough's population in 2023.

The 2020 Decennial Census indicates that the Borough had 1,918 residents, or 353 fewer residents than in 2000, representing a population decrease of approximately -6%. The Borough's -6% decrease from the 2000's compares to a 10% increase in Mercer County and in New Jersey.

The age distribution of the Borough's residents is shown in Table A15. The Borough, similar to most areas in the State and Country, has an aging population, with a higher percentage of residents over 55 compared to county and state averages.

**Table A15: Population by Age**

Age	% Persons
Under 5 years	6.3%
5 to 9 years	6.7%
10 to 14 years	10.8%
15 to 19 years	4.2%
20 to 24 years	2.1%
25 to 34 years	6.3%
35 to 44 years	13.8%
45 to 54 years	17.3%
55 to 59 years	6.6%
60 to 64 years	8.3%
65 to 74 years	10.1%
75 to 84 years	6.5%
85 years and over	0.9%
Median Age	44.7

*Source: 2023 DP-05 ACS 5-year Estimates*

Table A16 compares the Borough to the County and State by age categories. The principal differences among the Borough, County, and State occur in the 20-34 age category, where the Borough had a smaller proportion than the County and State. The Borough generally had more persons in the 55 and over age categories than the County and State.

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**Table A16: Comparison of Age Distribution for Borough, County, and State (% of persons)**

Age	Hopewell Borough	Mercer County	New Jersey
Under 5 years	6.3%	5.5%	5.6%
5 to 9 years	6.7%	5.4%	5.8%
10 to 14 years	10.8%	7.1%	6.3%
15 to 19 years	4.2%	6.9%	6.3%
20 to 24 years	2.1%	6.9%	5.9%
25 to 34 years	6.3%	12.2%	12.7%
35 to 44 years	13.8%	13.0%	13.3%
45 to 54 years	17.3%	13.4%	12.8%
55 to 59 years	6.6%	6.0%	6.6%
60 to 64 years	8.3%	7.0%	6.8%
65 to 74 years	10.1%	9.7%	10.3%
75 to 84 years	6.5%	4.8%	5.5%
85 years and over	0.9%	2.0%	1.9%
Median	44.7	40.2	40.4

*Source: 2023 DP-05 5-year estimates*

Table A17 provides the Census data on household size for the Borough, while Table A18 compares household sizes in the Borough to those in Mercer County and the State. The Borough has more households with either 2 or 4 persons than the County or State and fewer 3-person households than either the County or State.

**Table A17: Persons in Household**

Household Size	
1 person	26.8%
2 persons	33.5%
3 persons	16.6%
4 or more persons	23.2%
Average Household Size	2.45

*Source: 2023 ACS 5-year Estimates U.S. Census, S2501.*

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**Table A18: Comparison of Persons in Household for Borough, County, and State (% of households)**

Household Size	Borough	County	State
1 person	26.8%	28.1%	26.2%
2 persons	33.5%	31.6%	31.7%
3 persons	16.6%	18.5%	17.0%
4+ persons	23.2%	21.8%	25.0%
Average household Size	2.45	2.49	2.58

Source: 2023 ACS5-year estimate S2501 and S1101

Table A19 presents a detailed breakdown of the Borough's population by household type and relationship. Family households dominate, but non-family households account for a substantial portion (37%). Planning should include housing that accommodates both family and non-family households, ensuring a diverse and inclusive housing market as demand for senior housing options increases.

**Table A19: Persons 65+ by Household Type and Relationship**

	Persons
In households:	100
In family households:	63
Householder:	36
Male	22
Female	14
Spouse	26
Parent	0
Parent-in-law	0
Other relatives	1
Nonrelatives	0
In nonfamily households:	37
Householder:	32
Male:	16
Living alone	12
Not living alone	4
Female:	16
Living alone	14
Not living alone	3
Nonrelatives	4
In Group Quarters	0

Source: 2023 ACS B09020 5-year estimate.

Table A20 provides 2023 income data for the Borough, County, and State. The Borough's per capita and family incomes were higher than the County and State. Higher incomes suggest

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economic stability.

**Table A20: 2023 Income for Borough, County, and State**

Jurisdiction	Per Capita Income	Median Income	
		Households	Families
Hopewell Borough	\$78,642	142,396	187,679
Mercer County	\$52,101	96,152	117,499
New Jersey	\$53,118	99,781	121,944

*Source: 2023 U.S. Census ACS 5 Year Estimates B19301 and S1901,*

Table A21 addresses the lower end of the income spectrum, providing data on poverty levels for persons and families in 2023. According to the data in Table A21, the Borough had proportionately fewer persons qualifying for poverty status than the County or State.

**Table A21: Poverty Status for Persons and Families for Borough, County, and State  
(% with 2023 income below poverty)**

Jurisdiction	Persons (%)	Families (%)
Hopewell Borough	2.1%	2%
Mercer County	11.1%	7.5%
New Jersey	9.8%	7%

*Source: 2023 ACS 5-year estimates 1701 and S1702*

The U.S. Census includes a vast array of additional demographic data that provide insights into an area's population. For example, Table A22 provides a comparison of the median year households moved into their current residents. This is a surrogate measure of the mobility/stability of a population. A higher percentage of homeowners and renters have resided in the same home since 2010 compared to county and state averages.

**Table A22: Comparison of Median Year Householder Moved Into Unit for Borough, County, and State**

Jurisdiction	Owner Occupied	Renter Occupied
Hopewell Borough	2010	2019
Mercer County	2008	2019
New Jersey	2010	2019

*Source: 2023 ACS 5-year estimates B25039*

Table A23 compares the educational attainment for Borough, County, and State residents over age 25. The data indicate that more Borough residents achieved a high school diploma or higher than the County and State.

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**Table A23: Educational Attainment for Borough, County, and State Residents  
(Persons 25 years and over)**

Jurisdiction	Percent (%) high school graduates or higher	Percent (%) with bachelor's degree or higher
Hopewell Borough	98.8%	72.7%
Mercer County	89.9%	44.9%
New Jersey	90.7%	42.9%

*Source: 2023 ACS 5-year estimates DP02*

The 2023 Census also provides data on the means of transportation that people use to reach their place of work. Table A24 compares the Census data for the Borough, County, and State relative to driving alone, carpooling, using public transit, and using other means of transportation. The Borough had a relatively high percentage of those who drive alone and a relatively low percentage of workers who carpool or use public transit. However, the Borough has a higher percentage of those who walk to work in comparison to the County and State. This may be an indication of residents taking advantage of remote work opportunities since the pandemic.

**Table A24: Means of Transportation to Work for Borough, County and State Residents (Workers 16 years old and over)**

	Hopewell Borough	Mercer County	New Jersey
Car, truck, or van -- drove alone	62.4%	61.5%	63.7%
Car, truck, or van -- carpoled	2.2%	9.2%	7.7%
Public transportation (excluding taxicab)	2.9%	5.2%	8.5%
Walked	5.7%	3.5%	2.6%
Other means	0.8%	2.8%	2.4%
Worked from home	26.0%	17.8%	15.0%

*Source: 2023 ACS 5-year estimates DP-03*

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The 2023 Census also provided information on resident employment by industry. Education and healthcare dominate the employment sectors, followed by professional services. A strong presence in education and healthcare indicates job stability.

**Table A25: Employment by Industry**

Industry	Persons	%
Civilian employed population 16 years and over	965	
Agriculture, forestry, fishing and hunting, and mining	11	1.1%
Construction	61	6.3%
Manufacturing	99	10.3%
Wholesale trade	5	0.5%
Retail trade	38	3.9%
Transportation and warehousing, and utilities	14	1.5%
Information	26	2.7%
Finance and insurance, and real estate and rental and leasing	61	6.3%
Professional, scientific, and management, and administrative and waste management services	167	17.3%
Educational services, and health care and social assistance	324	33.6%
Arts, entertainment, and recreation, and accommodation and food services	60	6.2%
Other services, except public administration	44	4.6%
Public administration	55	5.7%

*Source: 2019 ACS 5-year estimates DP-03*

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The employment rate, according to the 2023 census shows that the Borough had a higher percentage of people in the labor force than the County or State, as well as higher employment of those in the labor force than the State and County.

**Table A26: Labor Force and Employment (%)**

Jurisdiction	Percent in Labor Force	Employed	Unemployed
Hopewell Borough	70.6%	70.6%	1.0%
Mercer County	64.1%	60.2%	3.9%
New Jersey	66.2%	62.1%	4.1%

*Source: 2029 ACS 5-year estimates DP-03*

According to NJTPA, Hopewell will see an increase of 1,012 jobs and 1,450 persons over the next 30 years, as shown on Table A27.

**Table A27: Forecast for Employment and Population**

	2015	2050	% Change 2015-2045
<b>Population</b>	1,920	1,923	.16%
<b>Employment</b>	1,011	1,133	12.07%

*Source: DVRPC Municipal and County-Level Population and Employment Forecasts, 2015-2050 <https://www.dvrpc.org/webmaps/popempforecasts/>*

The forecast for population and employment between 2015 and 2050 indicates minimal population growth (0.16%) but a notable increase in employment (12.07%) over the 35-year period. The population is projected to rise only slightly, from 1,920 in 2015 to 1,923 in 2050, suggesting a stable or stagnant residential base with little anticipated demographic change.

In contrast, employment is expected to grow more significantly, increasing from 1,011 jobs in 2015 to 1,133 by 2050. The 12.07% employment growth suggests an expanding job market despite the stagnant population, which could indicate efforts to attract businesses, economic diversification, or an increased reliance on workers commuting from outside the area.

The disparity between population and employment growth rates may suggest that while economic activity is increasing, local housing demand and infrastructure needs may remain relatively unchanged. Overall, the forecast suggests a stable residential community with

HOUSING ELEMENT AND FAIR SHARE PLAN  
BOROUGH OF HOPEWELL

---

modest economic expansion. Ensuring that housing, transportation, and workforce development align with job growth will be essential to sustaining economic viability and supporting local businesses in the long term.

**Figure 1: Affordable Housing Sites**  
Opewell Borough,  
Mercer County, NJ  
June 2025



Data Sources:  
Mercer County Parcels 2023

This map was developed using New Jersey Department of Environmental Protection Geographic Information System digital data, but this secondary product has not been NADRP verified and is not State-authorized.

**B A N I S C H**  
ASSOCIATES, INC.  
Planning and Design

Appendix A: Vacant Land Analysis

Block	Lot	Tax Class	Location	Acres	Constrained	Developable	Total Units	20% set aside	RDP	Comment
1	1	1	72 HART AVE	0.57	0.00	0.57	3.44	0.69	0.00	Does not achieve RDP
1	2	1	70 HART AVE	0.59	0.00	0.59	3.55	0.71	0.00	Does not achieve RDP
1	7 & 6	1	64 HART AVE	0.64	0.64	0.00	0.02	0.00	0.00	Steep Slope. Does not achieve RDP
1	20	1	HART AVENUE	0.08	0.08	0.00	0.00	0.00	0.00	HOA Open Space
2	2	3B	73 WASHINGTON AVE.	36.70	0.00	36.70	220.20	44.04	0.00	Preserved Farmland
2	4	15C	N. GREENWOOD AVENUE	1.98	0.47	1.51	9.06	1.81	0.00	DPW Storage, Flood Hazard Areas, long narrow lot
2	9 & 10	15C	FRONT ST	1.60	0.19	1.41	8.46	1.69	0.00	Water Dept., flood hazard areas
3	4 & 5	1	35 LOUELLEN STREET	1.34	0.00	1.34	8.04	1.61	1.00	Common ownership lots
4	3	1	LOUELLEN AVENUE	0.31	0.00	0.31	1.85	0.37	0.00	Does not achieve RDP
4	5	1	LOUELLEN AVENUE	0.35	0.00	0.35	2.08	0.42	0.00	Does not achieve RDP
6	5	1	N. GREENWOOD AVENUE	0.08	0.00	0.08	0.50	0.10	0.00	Norfolk Souther Rail Corp
9	84	1	EATON PL	4.60	0.00	4.60	27.60	5.52	0.00	HOA Open Space
11	5	1	76 MODELAVE.	0.61	0.00	0.61	3.66	0.73	0.00	Does not achieve RDP
11	15-01	1	MODEL AVE	0.50	0.00	0.50	3.00	0.60	0.00	Does not achieve RDP
11	35	1	GREENWOOD AVE	0.06	0.00	0.06	0.36	0.00	0.00	CSX Railroad
12	1	15C	RAILROAD PL	0.61	0.00	0.61	3.66	0.00	0.00	Train Station Preserved
12	2	15C	RAILROAD PL	0.40	0.00	0.40	2.40	0.48	0.00	Train Station Park Preserved
12	8-01	1	SOMERSET STREET	3.20	0.24	2.96	17.73	3.55	4.00	Redev Area, assume 6 units per acre given site dimensions
12	9	1	LANDLOCKED	0.00	0.00	0.00	0.00	0.00	0.00	Gore
13	1	15C	LOUELLEN STREET	0.20	0.00	0.20	1.20	0.24	0.00	Pump House, does not achieve RDP
14	25	1	18 W BROAD ST	0.19	0.00	0.19	1.14	0.23	0.00	Does not achieve RDP
17	3	1	LAFAYETTE	0.16	0.00	0.16	0.96	0.19	0.00	HOA Open Space
18	5-14	1	29-49 SOMERSET ST	1.25	0.00	1.25	7.50	1.50	0.00	Redev Area. Previously developed with SF homes, demolished as part of Rockwell groundwater mitigation, non-residential uses
18	17	1	18 ELM ST.	0.00	0.00	0.00	0.01	0.00	0.00	Part of Hopewell Township residential lot
18	26	1	ELM STREET	1.77	0.00	1.77	10.62	2.12	0.00	Stormwater management facility
21	6	1	LAFAYETTE ST	0.20	0.00	0.20	1.20	0.24	0.00	Home owners association
23	7	15C	E BROAD ST	0.34	0.00	0.34	2.04	0.41	0.00	Borough Hall
24	1	1	6 ELM ST	0.06	0.00	0.06	0.36	0.07	0.00	Part of Hopewell Township residential lot
24	2	1	2 ELM STREET	0.28	0.00	0.28	1.68	0.34	0.00	Part of Hopewell Township residential lot
25	1	3B	153 West Broad Street	13.73	4.49	9.24	55.44	11.09	6.00	Property in common ownership with Block 18, Lot 2.011 in the Twp which is under D&R preservation. Borough lot will include 7 acres in preservation to D&R, retain 6 acres to continue farm. The remaining 6 acres includes 5 acres of developable land. Adjusted to 5 acres at 6 units per acre. (30 total units, 6 affordable)
25	18	1	119 W. PROSPECT ST	0.01	0.00	0.01	0.06	0.01	0.00	Gore does not achieve RDP
25	39	1	5 LAWYERS LANE	0.08	0.00	0.08	0.48	0.10	0.00	Gore does not achieve RDP
25	40	1	15 LAWYERS LANE	0.24	0.00	0.24	1.43	0.29	0.00	Gore does not achieve RDP
25	41	15C	W PROSPECT STREET	12.69	1.40	11.29	67.74	13.55	0.00	Preserved Open Space
25	83	15C	S GREENWOOD AVE	7.51	4.55	2.96	17.76	3.55	0.00	Boro Park Preserved
25	104	1	61 PRINCETON AVE	0.22	0.19	0.03	0.19	0.04	0.00	Site Plan Approval for Townhouse development
28	4	15C	E BROAD ST	0.06	0.00	0.06	0.36	0.07	0.00	Library

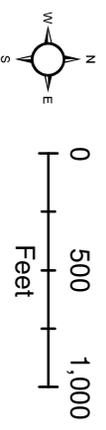
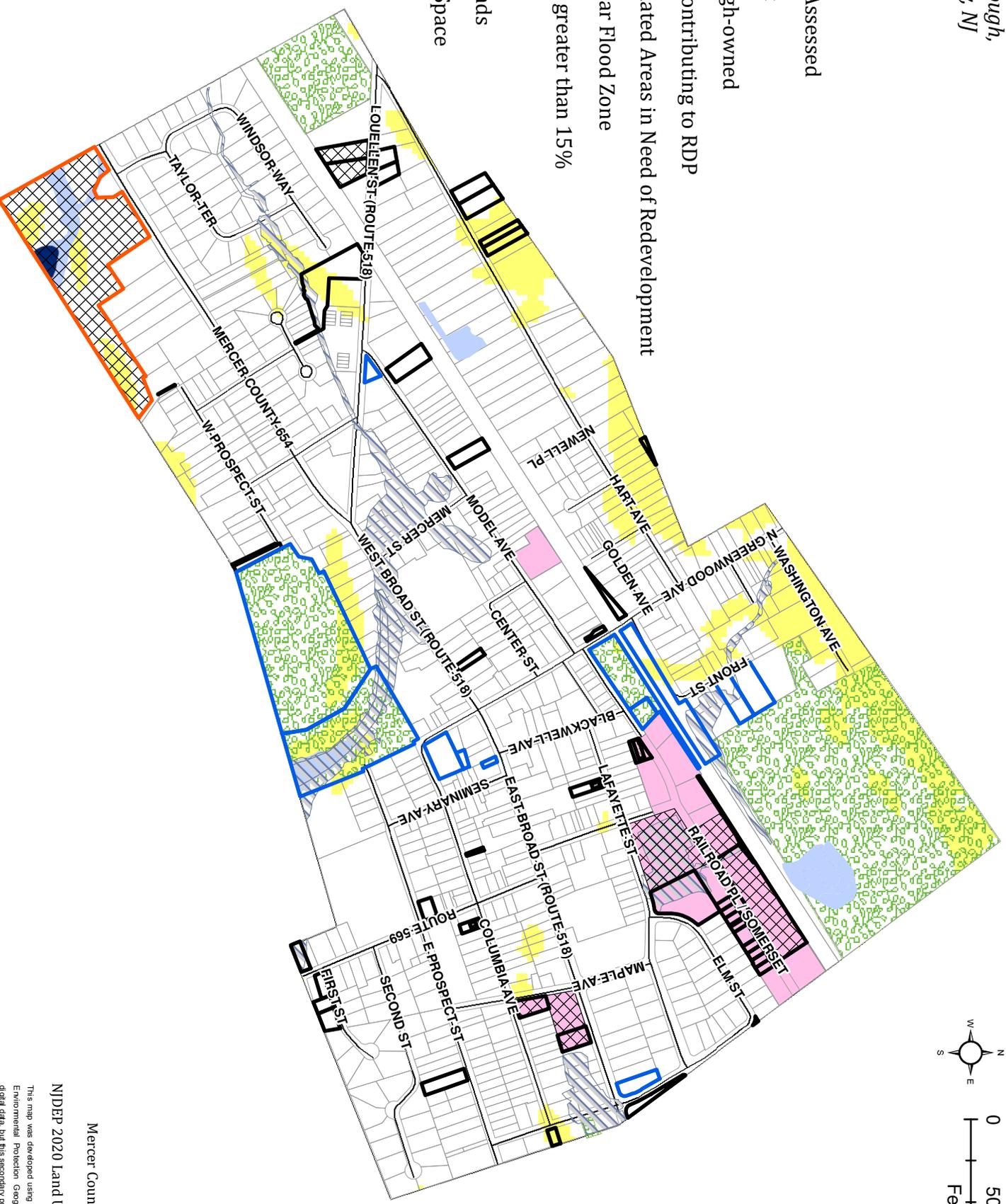
Appendix A: Vacant Land Analysis

Block	Lot	Tax Class	Location	Acres	Constained	Developable	Total Units	20% set aside	RDP	Comment
28	12 & 14	15C	4 COLUMBIA AVENUE	0.90	0.00	0.90	5.42	1.08	0.00	Fire house
29	19	1	35B E BROAD STREET	0.04	0.00	0.04	0.25	0.05	0.00	Access Easement
31	2	1	E BROAD ST	0.45	0.00	0.45	2.69	0.54	1.00	71 East Broad Redevelopment Area
31	19	1	COLUMBIA AVE	0.38	0.00	0.38	4.54	0.91	1.00	71 East Broad Redevelopment Area
32	3	1	COLUMBIA AVE	0.11	0.00	0.11	1.38	0.28	0.00	Preserved - NJCF
33	15	1	PRINCETON AVE	0.22	0.00	0.22	1.32	0.26	0.00	Does not achieve RDP
34	2	1	COLUMBIA AVE	0.13	0.00	0.13	0.78	0.16	0.00	Home owners association
36	13.01	1	EAST PROSPECT ST	0.46	0.00	0.46	2.78	0.56	0.00	Does not achieve RDP
36	60, 61 & 62	1	FIRST ST	0.57	0.00	0.57	3.43	0.69	0.00	Common ownership lots does not achieve RDP

**Vacant Land Analysis**  
*opwell Borough,*  
*Mercer County, NJ*  
*March 2025*

**Legend**

-  Farm Assessed
-  Vacant
-  Borough-owned
-  Sites contributing to RDP
-  Designated Areas in Need of Redevelopment
-  100 Year Flood Zone
-  Slopes greater than 15%
-  Water
-  Wetlands
-  Open Space



Data Sources:  
 Mercer County Parcels 2023  
 FEMA 2022  
 NJDEP 2020 Land Use/Land Cover

This map was developed using New Jersey Department of Environmental Protection Geographic Information System digital data, but this secondary product has not been NJDEP verified and is not State authorized.

## Appendix B

### Affordable Housing Deed Restriction

With Covenants Restricting Rentals, Conveyance and Improvements  
And Requiring Notice of Foreclosure and Bankruptcy

THIS DEED RESTRICTION, entered into as of this the 25 day of NOVEMBER 2024, by and between the Borough of Hopewell, a municipal corporation of the State of New Jersey, with offices located at 88 East Broad Street, Hopewell Borough, NJ 08525 (the "Municipality") and HS25 WB, LLC a New Jersey limited liability company having a mailing address at P.O. Box 5, Hopewell Borough, NJ 08525 (the "Owner"). The Owner is the owner of a residential low-income rental property (the "Project"):

WITNESSETH

#### Article 1. Consideration

The Planning Board of Hopewell Borough granted preliminary and final site plan approval with variances to Hopewell Special, LLC to develop property located at 19 West Broad Street in the Municipality (Block 25, Lot 76) with eight (8) residential units pursuant to Resolution #2021-09 adopted on September 1, 2021 (the "Resolution"). Condition #9 of the Resolution obligated Hopewell Special, LLC to develop one unit of deed-restricted affordable housing. Hopewell Special, LLC has opted to provide such unit on the Property (as defined in Article 2 hereof). In consideration of benefits and/or right to develop received by the Owner from the Municipality regarding this rental Project, the Owner hereby agrees to abide by the covenants, terms and conditions set forth in this Deed restriction, with respect to the land and improvements more specifically described in Article 2, hereof (the "Property").

#### Article 2. Description of Property

The Property consists of all of the land, and a portion of the improvements thereon, that is located in the Borough of Hopewell, County of Mercer, State of New Jersey, and described more specifically as a portion of Block No. 25, Lot No. 75, known commonly as 25 West Broad Street.

The unit which is to be restricted by virtue of this Deed Restriction is specifically designated as "Unit B," located on the second floor of the building located on the Property.

#### Article 3. Affordable Housing Covenants

The following covenants (the "Covenants") shall run with the land for the period of time (the "Control Period"), determined separately with respect for each dwelling unit, commencing upon

the date on which the first certified household occupies the unit, and shall and expire as determined under the Uniform Controls, as defined below.

In accordance with N.J.A.C. 5:80-26.11, each restricted unit shall remain subject to the requirements of this subchapter, the "Control Period," until the municipality in which the unit is located elects to release the unit from such requirements. Prior to such a municipal election, a restricted unit must remain subject to the requirements of this subchapter for a period of at least 30 years; provided, however, that:

1. Units located in high-poverty census tracts shall remain subject to these affordability requirements for a period of at least 10 years; and
  2. Any unit that, prior to December 20, 2004, received substantive certification from COAH, was part of a judgment of compliance from a court of competent jurisdiction or became subject to a grant agreement or other contract with either the State or a political subdivision thereof, shall have its control period governed by said grant of substantive certification, judgment or grant or contract.
- A. Sale and use of the Property is governed by regulations known as the Uniform Housing Affordability Controls, which are found in New Jersey Administrative Code at Title 5, chapter 80, subchapter 26 (N.J.A.C. 5:80-26.1, *et seq.*, the "Uniform Controls").
  - B. The portion of the Property subject to this Deed Restriction shall be used solely for the purpose of providing a rental dwelling unit for low-income households, and no commitment for any such dwelling unit shall be given or implied, without exception, to any person who has not been certified for that unit in writing by the qualified administrative agent retained by the Owner or its successor. So long as any dwelling unit remains within its Control Period, sale of the Property must be expressly subject to these Deed Restrictions, deeds of conveyance must have these Deed Restrictions appended thereto, and no sale of the Property shall be lawful, unless approved in advance and in writing by the Administrative Agent of the Municipality.
  - C. No improvements may be made to the Property that would affect the bedroom configuration of any of its dwelling units, and any improvements to the Property must be approved in advance and in writing by the Administrative Agent of the Municipality.
  - D. The Owner shall notify the Administrative Agent of the Municipality and the Municipality of any foreclosure actions filed with respect to the Property within five (5) business days of service upon Owner.
  - E. The Owner shall notify the Administrative Agent of the Municipality and the Municipality within three (3) business days of the filing of any petition for protection from creditors or reorganization filed by or on behalf of the Owner.

- F. The Owner shall notify the Administrative Agent of the Municipality and the Municipality within ten (10) business days of a tenant vacating the affordable housing unit or notifying the Owner of their intent to vacate the Affordable Housing Unit.

Article 4. Remedies for Breach of Affordable Housing Covenants

A breach of the Covenants will cause irreparable harm to the Municipality and to the public, in light of the public policies set forth in the New Jersey Fair Housing Act, the Uniform Housing Affordability Control rules found at N.J.A.C. 5:80-26, and the obligation for the provision of low and moderate-income housing.

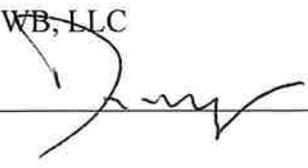
- A. In the event of a threatened breach of any of the Covenants by the Owner, or any successor in interest of the Property, the Administrative Agent and the Municipality shall have all remedies provided at law or equity, including the right to seek injunctive relief or specific performance.
- B. Upon the occurrence of a breach of any Covenants by the Grantee, or any successor in interest or other owner of the Property, the Administrative Agent of the Municipality and the Municipality shall have all remedies provided at law or equity including but not limited to forfeiture, foreclosure, acceleration of all sums due under any mortgage, recouping of any funds from a sale in violation of the Covenants, diverting of rent proceeds from illegal rentals, injunctive relief to prevent further violation of said Covenants, entry on the premises, those provided under Title 5, Chapter 80, Subchapter 26 of the New Jersey Administrative Code and specific performance.
- C. A breach of any of the Covenants by the Grantee, or any successor in interest or other owner of the Property, shall be considered a breach of the conditions of the Resolution.

IN WITNESS WHEREOF, the Municipality and the Owner have executed this Deed Restriction in triplicate as of the date first above written.

**[SIGNATURE PAGES FOLLOW]**

HS25 WB, LLC

BY: \_\_\_\_\_



XXXXXXXXXXXXXXXX

*Richard Mosley*

*ACKNOWLEDGEMENT*

On this the 25 day of November, 2024 before me came Richard Mosley, to me known and known to me to be Richard Mosley the Owner of the Property, who states that (s)he has signed said Agreement for the purposes stated therein.

*Casey Larcome*  
NOTARY PUBLIC

Casey Larcome  
Notary Public  
State of New Jersey  
Commission Expires 02/04/25

**THE BOROUGH OF HOPEWELL**

By: *RPK*

Ryan Kennedy, Mayor

Date of Execution: 11/25/24

*ACKNOWLEDGEMENT*

NOTARY PUBLIC

On this the 25 day of November, 2024 before me came Ryan Kennedy known and known to me to be the Mayor of Hopewell Borough, the Municipality identified as such in the foregoing Agreement, who states that he is duly authorized to execute said Agreement on behalf of said Municipality, and that he has so executed the foregoing Agreement for the purposes stated therein

*Regina M. Toth*  
NOTARY PUBLIC



## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“MOU”) is entered into between the **BOROUGH OF HOPEWELL**, a municipal corporation in the County of Mercer and the State of New Jersey, with offices at 88 East Broad Street, Hopewell Borough, NJ 08525 (the “Borough”) and **HS25 WB, LLC** and **HOPEWELL SPECIAL, LLC**, New Jersey limited liability companies having a mailing address at P.O. Box 5, Hopewell Borough, NJ 08525.

1. **Purpose.** This Memorandum of Understanding (“MOU”) sets forth the obligations of **HS25 WB, LLC** and **HOPEWELL SPECIAL, LLC** (collectively, the “Developer”) to develop one unit of affordable housing within the Borough. The Planning Board of Hopewell Borough granted preliminary and final site plan approval with variances to Hopewell Special, LLC to develop property located at 19 West Broad Street in the Borough (Block 25, Lot 76) with eight (8) residential units pursuant to Resolution #2021-09 adopted on September 1, 2021 (the “Resolution”). A copy of the Resolution is attached hereto as Exhibit A. Condition #9 of the Resolution obligated Hopewell Special, LLC to develop one unit of deed-restricted affordable housing. Hopewell Special, LLC has opted to provide such unit on a portion of the portion of property identified as Block No. 25, Lot No. 75, known commonly as 25 West Broad Street. The unit to be deed-restricted is specifically designated as “Unit B” and located on the second floor of the building located on the Property. (the “Affordable Unit”).

The Parties hereto acknowledge that the Affordable Unit is to be applied against the Borough's affordable housing obligations.

2. **Affordable Housing Set-Aside.** In compliance with the Resolution, Developer shall have an obligation to deed-restrict one unit as a low income affordable family rental unit. The specific

location of such unit is set forth in Section 1 hereof. Any such affordable rental unit shall comply with Uniform Housing Affordability Controls (UHAC), applicable New Jersey Council on Affordable Housing (COAH) or Department of Community Affairs (DCA) affordable housing regulations, any applicable order of the Court

The Affordable Unit shall remain an affordable rental unit for a period of at least thirty (30) years from the date of its initial occupancy by a qualified household (“Deed- Restriction Period”) consistent with UHAC (N.J.A.C. 5:80-26.1 1) or the then applicable regulation, so that the Borough may count the Affordable Unit against its obligations to provide family rental affordable housing. This obligation includes, but is not limited to, the Developer’s obligation to comply with: pricing requirements pursuant to the income limits in effect at the time of issuance of the certificate of occupancy for the affordable unit, affirmative marketing requirements, candidate qualification, and screening requirements, and deed restriction and monitoring requirements.

3. **Administration.**

a. The Borough shall be responsible for administering the Affordable Unit. However, all associated expenses shall be solely borne by the Developer, its successors, or assigns, which expenses include, but are not limited to, conducting an outreach process, conducting interviews with interested households, creating and maintaining a list of eligible households, determining income eligibility and all other activities to ensure that restricted units are rented to low-income households. The Borough shall utilize the services of a certified Administrative Agent to conduct such tasks as set forth in N.J.A.C. 5:80-26.

b. Upon execution of this MOU, Developer shall also execute a deed restriction in a form substantially similar to that attached hereto as Exhibit B. The Borough shall record such deed restriction in the Mercer County Clerk's Office.

c. The Parties acknowledge that the Affordable Unit is currently occupied, but was not affirmatively marketed in compliance with applicable regulations and the tenant was not income-qualified. Within ten (10) business days of the current tenant vacating the Affordable Unit or notifying Developer of their intent to vacate the Affordable Unit, Developer shall notify the Borough in writing and request that the Borough begin to affirmatively market the Affordable Unit. Failure of Developer to timely notify the Borough under this section shall be considered a breach of this Agreement, the Deed Restriction, and the Resolution. The Borough shall be entitled to take all actions permitted by law to enforce this Agreement, the Deed Restriction, and the Resolution, including but not limited to, revoking Certificates of Occupancy issued for the residential units located at 19 West Broad Street in the Borough (Block 25, Lot 76), and issuing notices of violations and municipal court summonses. The Borough Zoning Officer shall be empowered to enforce this MOU, the Deed Restriction, and the Resolution.

4. **Cooperation with Reporting.** The Parties acknowledge that the Borough may have the obligation from time to time to generate information necessary to demonstrate the creditworthiness of the Affordable Unit. Developer will cooperate with the Borough and provide all monitoring and reporting requirements within fifteen (15) Business Days of the request.

5. **Term.** This MOU shall become effective on the date of signing by the Borough and shall remain in place for the period that the Deed Restriction is in effect. The term of the Deed Restriction shall be thirty (30) years, which shall begin to run as of the date the Affordable Unit is occupied by an income-qualified household pursuant to applicable regulations.

6. **Entire Agreement.** This Agreement represents the entire Agreement between the Parties relating to the subject matter hereof and no representations or agreements made by either party or any representations of either party in the negotiations leading to this Agreement or otherwise which are not expressed in this Agreement shall be binding on either party. No change in addition to or modification of any provision of this Agreement shall be effective unless made by written agreement signed by the party to be charged with such change, addition or modification.

7. **Controlling Law.** Controlling law of the State of New Jersey shall govern this MOU.

8. **Successors and Assigns.** Each party to this MOU is hereby bound to the terms and conditions contained in this MOU and the legal representatives, successors and assigns of this MOU, if any, shall be bound to the terms and conditions contained herein.

9. **Severability.** Any provision of this MOU held to be void or unenforceable under any law or regulation shall be stricken and all remaining provisions shall continue to be valid and binding upon the parties to this MOU.

**[Signature Pages Follow]**

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and date first above written.

BOROUGH OF HOPEWELL,  
IN THE COUNTY OF MERCER

ATTEST:

\_\_\_\_\_  
Regina Toth, Clerk

By: \_\_\_\_\_  
Ryan Kennedy, Mayor

HOPEWELL SPECIAL, LLC

ATTEST:

*Casey Jarome*  
\_\_\_\_\_

By: *[Signature]*  
\_\_\_\_\_

HS25 WB, LLC

ATTEST:

*Casey Jarome*  
\_\_\_\_\_

By: *[Signature]*  
\_\_\_\_\_

## Appendix C

Prepared by:

### DEED RESTRICTION

#### **Deed-Restricted Rental Dwelling Unit with Covenants Restricting Sale, Rental, Use, Conveyance and Improvements, and Requiring Notice of Violations, Foreclosure and Bankruptcy**

**THIS DEED RESTRICTION**, made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2022, by and between:

**THE BOROUGH OF HOPEWELL**, a municipal corporation of the State of New Jersey (“Hopewell” or the “Borough”), having an address of 88 East Broad Street, Hopewell (Borough), New Jersey 08525; and

**HVIB Holdings, LLC**, a limited liability company of the State of \_\_\_\_\_ (“Owner” or the “Company”), having an address of \_\_\_\_\_.

**WHEREAS**, the Company is the owner of certain real property identified as Block 28, Lot 5, on the Borough’s tax map, more commonly known as 15 East Broad Street (the “Property”); and

**WHEREAS**, the Company has recently obtained preliminary and final major site plan approval, together with use and bulk variances, from the Borough Planning Board (the “Board”) to allow for the construction of a restaurant and six (6) one (1)-bedroom residential apartment units on the Property (the “Approved Mixed-Use Building”); and

**WHEREAS**, the Board’s decision is memorialized in Resolution PB #2022-07, adopted during the Board’s regular public meeting on February 2, 2022; and

**WHEREAS**, municipalities within the State of New Jersey have a constitutional obligation to provide affordable housing, and are required by the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, et seq. (the “Act”) to provide for their respective fair share of housing that is affordable to households with low- and moderate-incomes in accordance with the provisions of the Act; and

**WHEREAS**, the Borough administers an affordable housing program for the purpose of meeting its fair share affordable housing obligation in accordance with the provisions of the Act; and

**WHEREAS**, the Company is a respected provider of residential housing opportunities; and

**WHEREAS**, as a condition of approval set forth in Resolution PB #2022-07, and in order to facilitate the provision of affordable housing for low- and moderate-income individuals, the Company has agreed to set aside and deed restrict one (1) of the six (6) residential dwellings within the Approved Mixed-Use Building as a housing opportunity reserved for income qualifying individuals and families (the “Affordable Unit”); and

**WHEREAS**, the Borough has determined that the Affordable Unit is a suitable, available and appropriate affordable housing opportunity, and will assist Hopewell in fulfilling its Mount Laurel obligations; and

**WHEREAS**, to receive credit for properties reserved for affordable housing opportunities, Hopewell must ensure that same remain affordable and available to low- and moderate-income individuals and families for a designated period of time; and

**WHEREAS**, the Company and the Borough wish to restrict the Affordable Unit for use solely as **low**-income affordable housing, as defined by the Act and applicable affordable housing rules and regulations; and

**NOW, THEREFORE**, it is the intent of this Declaration to ensure that the affordability controls are recorded and imposed upon the Affordable Unit so as to bind all who lease, own, and occupy the Affordable Unit to the covenants, conditions and restrictions contained herein; to notify all future purchasers that the Affordable Unit is encumbered with affordability controls, and to enable the Borough to take such actions as may be necessary to maintain the affordability controls for a period of thirty (30) years from the date these Restrictions are recorded in the Office of the Mercer County Clerk.

## **ARTICLE I. DESCRIPTION OF AFFORDABLE UNIT**

The Affordable Unit consists of all of the land and a portion of the improvements thereon, located in the Borough of Hopewell, County of Mercer, State of New Jersey, and described more specifically for the purposes outlined herein as Block 28, Lot 5, and known by the street address of 15 East Broad Street, Apartment No. [REDACTED].

The Affordable Unit is hereby designated as a **low**-income, one (1)-bedroom, non-age restricted affordable **rental** unit.

## **ARTICLE II. AFFORDABLE HOUSING COVENANTS**

Any sale, rental, use, occupancy, or other conveyance of interest of the Affordable Unit is governed by the administrative regulations known as the Uniform Housing Affordability Controls, which are found in the New Jersey Administrative Code at Title 5, Chapter 80, Subchapter 26, N.J.A.C. 5:80-26.1, et seq. (the “UHAC”), the Borough’s affordable housing ordinances, and the Act (collectively, the “Affordability Controls”). Very-low income shall be as defined in the Act.

Consistent with the Affordability Controls, the following covenants (the “Covenants”) shall run with the land for the period of time commencing upon the recordation of this Declaration in the

Office of the Mercer County Clerk (the “Commencement Date”), and terminating upon the anniversary of the thirty year (30)-period (the “Control Period”).

- A. Sale, rental, use, or occupancy of the Affordable Unit and any within dwelling unit(s)/beds shall be governed by these Affordability Controls and Covenants during the Control Period.
- B. The Affordable Unit shall be used solely for the purpose of providing rental dwelling units for low- or moderate-income households as a primary residence, and no commitment for any such dwelling unit shall be given or implied, without exception, to any person who has not been certified for the Affordable Unit in writing by the Administrative Agent. So long as any dwelling unit within the Affordable Unit remains within its Control Period, a subsequent sale of the Affordable Unit by the Company, or its successors or assigns, must be expressly subject to this Deed Restriction, deeds of conveyance must have these Covenants appended thereto, and no sale or tenancy of the Affordable Unit shall be lawful, unless approved in advance and in writing by the Administrative Agent. Any subsequent purchaser must agree to maintain the Affordable Unit and ensure compliance with the Affordability Controls and Covenants until released.
- C. No improvements may be made to the Affordable Unit, especially those that would affect the bedroom configuration, unless approved in advance and in writing by the Administrative Agent.
- D. The Company, or its successors or assigns, shall notify the Borough and its Administrative Agent of any foreclosure action(s) filed with respect to the Affordable Unit within five (5) business days of service upon Owner.
- E. The Company, or its successors or assigns, shall notify the Borough and its Administrative Agent within three (3) business days of the filing of any petition for protection from creditors or reorganization filed by or on behalf of the Company, or said successors or assigns.
- F. No refinancing, equity loan(s), secured letter of credit, or any other mortgage obligation or other debt (collectively, “Debt”) secured by the Affordable Unit, may be incurred except as approved in advance and in writing by the Administrative Agent. At no time shall the Administrative Agent approve any such Debt, if incurring the Debt would make the total of all such Debt exceed Ninety-Five Percent (95%) of the applicable maximum resale price.
- G. The Affordability Controls and Covenants shall remain in effect and encumber the Affordable Unit despite the entry and enforcement of any judgment of foreclosure with respect to the Property, so long as the Affordable Unit remains subject to the Covenants being implemented by this Declaration.

- H. Any lease, agreement, or like form of contract pertaining to occupancy of the Affordable Unit shall adhere to the Affordability Controls and Covenants, and must be approved by the Administrative Agent prior to the start of any lease, rental, or tenancy period.

**ARTICLE III. REMEDIES FOR BREACH OF AFFORDABLE HOUSING COVENANTS**

A breach of the Affordability Controls and Covenants will cause irreparable harm to the Borough, the Administrative Agent and to the public, in light of the public policies set forth in the Act and the obligation for the provision of low- and moderate-income housing as provided by law. Accordingly, and as set forth in N.J.A.C. 5:80-26.8:

- A. In the event of a threatened breach of any of the Affordability Controls or Covenants by the Company or a subsequent owner, or any other successor in interest of the Affordable Unit, the Administrative Agent and the Borough shall have the right to reasonable entry upon the Affordable Unit, and all remedies provided at law and equity, including the right to seek injunctive relief or specific performance.
- B. Upon the occurrence of a breach of any of the Affordability Controls or Covenants by the Company or a subsequent owner, or any other successor in interest of the Affordable Unit, the Administrative Agent and the Borough shall have all remedies provided at law and equity including but not limited to forfeiture, foreclosure, acceleration of all sums due under any mortgage, recoupment of any funds from a sale or lease, diversion of rent proceeds from illegal rentals, immediate termination of any lease or sub-lease, injunctive relief to prevent further violation(s) of said Covenants, entry upon the Affordable Unit, enforcement action provided under the Regulations, as may be amended or provided by law, and specific performance.

**ARTICLE IV. OTHER PROVISIONS**

The Company, or its successors or assigns, shall cooperate in following and complying with the Affordability Controls, Covenants and the obligation for the provision of low- and moderate-income housing, and shall cooperate in any and all necessary actions, to the extent such cooperation is necessary, to assist the Borough in securing maximum credits for the Affordable Unit thereby assisting Hopewell in fulfilling its affordable housing obligation.

IN WITNESS WHEREOF, the Borough and Owner have executed this Deed Restriction in triplicate as of the date first written above.

**SIGNED AND AGREED TO BY:**

Witness/Attest:

THE BOROUGH OF HOPEWELL, a  
municipal corporation of the State of New  
Jersey

\_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_, (Title)\_\_\_\_\_

Dated: \_\_\_\_\_

Witness/Attest:

HVIB Holdings, LLC, a limited liability  
company of the State of           

\_\_\_\_\_  
\_\_\_\_\_, Secretary

By: \_\_\_\_\_  
\_\_\_\_\_, (Title)

Dated: \_\_\_\_\_

**RESOLUTION PB #2022-07  
BOROUGH OF HOPEWELL  
PLANNING BOARD**

**HVIB HOLDINGS, LLC  
15 EAST BROAD STREET  
BLOCK 28, LOT 5**

**PRELIMINARY AND FINAL MAJOR SITE PLAN WITH USE AND BULK  
VARIANCES**

**Decided on January 5, 2022  
Memorialized on February 2, 2022**

WHEREAS, HVIB Holdings, LLC (“Applicant”) has made application to the Borough of Hopewell Planning Board (the “Planning Board” or “Board”) to construct a new 3-story building utilizing the same general footprint of the existing building on the Property (as hereinafter defined), which will include restaurant space and six (6) one-bedroom apartments.

WHEREAS, the property falls within the B-R District, having an address of 15 East Broad Street and is designated as Block 28, Lot 5 on the Hopewell Borough Tax Map (the “Property”).

WHEREAS, the Planning Board accepted jurisdiction based on proof of publication and notices provided in accordance with the Municipal Land Use Law.

WHEREAS, public hearings were conducted on December 1, 2021 and January 6, 2022 at which time the Planning Board (acting as the Zoning Board of Adjustment) heard testimony of the Applicant and gave due consideration to all individuals desiring to be heard, considered the exhibits and expert reports submitted, and deliberated on the merits of the application.

WHEREAS, in addition to the application form and checklist, the following plans and materials were submitted by Applicant and considered by the Board:

- Plan “The Hopewell Inn, Mercer County, Hopewell, New Jersey” 8 sheets, dated October 28, 2021, prepared by Steven S. Cohen Architects.
- Plan “ALTA/NSPS Land Title Survey, 15 East Broad Street, Hopewell, NJ” 1 sheet, dated October 5, 2021, prepared by FA Commercial Due Diligence Services.
- Architectural Renderings, 2 sheets, prepared by Steven S. Cohen Architects.
- Plan “Preliminary and Final Minor Site Plans for Hopewell Inn, Hopewell Borough, Mercer County, NJ, Block 28 Lot 8”, 9 sheets, dated October 28, 2021 and last revised 11/9/21, prepared by T&M Associates.
- Stormwater Management Report, dated October 28, 2021, prepared T&M Associates.
- Parking Assessment, dated October 28, 2021, prepared by Langan Engineering and Environmental Services, Inc.

WHEREAS, the following exhibit was marked into evidence:

- A-1 8 slides, slides 1 to 6 contained photos of hotel over time, Slides 7 and 8 were proposed renderings.
- A-2 Floor Area and Elevation Plan
- A-3 Colorized version of Sheet 3 and of 9, with updates

WHEREAS, the following witness were sworn in and provided testimony on behalf of the Applicant:

- Douglas White, Civil Engineer
- Steve Cohen, Architect;
- Jim Kyle, Professional Planner
- Karl Pehnke, Traffic Engineer
- Michael Gale, Vice President of Real Estate Operations
- Peter Golden, Vice President and Director of Operations
- John Harrison, Structural Engineer
- Joe Mutinsky, Senior Project Manager

NOW THEREFORE, the Planning Board makes the following findings of fact and conclusions of law based upon evidence presented at its public hearing and which a record was made.

1. The Property is located at 15 East Broad Street in the B-R District and is designated as Block 28, Lot 5 on the Hopewell Borough Tax Map. The Property is located on the southwest corner of East Broad Street and Seminary Avenue, which is currently developed with the Hopewell Valley Bistro and Inn.

2. Applicant submitted a major site plan application with use and bulk variances to raze and reconstruct the existing structure located on the Property, which will include a restaurant, with liquor license, and six (6) one-bedroom apartments.

3. The existing improvements on the Property consist of a restaurant, containing 3,713+/- square feet and a 339+/- square-foot outdoor seating area, and twelve (12) inn hospitality rooms. The existing structure occupies the majority of the Property. A paved area is located at the rear of the property that is accessed from Seminary Avenue and provides eight (8) designated parking spaces.

4. Applicant proposes to remove the existing building and shed, rear concrete walkways and curbing, wood fence and landscape wall. Other site improvements include eight (8) parking spaces to the rear of the building, including one (1) ADA van space, brick sidewalks along the front and side of the building, dumpster enclosure in the rear, southeast corner, and landscape areas along the front and rear of the building. The new building removes the previous one-story

addition along the west side of the building and replaces it with a wraparound deck on the first and second floors.

5. The proposed structure will essentially occupy the same foot print as the prior structure. The proposed restaurant space is approximately 4,642+/- square feet and includes 1,432+/- square feet of seasonal outdoor dining space that is distributed on the first and second floor porches. Six (6) one-bedroom apartments are being proposed on the second and third floor. Two (2) of the one-bedroom apartments will be located on the second floor and four (4) one-bedroom apartments will be located on the third floor.

6. The rear parking area is essentially unchanged in footprint also, but is proposed to be improved with a paved lot containing seven 9' by 20' parking spaces, and one van-accessible ADA-compliant parking space. The proposed parking spaces will be served by a dead-end aisle measuring 24 feet in width. The terminal end of the drive aisle has also been furnished with a masonry refuse/recycling enclosure, measuring 10' x 20', to service the proposed uses. The existing shed in the rear of the structure will be removed as part of the improvements. Additional improvements in the rear lot include ramps and walks to provide ADA-compliant access to the building, planter areas and signage for the ADA-compliant parking space.

7. **Bulk Variances.** The Applicant is seeking variance relief in connection with the following bulk (c) variances:

BR District	Required	Existing	Proposed
Minimum Lot Size (sq. ft.)	4,000 sf	14,742 sf	No change
Minimum Lot Width (ft)	40'	92.07'	No Change
Minimum Front Yard (ft)	15'	10.25'*	10.6'**
Minimum Rear Yard (ft)	25'	N/A (Corner Lot)	N/A (Corner Lot)
Minimum Side Yard (ft)	0'	4.9'	4.89'
Maximum Building height	3 stories/45'	29.1'	3 stories
Maximum FAR	.60	.70	.804**
Maximum Lot Coverage	40%	93%*	92%**

*\*Pre-existing condition*

*\*\*Variance Required*

In addition, the Applicant requires a variance for parking where 34 spaces is required, and 8 spaces are proposed.

8. **Analysis of Bulk Variances.**

There are three bulk variances requested:

- a. Front Yard Setback. 15 feet required; 10.25 feet existing; 10.6 feet proposed
- b. Maximum Lot Coverage. 40% required; 93% existing; 92 % proposed.
- c. Parking Spaces. 34 required; 8 existing; 8 proposed.

In each case the proposed condition is reflective of the existing condition, with slight improvements to Front Yard Setback and Maximum Lot Coverage. Although the parking requirements changed, utilizing the existing area, allows for a desirable visual environment with the new structure. There is also the ability to park on the street and to walk – which is how the existing restaurant functions.

The Board has evaluated the Municipal Land Use Law standards for bulk variances and finds that the bulk variances are justified under (c)(2) criteria based on the existing conditions, topography, physical constraints and unique characteristics of the Property. The benefits of the project and the improvements to the site will be a positive impact on the community.

9. Use Variances.

- a. §12-4.24 – Applicant requests a D(1) variance to permit six (6) 1-bedroom apartments whereas a maximum of three (3) is permitted under §12-4.24.
- b. §12-15.5 – Applicant requests a D use variance to permit a retail store in excess of 2,000 square feet under §12-15.5.
- c. Applicant requests a D(4) variance to exceed the allowable F.A.R. where 0.60 is permitted, 0.70 is existing and 0.804 is proposed.

10. Analysis of Use Variances.

The Municipal Land Use Law authorizes local boards to grant a use variance where: (1) “special reasons” exist for the variance (the positive criteria); and (2) the variance can be granted without substantial detriment to the public good and will not substantially impair the intent and purposes of the zone plan and zoning ordinance (the negative criteria). *N.J.S.A.* 40:55D-70d.

A. D(1) Variance

The Applicant requires a d(1) use variance to permit Six, 1-bedroom apartments where a maximum of 3 is permitted under § 12-4.24 “Dwelling, Apartment” which states:

A dwelling unit of the family unit type designed and constructed as an integral part of a building which is not a secondary use. Where a dwelling apartment is permitted as a primary use, the building shall contain not more than three apartments.

In relation to the d(1) variance requests, the Board has the power to grant “d(1)” variances to permit non-permitted uses or principal structures pursuant to *N.J.S.A.* 40:55D-70d(1) “in particular cases and for *special reasons*.” This is the so-called *positive criteria* of a “d(1)” variance. The Board may not exercise its power to grant a “d(1)” variance otherwise warranted, however, unless the so-called “*negative criteria*” has been satisfied. Pursuant to the last unlettered paragraph of *N.J.S.A.* 40:55D-70: “No variance or other relief may be granted ... without a showing that

such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.”

#### *Positive Criteria*

For special reasons, the Applicant focused on the provision of rental housing options that are less expensive, one deed restricted “moderate income” affordable housing unit and the ability to add to the variety of the Boroughs housing opportunities. The proposed rental housing replaces 12 underutilized inn rooms and provides a housing option underserved in the Borough. The Board finds that the proposed project carries out a purpose of zoning as defined in N.J.S. 40:55D-2, and satisfies the positive criteria. In support of the use variances, other “d” variances and bulk variances the Board adopts the testimony of the Applicant’s professional planner.

#### *Negative Criteria*

In satisfaction of the negative criteria, Applicant demonstrated to the satisfaction of the Board that the requested relief for the d(1) variances would not result in significant negative impacts to the intent and purpose of the zone plan or zoning ordinance or to the public good. The Board reviewed the application under the enhanced burden of proof required by the *Medici* case. The Applicant’s planner testified that the proposed apartments can be reconciled with the zoning ordinance and the Master Plan and that the mixed use will fit well in the neighborhood promoting a walkable environment. Proofs also focused on improvements from the existing structure and use, such as increased setbacks and the promotion of the historic nature of the village center, as advanced by the Master Plan. He further indicated that the project particularly suited to the BR district and the property since the proposed use is very similar to the existing use. Accordingly the proposed use will fit into the current character of the site and adjoining uses and will not impact the zone plan.

#### *B. D((3) Variance*

The BR Zoning Districts allow retail/restaurant use, but on a small neighborhood scale, not more than 2,000 s.f. Although a definitional element of the use, the Borough has traditionally applied the (d)(3) standard when the proposal, although over the allowable amount, is in fact of a village scale. Notwithstanding the foregoing, the Board has concluded that based upon the testimony the application would satisfy the positive and negative (d)(1) criteria necessary for a use variance.

The Board has the power to grant “d(3)” variances pursuant to N.J.S.A. 40:55D-70d(3) “in particular cases and for special reasons.”. In granting a (d)3 variance the Board’s focus must be on whether the site remains appropriate for the use despite the failure to conform to all of the ordinance’s conditions. The standard does not require a finding of particular suitability. This determination addresses the so-called “positive criteria”. Applicant must also satisfy the two prongs of the negative criteria. The first focuses on the ability to grant the variance without substantial detriment to the public good while the second prong must establish that the variance sought is not inconsistent with the intent and purpose of the master plan and zoning ordinance.

The Planning Board finds that the proposed restaurant use when compared to the existing restaurant use still maintains the character of a village setting. The Board determined that the increase over the permitted amount does not in any way undermine the intent of the zoning ordinance designed to promote retail/restaurants at a neighborhood scale. Moreover, the use will occupy space that was previously used by a restaurant that was also over the permitted limit and reduce the number of seats as compared to the existing restaurant. The utilization of the property and the added vitality to the block furthers the public good. The Board has determined that the variance could be granted without substantial detriment to the public good and that it will not substantially impair the intent and purpose of the zoning plan and zoning ordinance.

C. D(4) F.A.R. Variance

The Applicant seeks a d(4) for exceeding the permitted F.A.R. This “non-use” variance contemplates that a proposed use is permitted however not at the intensity prescribed in the ordinance. The Applicant must still satisfy the positive and negative criteria, but each has a different standard of proof. In particular, focus should be on how the proposed development will impact adjacent properties.

Although the ordinance allows an FAR of .60, the existing FAR is .70. Applicant’s proposal with a FAR of .804 does not rise to a significant level, considering all of the positive impacts from the redevelopment of the property. The applicant has agreed to dedicate land currently owned to the centerline of the Seminary Avenue, exacerbating the need for an FAR variance. It is generally of the same size and scale, but has increases setback, better circulation, affordable housing unit, and an overall seat reduction of the restaurant from 287 seats to 208 seats. In addition, the new structure will honor the history of the original building on the property through its design.

The Planning Board has found that, provided that the conditions set forth below are imposed and complied with, the bulk and use variances identified above can be granted while satisfying the negative criteria and will not substantially impair the intent and purpose of the zoning plan and zoning ordinance or impose a detriment to the public good.

NOW THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Hopewell on this 2nd day of February, that the action of the Planning Board taken on January 5, 2022, granting Preliminary and Final Site Plan with use and bulk variances is hereby memorialized with the following conditions.

1. Applicant shall comply with the conditions and requirements articulated in the professional reports issued in connection with this matter including the reports of Joanna Slagle, PP/AICP, dated November 23, 2021 and the report from Paul W. Ferriero, PE, CME, PP, Municipal Engineer dated, November 19, 2021, subject to any changes on the record or in this Resolution.

2. Applicant shall comply with the conditions and requirements articulated in the Fire Officials December 31, 2021 report to the satisfaction of the Fire Official and Borough Engineer, subject to any changes on the record or in this Resolution.
3. Applicant must comply with all representations made, either personally or through any representative, during the course of Applicant's presentation to the Board and in all documents filed with the application.
4. Applicant shall deed restrict one of the six residential units so that it qualifies as an affordable housing unit under State regulations. Applicant is permitted to provide either a low income or moderate income unit based on Applicant's discretion. The deed restriction shall be reviewed and approved to satisfaction of Borough Attorney and Borough Engineer prior to recording.
5. Applicant will reinstall any pavers that may be removed in the front yard along Broad Street and Seminary Avenue.
6. Applicant shall dedicate 25 feet along Seminary Avenue and update the bulk chart to reflect the conveyance, including the FAR calculation, lot size and setbacks.
7. Building lights on porch and facade will be turned off one hour after the restaurant closes. Applicant will be allowed to continue to use security lighting after hours, most notably for residents of the building.
8. Two electric vehicle charging stations will be provided. One will be installed prior to the issuance of the Certificate of Occupancy and the other one may, at the Applicant's discretion in accordance with applicable law be installed later with the conduit being constructed prior to the Certificate of Occupancy.
9. Applicant is limited to a total of two hundred and eight (208) seats related to the restaurant use, including interior seats and exterior seats. This number was specifically testified to at the hearing. The limitation on the number of seats is critical to control potential negative impacts to the surrounding neighborhood and to address parking deficiencies.
10. In order to mitigate impacts from the lack of sufficient parking spaces on site, the Applicant will work with municipal professionals to devise a plan for employee parking. The purpose is to have employees park away from the property recognizing that there is a shortage of public parking in the immediate area such as on Seminary Avenue.
11. Applicant shall comply with the outdoor dining ordinance.

12. Applicant shall add landscaping to the satisfaction of the Borough Engineer in the front yard. Options include at grade or a raised planting bed or planters to help beautify the frontage.
13. No dining will be provided within the sidewalk or front yard area. All outdoor dining will be confined to the areas identified by the Applicant, on the porch. Applicant shall not put the construction dumpster in the public right-of-way or street.
14. The Board has relied heavily on engineering and architectural plans, the exhibits and testimony. Applicant's application has been approved based upon the exhibits and testimony presented. Thus, Applicant shall maintain the improvements and use the property in accordance with the testimony, exhibits, maps and approved plans.
15. Applicant shall enter a Developer's Agreement in a form approved by the Borough Engineer and Borough Attorney. Such Agreement shall, in addition to other usual provisions, include the submission of a performance guarantee in the amount of 120% of the reasonable cost of properly completing such site improvements, in the judgment of the Borough Engineer, are required to be included in the Borough Engineer's performance guarantee cost estimate, not inconsistent with the Municipal Land Use Law. Applicant shall prepare and submit to the Borough Engineer an estimate of probable construction costs in order for the Borough Engineer to approve a performance guarantee cost estimate. Applicant agrees to furnish such guarantee which shall be subject to approval by the Borough Engineer and acceptance by the Borough governing body. Such Developer's Agreement shall also provide for the submission by Applicant of the usual maintenance guarantee and inspection fees as permitted by the Municipal Land Use Law.
16. Applicant will revise the plans to show lighting and will be required to use shielded lights on the building to the satisfaction of the Borough Engineer. Lighting shall comply with all ordinance and shall not spill across property lines.
17. No outside storage is permitted on the property.
18. Applicant will make a good faith effort to reduce the size of the dumpster and has agreed to add a sliding gate to the garbage area, which shall be shown on the revised site plans.
19. Submission of proof of payment of all real estate taxes applicable to the property and payment in a timely fashion by the Applicant of all outstanding escrow charges in connection with the review of this application. Applicant shall pay

additional professional review escrow fees as determined by the Borough, together with any required engineering inspection fees.

20. In accordance with law, the site plan and resolution shall be enforceable in the Hopewell Borough Municipal Court in the event of any deviation or violation of this approval.
21. Applicant shall comply with all Borough ordinances, rules and regulations that are applicable to this development application and is required to obtain all necessary permits including, but not limited to, certificates of occupancy and construction permits. The grant of this application shall not be construed to reduce, modify or eliminate any requirement of the State of New Jersey Uniform Construction Code.
22. Subject to the review and approval of or letter of no interest from the Mercer County Planning Board, Mercer County Soil Conservation District, New Jersey Department of Transportation, New Jersey Department of Environmental Protection and D&R Canal Commission, where applicable.
23. The proposed building and all site improvements shall be constructed identically with that shown on the signed site plan, architectural plan and landscape and lighting plan as to location, design, quantities and quality, all of which shall be subject to field changes, if any, approved by the appropriate Borough professional.
24. The Board Chairman and Secretary shall not sign the site plan and/or any and all other plans until and unless all plans have been revised in accordance with these conditions. Any dispute(s) concerning the satisfaction of any conditions related to the revisions of the plans may be brought to the Board by written letter application by the applicant for Board resolution of the dispute(s) without the necessity for public notice but on written notice to the Board Engineer and Board Planner. This condition is based on satisfaction of the negative criteria.
25. The within approval and the use of the property are conditioned upon and made subject to any and all laws, ordinances, requirements and/or regulations of and/or by any and all municipal, county, State and/or Federal governments and their agencies and/or departments having jurisdiction over any aspect of the property and/or use of the property. In the event of any inconsistency(ies) between the terms and conditions of the within approval and any approval(s) required above, the terms and/or conditions of the within approval shall prevail unless and until changed by the Planning Board upon proper application.
26. Pursuant to Section 13-7 of the Borough Code, the Zoning Officer shall issue a temporary certificate of site plan conformance that will remain valid for 12 months from the date of this resolution. This period of time may be extended for

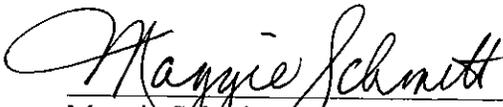
good cause. Applicant may request that the Zoning Officer issue a permanent site plan conformance certificate upon demonstrating that the requirements under Section 13-7.3 are fully satisfied.

- 27. Applicant shall comply with any conditions agreed to during the hearing on this application, even if omitted from this resolution.

BE IT FURTHER RESOLVED, that a copy of this Resolution shall be provided to the Applicant, and a notice of this decision of the Planning Board shall be published within ten (10) days of the date hereof according to law.

  
 \_\_\_\_\_  
 Peter Macholdt, Chair  
 Hopewell Borough Planning Board

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Hopewell Borough Planning Board at a public meeting held on February 2, 2022.

  
 \_\_\_\_\_  
 Maggie Schmitt, Secretary  
 Hopewell Borough Planning Board

**THOSE IN FAVOR:** DONALDSON, LYON, PERRI, TEWELL, FERRARA, MACHOLDT

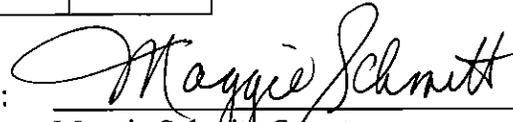
**THOSE OPPOSED:** XXX

The above memorializing resolution was adopted on February 2, 2022 by the following vote of members eligible to vote:

Member	Yes	No	Abstain	Absent
Peter Macholdt	X			
Ryan P. Kennedy				
Louis Young				X
Bob Donaldson	X			
Shelby Tewell	X			

Michele Hovan				
David Mackie				
Jacqueline Perri	X			
Brad Lyon	X			
Marylou Ferrara (Alt. #1)	X			
William Rodgers (Alt. #2)				

**ATTEST:**



\_\_\_\_\_  
Maggie Schmitt, Secretary  
Hopewell Borough Planning Board

## Appendix D

NO. 2016-105

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH  
OF HOPEWELL DESIGNATING CERTAIN AREAS WITHIN THE BOROUGH OF  
HOPEWELL AS A NON-CONDEMNATION AREA IN NEED OF REDEVELOPMENT  
PURSUANT TO THE LOCAL REDEVELOPMENT AND HOUSING LAW, N.J.S.A.  
40A:12A-1 *ET SEQ.***

**WHEREAS**, the Local Redevelopment and Housing Law (“LRHL”) at N.J.S.A. 40A:12A-4 empowers municipal governing bodies to “(1). Cause a preliminary investigation to be made pursuant to [N.J.S.A. 40A:12A-6a] as to whether an area is in need of redevelopment; (2) Determine pursuant to [N.J.S.A. 40A:12A-6b] that an area is in need of redevelopment; [and] (3) Adopt a redevelopment plan pursuant to [N.J.S.A. 40A:12A-7]”; and

**WHEREAS**, on August 6, 2015, the Hopewell Borough Council adopted Resolution No. 2015-104 authorizing and directing the Planning Board to undertake a preliminary investigation to determine whether the properties identified on the Hopewell Borough tax maps as Block 12, Lots 3,4,5,6,7,8.01 & 8, Block 17, Lots 3.01, 3.02, 3.03 & 4, Block 18, Lots 1, 4,5,6,7,8,9,10,11,12,13,14,15 & 26 and Block 31, Lots 1,2 & 19 (the “Study Area”) constitute an area in need of redevelopment pursuant to the criteria set forth in the LRHL at N.J.S.A. 40A:12A-5; and

**WHEREAS**, on October 5, 2015 the Borough Council adopted Resolution No. 2015-111, which amended Resolution 2015-104 to specify that the Study Area was to be investigated as a non-condemnation area in need of redevelopment; and

**WHEREAS**, following the passage of Resolution 2015-111, the Council determined that it would be in the best interests of the public for the Borough to retain the full powers provided by the Legislature for use in a redevelopment area, including the power of eminent domain (“Condemnation Redevelopment Area”); and

**WHEREAS**, accordingly, the Council on May 5, 2016 unanimously passed a motion authorizing and directing the Planning Board to change its preliminary investigation to an investigation to determine whether the Study Area constitutes a condemnation area in need of redevelopment instead of a non-condemnation area in need of redevelopment pursuant to the criteria set forth in N.J.S.A. 40A:12A-5; and

**WHEREAS**, said motion was reduced to writing and memorialized in Resolution No. 2016-59; and

**WHEREAS**, on June 1, 2016, the Planning Board began its public hearing on whether the Study Area as identified above should be designated as a condemnation area in need of redevelopment; and

**WHEREAS**, during the public hearing as well as in other contexts, the public made clear their concerns and objections to the Borough’s ability to use eminent domain to acquire properties in the redevelopment area; and

**WHEREAS**, in addition, following the start of the Planning Board public hearing, the owner of Van Doren Lumber, Sawdust Construction, LLC, asked to have Van Doren Lumber added to the Study Area; and

**WHEREAS**, in response to the concerns of the public and Van Doren's request, the Council on July 12, 2016 adopted Resolution 2016-73, which directed the Planning Board to (a) expand the Study Area to include Van Doren Lumber, located at 24 Model Avenue and designated on the Hopewell Borough tax maps as Block 11, Lot 26 (the "Revised Study Area"); (b) revise its map of the boundaries of the proposed redevelopment area and locations of the various parcels of property included therein to add Van Doren Lumber; (c) investigate the entirety of the Revised Study Area as a non-condemnation area in need of redevelopment; (d) continue the public hearing that began on June 1, 2016 for the purpose of hearing persons who are interested in, or would be affected by, the determination that the Revised Study Area is a non-condemnation area in need of redevelopment, and (d) at the conclusion of the hearing, recommend to the Council whether the Revised Study Area, or any part thereof, should be determined to be a non-condemnation area in need of redevelopment; and

**WHEREAS**, following the continuation of the public hearing on the Revised Study Area as directed the Council, the Planning Board on September 7, 2016 adopted the findings and conclusions set forth in the report entitled "Preliminary Investigation for Determination of an Area in Need of Redevelopment," dated September 7, 2016, prepared by Banisch Associates, Inc. (Francis J. Banisch, III, AICP/PP, License No. 1686) (the "PIR report"); and

**WHEREAS**, the PIR report divides the Revised Study Area into Area A, comprising twenty-five tax lots located on Hamilton Street, Railroad Place/Somerset Street, and Lafayette Street (Block 12, Lots 3 through 8 and 8.01; Block 17, Lots 3.01, 3.02, 3.03, and 4; and Block 18, Lots 1, 4 through 15, and 26); Area B, comprising three contiguous tax lots in common ownership on East Broad Street and Maple Avenue (Block 31, Lots 1, 2 and 19); and Area C, comprising Van Doren Lumber (Block 11, Lot 26); and

**WHEREAS**, the Planning Board concluded that designating the entirety of the Revised Study Area as an area in need of redevelopment was supported by substantial credible evidence in the record, and recommended to the Council that the Council designate all of the properties within the Revised Study Area as being in need of redevelopment; and

**WHEREAS**, the Planning Board memorialized its decision by Resolution P.B. #2016-10 adopted October 5, 2016; and

**WHEREAS**, the Council has reviewed the Planning Board's findings and recommendations, as well as the findings and conclusions set forth in the September 7, 2016 PIR report prepared by Banisch Associates, Inc., and after due consideration and deliberation, finds that consistent with the Planning Board's recommendation, the entire Revised Study Area, comprising all of the properties included in Areas A, B and C, should be designated as a non-condemnation area in need of redevelopment; and

**WHEREAS**, the Council further finds and determines that pursuant to N.J.S.A. 40A:12A-7f, the Planning Board should initially prepare a redevelopment plan, meeting the requirements of N.J.S.A. 40A:12A-7a through -7d, for the "Hopewell 57" property in Area A, fronting on Somerset Street, Hamilton Street, and Lafayette Street, and designated on the Hopewell Borough tax maps as Block 12, Lot 7 and Block 18, Lot 1, and for Van Doren Lumber (Area C), located at 24 Model Avenue and designated on the Hopewell Borough tax maps as Block 11, Lot 26;

**NOW THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Hopewell, they being the Governing Body thereof, as follows:

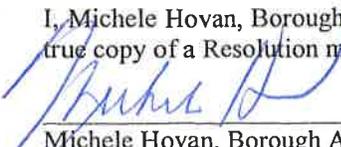
1. The entire Revised Study Area, consisting of Area A, comprising twenty-five tax lots located on Hamilton Street, Railroad Place/Somerset Street, and Lafayette Street (Block 12, Lots 3 through 8 and 8.01; Block 17, Lots 3.01, 3.02, 3.03, and 4; and Block 18, Lots 1, 4 through 15, and 26); Area B, comprising three contiguous tax lots in common ownership on East Broad Street and Maple Avenue (Block 31, Lots 1, 2 and 19); and Area C, comprising Van Doren Lumber (Block 11, Lot 26), is hereby designated as a Non-Condemnation Area in Need of Redevelopment pursuant to the provisions of N.J.S.A. 40A:12A-6b(5)(b).
2. The Hopewell Borough Planning Board is hereby authorized and directed to prepare a redevelopment plan or plans for the "Hopewell 57" property within Area A (fronting on Somerset Street, Hamilton Street, and Lafayette Street, and designated on the Hopewell Borough tax maps as Block 12, Lot 7 and Block 18, Lot 1), and for Van Doren Lumber (Area C), located at 24 Model Avenue and designated on the Hopewell Borough tax maps as Block 11, Lot 26, which plan or plans shall conform to the requirements set forth at N.J.S.A. 40A:12A-7a through -7d, and upon completion shall transmit its proposed plan or plans to the Mayor and Council for adoption by ordinance, with or without revisions, as provided for by N.J.S.A. 40A:12A-7f.
3. The Hopewell Borough Administrator/Clerk shall forthwith transmit a copy of this Resolution to the Hopewell Borough Planning Board.
4. The Hopewell Borough Administrator/Clerk shall also forthwith transmit a copy of this Resolution to the Commissioner of the Department of Community Affairs for review in accordance with the requirements of N.J.S.A. 40A:12A-6b(5)(c).
5. The Hopewell Borough Administrator/Clerk shall also cause a notice of the within determination to be served within ten days of the date hereof upon all record owners of property located within the area delineated herein, those whose names are listed on the tax assessor's records, and upon each person who filed a written objection thereto and stated, in or upon the written submission, an address to which notice of this determination could be sent, in accordance with the requirements of N.J.S.A. 40A:12A-6b(5)(d).
6. This Resolution shall take effect immediately.

ATTEST:

  
 \_\_\_\_\_  
 Michele Hovan  
 Borough Administrator/Clerk

  
 \_\_\_\_\_  
 Paul Anzano  
 Mayor

I, Michele Hovan, Borough Administrator/Clerk of the Borough of Hopewell, do hereby certify this to be a true copy of a Resolution memorializing formal action taken by Borough Council on November 3, 2016.

  
 \_\_\_\_\_  
 Michele Hovan, Borough Administrator/Clerk



## Appendix E

**RESOLUTION PB #2022-08  
BOROUGH OF HOPEWELL  
PLANNING BOARD**

**SAWDUST CONSTRUCTION, LLC  
24 MODEL AVENUE  
BLOCK 11, LOT 26**

**PRELIMINARY AND FINAL MAJOR SITE PLAN APPROVAL**

**Decided on July 6, 2022  
Memorialized on September 7, 2022**

**WHEREAS**, Sawdust Construction, LLC (the “Applicant”) has made application to the Borough of Hopewell Planning Board (the “Board”) seeking preliminary and final major site plan approval to allow for the construction of a thirteen (13)-unit residential development, as more specifically described below, on certain real property designed as Lot 26 in Block 11 on the Borough of Hopewell (the “Borough”) tax map, located at 24 Model Avenue (the “subject property”), in the Townhouse Residential zoning district (the “TR zone”); and

**WHEREAS**, the notice and publication requirements of the Municipal Land Use Law (the “MLUL”) and the Borough Municipal Code (the “BMC”) having been met, the Board took jurisdiction and held a public hearing on this application during its April 6, 2022 regular meeting; and

**WHEREAS**, due to certain questions and concerns raised by members of the Board during the hearing on April 6, 2022, the application was continued to the Board’s May 4, 2022 meeting without imposing any further notice or publication requirements upon the Applicant; and

**WHEREAS**, the Board made an unambiguous and explicit announcement during the April 6, 2022 meeting that the application was being continued to the Board's May 4, 2022 meeting; and

**WHEREAS**, the Applicant provided its verbal consent on the record and subsequent written consent to extend the time in which the Board could act on the application; and

**WHEREAS**, during the Board's May 4, 2022 meeting, the application was carried by the Board's June 1, 2022 meeting without imposing any further notice or publication requirements upon the Applicant; and

**WHEREAS**, the Board made an unambiguous and explicit announcement during the May 4, 2022 meeting that the application was being carried to the Board's June 1, 2022 meeting; and

**WHEREAS**, the Applicant also provided its written consent to extend the time in which the Board could act on the application; and

**WHEREAS**, the Board held a public hearing on this application during its June 1, 2022 regular meeting, at which time the Applicant presented further proofs in support of the sought site plan approval; and

**WHEREAS**, the Applicant requested that the Board continue the application to the July 6, 2022 regular meeting so that the Applicant could meet with the Borough Historic Preservation Commission (the "HPC") on June 21, 2022, to address certain questions posed by the HPC in relation to the application; and

**WHEREAS**, the Board granted such request, and made an unambiguous and explicit announcement during the June 1, 2022 meeting that the application was being carried to the Board's July 6, 2022 meeting, without any further notice or publication requirements imposed upon the Applicant; and

**WHEREAS**, the Board held a hearing on this application during its July 6, 2022 regular meeting; and

**WHEREAS**, the Applicant was represented by Matthew R. Flynn, Esq. of Savo Schalk, Corsini, Warner, Gillespie, O'Grodnick & Fisher during all proceedings of the Board; and

**WHEREAS**, the Board provided an opportunity for testimony, comments, and questions from interested parties and the public; and

**WHEREAS**, the Board reviewed the evidence presented, and based on said evidence, the information contained in the application, representations made by the Applicant, and the testimony provided during the hearings, made the following factual findings and conclusions of law:

#### **APPLICATION SUMMARY & FINDINGS OF FACT**

1. **Property Information.** The subject property is a ±1.12-acre (±48,787.2-square foot) parcel currently utilized as a commercial lumber yard. It is presently operated as JMAT Supply, and formerly known as Van Doren's Lumber Yard. The site is improved with a two (2)-story framed building that contains an office and retail area, two (2)-story framed building that is used for lumber and supply storage, and a one (1)-story framed building for lumber and supply storage. A significant portion of the subject property's surface is gravel or other

impervious cover, and such area is primarily dedicated to lumber and supply staging and storage.

- a. In 2016, the subject property was designated by the Council for the Borough (“Council”) as a non-condemnation area in need of redevelopment.
  - b. In 2018, Council approved a redevelopment plan that incorporated the subject property entitled “Redevelopment Plan for Lot 26 in Tax Block 11,” and establishes the TR zone (the “Redevelopment Plan”).
  - c. Prior to the Redevelopment Plan, the subject property was within the Residential Office zoning district that permitted single family homes, as well as professional and business offices.
  - d. In 2022, the Applicant and Borough entered into a redeveloper’s agreement that designated the Applicant as the redeveloper of the subject property.
2. Project & Applicant’s Proposal. Consistent with the Redevelopment Plan, the Applicant intends to revitalize the subject property by razing the existing structures and constructing a multi-family inclusionary neighborhood consisting of two (2)-bedroom and eleven (11) three (3)-bedroom townhomes. The two (2)-bedroom units will be non-age restricted family affordable housing units.
3. Plans. In addition to the application form and checklist(s), details of the Applicant’s proposal are more particularly shown on the following plans and materials:

- a. Site Plan, entitled “Preliminary & Final Site Plan, The Yard, 24 Model Avenue, Block 11, Lot 26, Borough of Hopewell, Mercer County, New Jersey,” consisting of nine (9) sheets, dated October 7, 2020 (last revised June 2, 2021), prepared by David A. Stires Associates, LLC.
- b. Plan, entitled “Grading, Utilities & Soil Erosion Control Plan, The Yard, 24 Model Avenue, Block 11, Lot 26, Borough of Hopewell, Mercer County, New Jersey,” consisting of nine (9) sheets, dated October 7, 2020 (last revised August 3, 2021), prepared by David A. Stires Associates, LLC.
- c. Plan, entitled “Location & Topographic Survey, Tax Block 11, Lot 26, Borough of Hopewell, Mercer County, New Jersey,” consisting of one (1) sheet, dated April 2, 2018, prepared by David A. Stires Associates, LLC.
- d. Plan, entitled “Townhouse Plan, The Yard, Tax Block 11, Lot 26, Borough of Hopewell, Mercer County, New Jersey,” consisting of one (1) sheet, dated April 2, 2018, prepared by David A. Stires Associates, LLC.
- e. Plan, entitled “Hopewell Townhomes, Borough of Hopewell, Mercer County, New Jersey,” consisting of six (6) sheets (floor plans and elevations), dated June 8, 2020 (last revised April 22, 2021), prepared by Minno Wasko Architects and Planners.

- f. Plan, entitled “Hopewell Townhomes, Borough of Hopewell, Mercer County, New Jersey,” consisting of one (1) sheet (Model Ave. Color Elevation), dated December 12, 2020, prepared by Minno Wasko Architects and Planners.
- g. Plan, entitled “Model Ave. Redevelopment, 20 Model Ave., Borough of Hopewell,” consisting of one (1) sheet, dated March 8, 2019 (last revised January 17, 2020), prepared by the Watershed Institute and Rutgers Landscape Design.

4. Applicant Reports.

- a. Correspondence regarding stormwater considerations, under cover of letter dated September 16, 2021, prepared by David A. Stires Associates, LLC.

5. Requested Relief. The Applicant seeks preliminary and final major site plan approval pursuant to N.J.S.A. 40:55D-51.

- a. The Applicant does not seek any variance relief pursuant to N.J.S.A. 40:55D-70(c) or N.J.S.A. 40:55D-70(d) in connection with this application.

6. Staff/Professional/Consultant Reports. In addition to the materials submitted by the Applicant, the Board received and considered the following staff and consultant reports:

- a. Engineering report dated January 27, 2022, prepared by Paul W. Ferriero, P.E., C.M.E., P.P., Municipal Engineer.
- b. Planning report dated March 10, 2022, prepared by Joanna Slagle, P.P./A.I.C.P., Board Planner.

7. Witnesses. During the hearings, the Board considered the testimony of the following witnesses:

- a. Henry Wittman, III, the Applicant's representative as its principal owner and managing member. Mr. Wittman provided an overview of the project in relation to the Redevelopment Plan, and operations presently conducted on subject property.
- b. George Folk, P.E., the Applicant's engineering professional. Mr. Folk addressed the Applicant's site plan and construction proposal, including a colloquy with the Board and its professionals regarding the review reports. Moreover, Mr. Folk highlighted that thirty-one (31) parking spaces are required, and the Applicant will provide a total of thirty-nine (39) available parking spaces by unit parking and garage parking. Additionally, the Applicant will install twelve (12) electric vehicle-ready charging parking spaces.
- c. Gary Dean, the Applicant's traffic engineer. Mr. Dean reviewed the parking requirements, site access and circulation, and sidewalk connections with the Board. He went on to opine that the proposed development would have a positive traffic impact on the surrounding area by reducing traffic in comparison to the current use and operations conducted at the subject property.

- i. Based on the discussions with the Board’s engineer, the Applicant agreed, as a condition of approval, to modify the entrance driveway to appear more like a street entrance and add a pedestrian crosswalk.
- d. Steve Tuorto, Director of Science and Stewardship at the Watershed Institute. Mr. Tuorto stated that he has worked with the Applicant to provide a concept design to minimize adverse stormwater and drainage impacts. He continued by explaining that the subject property is presently “almost entirely” impervious, and the Applicant’s intended project would allow for a reduction of impervious cover.
  - i. The Applicant agreed, as a condition of approval, to use native plant species in connection with its impervious coverage improvements and landscaping.
- e. Sang-Yee Rummler, the Applicant’s architect. Ms. Rummler proffered testimony regarding the interior layouts and exterior features of the multi-family development, including the facades, landscaping, and elevations. Ms. Rummler also noted that the air conditioning units would be located in the rear of the townhomes, and adequately screened to shield the equipment from public view.
- f. Alison Baxter, Chair of the HPC. Ms. Baxter appeared at the April 6<sup>th</sup> meeting to provide testimony as to the extent of the HPC’s involvement with this project. Ms. Baxter explained that, although the plans are “beautifully detailed,” the HPC has several outstanding concerns that the Applicant should resolve prior to the Board’s

deliberations. Specifically, there were features, such as the elevations and grading, that did not appear to be in keeping with the character of the neighborhood. The Applicant agreed to address such issues with the HPC before the Board rendered a decision on this application.

- i. During the Board's July 6, 2022 meeting, Ms. Baxter appeared on behalf of the HPC and reported the progress made by the Applicant and HPC. Indeed, Ms. Baxter testified that the HPC is pleased with the modifications made by the Applicant to address the HPC's concerns that were raised during the April 6<sup>th</sup> and June 1<sup>st</sup> hearings.

8. Access, Parking & Circulation.

- a. Access to the subject property will remain in the same general existing location along Model Avenue, and interior site access will be provided via a 290 linear foot multi-family 20-foot to 24-foot-wide paved drive aisle that will allow residents to access their respective townhomes.
- b. Pursuant to the Redevelopment Plan, parking shall comply with the New Jersey Residential Site Improvement Standards ("RSIS"). Further, the Applicant must comply with the statutory requirement to provide Make-Ready parking spaces for Electric Vehicle Supply/Service Equipment.

- c. The Applicant has agreed, as a condition of approval, to modify the interior walkway to provide a connection between the sidewalk on Model Avenue and the units to be constructed at the rear of the development along the westerly side of the subject property.
9. Grading. The Applicant has agreed, as a condition of approval, to submit a revised grading plan that reflects the representations made by the Applicant and conditions stated by the Board and its professionals, including the items contained within the reports of the Board's professionals.
  - a. The Applicant represented that it would address all grading-related concerns to the satisfaction of the Board's professionals.
10. Landscape & Buffering. The Applicant has agreed, as a condition of approval, to prepare a revised landscape and buffering plan that reflects the representations made by the Applicant and conditions stated by the Board and its professionals, including the items contained within the reports of the Board's professionals.
  - a. The Applicant represented that it would address all landscape- and buffer-related concerns to the satisfaction of the Board's professionals.
11. Stormwater Management. The Applicant has agreed, as a condition of approval, to submit a revised stormwater management and drainage plan that reflects the representations made

by the Applicant and conditions stated by the Board and its professionals, including the items contained within the reports of the Board's professionals.

- a. The Applicant represented that it would address all stormwater management and drainage concerns to the satisfaction of the Board's professionals, including the construction of a sufficient headwall adjacent to the Conrail rail line.

12. Environmental. The Applicant will comply with all Federal, State, and local environmental requirements.

13. Fire & Emergency Services. The Hopewell Valley Bureau of Fire Safety must review and approve all revised plans submitted by the Applicant.

14. Lighting. Lighting shall comply with all Borough requirements, and shall not spill across property lines.

- a. The Applicant has agreed, as a condition of approval, to submit a revised lighting plan that reflects the representations made by the Applicant and conditions stated by the Board and its professionals, including the items contained within the reports of the Board's professionals.
- b. Further, a certificate of occupancy shall neither be requested nor issued until a nighttime test is completed and approved by the Borough Engineer.
- c. The Applicant represented that it would address all lighting-related concerns to the satisfaction of the Board's professionals.

15. Signage. The Redevelopment Plan allows for a monument sign at the entrance to the proposed multi-family development, providing that such sign is integral to the landscape wall and constructed of stone or brick and does not exceed the height of the landscape wall.

- a. The Applicant has testified that all signage will comply with the requirements of the BMC and Redevelopment Plan.

16. Utilities. The Applicant has agreed, as a condition of approval, to submit a revised utility plan that reflects the representations made by the Applicant and conditions stated by the Board and its professionals, including the items contained within the reports of the Board's professionals.

- a. The Applicant represented that it would address all utility-related concerns to the satisfaction of the Board's professionals.

17. Exhibits.

- a. Exhibit A-1 (April 6, 2022 meeting): Enlarged copy of the proposed signage plan sheet.
- b. Exhibit A-2 (April 6, 2022 meeting): Enlarged copy of the Applicant's site plan sheet.
- c. Exhibit A-3 (April 6, 2022 meeting): Enlarged copies of the interior layouts, consisting of three (3) sheets.

- d. Exhibit A-4 (April 6, 2022 meeting): Enlarged copy of the building elevations plan sheet.
- e. Exhibit A-5 (April 6, 2022 meeting): Enlarged copy of the building elevations plan sheet showing the first alternative proposed elevations.
- f. Exhibit A-6 (April 6, 2022 meeting): Enlarged copy of the building elevations plan sheet showing the second alternative proposed elevations.
- g. Exhibit A-7 (April 6, 2022 meeting): Set of twenty-two (22) photographs taken by Mr. Wittman showing the exterior features of other buildings within the Borough to illustrate similarities with the design of the townhomes proposed by the Applicant.
- h. Exhibit A-8 (June 1, 2022 meeting): Written request of the Applicant for a work session with the HPC at its May 17, 2022 meeting.
- i. Exhibit A-9 (June 1, 2022 meeting): Written communication prepared by Ms. Baxter on behalf of the HPC outlining certain possible modifications to the site plan.
- j. Exhibit A-10 (July 6, 2022 meeting): Enlarged copy of the revised building elevations that also includes changes to the front stairs of certain proposed townhomes.

- k. Exhibit A-11 (July 6, 2022 meeting): Color photographs taken by Mr. Wittman in April of 2022, illustrating the staircase of certain proposed townhomes installed closer to the sidewalk.

18. Public Comment.

- a. Although the hearing was adjourned to allow the Applicant and HPC to address certain outstanding items, the Applicant and Board found it prudent and worthwhile to open the April 6<sup>th</sup> hearing to the public in attendance to ask questions regarding the application. The following interested parties were present and appeared to ask questions about the project:
  - i. Beth Miko of 27 Model Avenue inquired about the height of the homes and if accommodations were made for fire access.
  - ii. Peter Mehlretter of 17 Center Street asked if the Applicant could bring additional renderings of the southeast corner unit(s) because it was unclear to him where the front entrance of such unit(s) would be situated. Mr. Mehlretter also wanted more information about stormwater management and drainage measures the Applicant would employ to prevent adverse impacts on adjacent parcels.
  - iii. Tom Sanford of 34 Model Avenue raised questions regarding water runoff and grading.

- iv. Joe Miko of 27 Model Avenue wanted to know how the Fire Department and emergency personnel would access the units within the subject property once the development was completed.
- v. Matthew Senler of 48 Shaftsbury Avenue requested confirmation that the Applicant had submitted a plan to address stormwater and drainage.
- vi. Boris Kaplan of 15 Model Avenue inquired about the width of the roadway entering the development and whether the size would be sufficient throughout the development for truck access.

b. The following interested parties were present and testified during the July 6, 2022 hearing:

- i. Peter Mehlretter of 17 Center Street commented on potential stormwater issues and recommended measures to divert the stormwater runoff to flow across the Applicant's property. Mr. Mehlretter went on to suggest the installation of curb cuts to the driveway. Further, he raised a concern about the impact demolition may have on adjacent properties. It was noted that the revised grading plan the Applicant will submit for approval by the Board's professionals will mitigate adverse stormwater impacts, and the

Applicant could not access adjacent parcels for demolition absent the respective owner's consent.

19. Findings & Conclusion. After considering the materials presented by the Applicant and the testimony provided above, the Board determines that the major site plan is proper in all respects and complies with the BMC requirements for such that preliminary and final major site plan approval should be granted.

- a. The Board finds that the site plan proffered by the Applicant and proposed project that was discussed in detail by the professionals of the Board and Applicant during multiple hearings will revitalize the subject property in accordance with the Redevelopment Plan, and in a manner that advances the Borough's Master Plan and purposes of the TR zone.
- b. Further, the production of affordable housing units constitutes a benefit to the Borough and community, as well as assists the Borough in satisfying its constitutional obligation.

#### **DECISION OF THE BOARD**

**NOW, THEREFORE BE IT RESOLVED** that, based upon all the aforesaid findings, determinations and conclusion as which are all specifically made a part hereof, by a vote of seven (7) in favor and none opposed, the Planning Board of the Borough of Hopewell hereby grants the requested preliminary and final major site plan approval, together with the Certificate of

Appropriateness, to permit the razing of the existing lumber yard and construction of a multi-family development, as requested by the Applicant at the hearings, and as stated in the underlying application for development. This approval is subject to the Applicant's adherence and satisfaction of the following conditions:

1. The Applicant shall comply with the conditions and requirements articulated in the professional reports issued in connection with this matter including the reports of Joanna Slagle, P.P./A.I.C.P., dated March 10, 2022 and the report from Paul W. Ferriero, PE, CME, PP, Municipal Engineer dated, January 27, 2022, subject to any changes on the record or in this Resolution.
2. The Applicant shall comply with the conditions and requirements articulated by the Fire Official, if any, to the satisfaction of the Fire Official and Borough Engineer, subject to any changes on the record or in this Resolution.
3. The Applicant must comply with all representations made, either personally or through any representative, during the course of its presentation to the Board and in all documents filed with the application.
4. The Applicant shall deed restrict two (2) of the thirteen (13) residential units so that same qualify as affordable housing units pursuant to State regulations. The deed restrictions shall be reviewed and approved to the satisfaction of Borough's professionals, including its Attorney and Engineer, prior to recording.
5. The Board has relied heavily on engineering and architectural plans, the exhibits and testimony. The Applicant's application has been approved based upon the exhibits and testimony presented. Thus, the Applicant shall maintain the improvements and use the subject property in accordance with the testimony, exhibits, maps and approved plans.
6. The Applicant shall enter a Redeveloper's Agreement in a form approved by the Borough Engineer and Borough Attorney. Such Agreement shall, in addition to other usual provisions, include the submission of a performance guarantee in the amount of 120% of the reasonable cost of properly completing such site

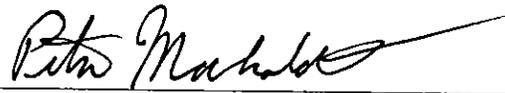
improvements, in the judgment of the Borough Engineer, are required to be included in the Borough Engineer's performance guarantee cost estimate, not inconsistent with the Municipal Land Use Law. Applicant shall prepare and submit to the Borough Engineer an estimate of probable construction costs in order for the Borough Engineer to approve a performance guarantee cost estimate. The Applicant agrees to furnish such guarantee which shall be subject to approval by the Borough Engineer and acceptance by the Borough governing body. Such Agreement shall also provide for the submission by the Applicant of the usual maintenance guarantee and inspection fees as permitted by the Municipal Land Use Law.

7. No outside storage is permitted on the subject property.
8. The Applicant will contract with a private hauler for the pickup, removal, and disposal of all garbage, waste, refuse and recycling generated by the use on the subject property and its residents, no less than on a weekly basis. All such contracts and agreements, including amendments thereto, shall be subject to the Borough's review and approval.
  - a. Notwithstanding the above Condition, it is noted that the Applicant is presently eligible for municipal solid waste collection and may coordinate for such service(s) towards satisfying this obligation.
9. All garbage, waste, refuse, and recycling cans and containers shall be placed at curbside along Model Avenue. The Applicant will include this requirement in its master deed and declaration for the development.
10. The Applicant will submit an Operations and Maintenance Manual to address all stormwater measures constructed on the subject property, including porous and pervious improvements. Such Manual shall be approved by the Board's professionals prior to issuance of any certificate of occupancy.
11. Submission of proof of payment of all real estate taxes applicable to the subject property and payment in a timely fashion by the Applicant of all outstanding escrow charges in connection with the review of this application. The Applicant shall pay additional professional review escrow fees as determined by the Borough, together with any required engineering inspection fees.

12. In accordance with law, the site plan and resolution shall be enforceable in the Hopewell Borough Municipal Court in the event of any deviation or violation of this approval.
13. The Applicant shall comply with all Borough ordinances, rules and regulations that are applicable to this development application and is required to obtain all necessary permits including, but not limited to, certificates of occupancy and construction permits. The grant of this application shall not be construed to reduce, modify or eliminate any requirement of the State of New Jersey Uniform Construction Code.
14. Subject to the review and approval of or letter of no interest from the Mercer County Planning Board, Mercer County Soil Conservation District, New Jersey Department of Transportation, New Jersey Department of Environmental Protection, HPC, and D&R Canal Commission, where applicable.
15. The proposed development and all site improvements shall be constructed identically with that shown on the approved and signed plans as to location, design, quantities and quality, all of which shall be subject to field changes, if any, approved by the appropriate Borough or Board professionals, or both.
16. The Board Chairman and Secretary shall not sign the site plan or any other plans until and unless all plans have been revised in accordance with this Resolution. Any dispute(s) concerning the satisfaction of any conditions related to the revisions of the plans may be brought to the Board by written letter application by the Applicant for Board resolution of the dispute(s) without the necessity for public notice but on written notice to the Board Engineer and Board Planner. This condition is based on satisfaction of the requisite criteria and standard for approval.
17. The within approval and the use of the subject property are conditioned upon and made subject to any and all laws, ordinances, requirements and/or regulations of and/or by any and all municipal, county, State and/or Federal governments and their agencies and/or departments having jurisdiction over any aspect of the subject property and/or use of the property. In the event of any inconsistency(ies) between the terms and conditions of the within approval and any approval(s) required above, the terms and/or conditions of the within approval shall prevail unless and until changed by the Board upon proper application.

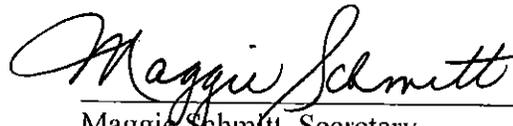
18. Applicant shall comply with any conditions agreed to during the hearings on this application, even if omitted from this Resolution.

BE IT FURTHER RESOLVED, that a copy of this Resolution shall be provided to the Applicant, and a notice of this decision of the Planning Board shall be published within ten (10) days of the date hereof according to law.



Peter Macholdt, Chair  
Hopewell Borough Planning Board

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Hopewell Borough Planning Board at a public meeting held on September 7, 2022.



Maggie Schmitt, Secretary  
Hopewell Borough Planning Board

**THOSE IN FAVOR:** KENNEDY, HOVAN, MACKIE, DONALDSON, LYON, PERRI,  
FERRARA, MACHOLDT

**THOSE OPPOSED:** XXX

[REMAINDER INTENTIONALLY LEFT BLANK]

The above memorializing resolution was adopted on September 7, 2022 by the following vote of members eligible to vote:

Member	Yes	No	Abstain	Absent
Peter Macholdt	X			
Ryan P. Kennedy	X			
Louis Young				X
Bob Donaldson	X			
Marylou Ferrara	X			
Michele Hovan	X			
David Mackie	X			
Jacqueline Perri	X			
Brad Lyon	X			
William Rodgers (Alt. #1)				X
Carolyn Colella (Alt. #2)			X	

ATTEST:



Maggie Schmitt, Secretary  
Hopewell Borough Planning Board

## **Appendix F**

### **REDEVELOPMENT AGREEMENT**

**by and between**

**BOROUGH OF HOPEWELL**

**And**

**HOPEWELL 57 URBAN RENEWAL ENTITY, LLC**

**Dated: November 12, 2024**

**THIS REDEVELOPMENT AGREEMENT**, made on November 7, 2024, (hereinafter referred to as the “Agreement”) by and between the **BOROUGH OF HOPEWELL**, a municipality of the State of New Jersey with offices located at Municipal Building, 88 East Broad Street, Hopewell, New Jersey 08525, together with any successor public body hereinafter designated by or pursuant to law (hereinafter referred to as the “Borough”), and **HOPEWELL 57 URBAN RENEWAL ENTITY, LLC.**, a Limited Liability Company formed and operated pursuant to the laws of the State of New Jersey with offices located at 19 Longview Drive, Princeton, New Jersey 08540 (hereinafter referred to as the “Redeveloper”) (the Borough and the Redeveloper are hereinafter collectively referred to as “Parties”).

**WITNESSETH:**

**WHEREAS**, the Mayor and Council of the Borough of Hopewell, in its capacity as the redevelopment agency for the Borough (hereinafter referred to as the “Borough Council” or the “Agency”), is responsible for implementing redevelopment plans and carrying out redevelopment projects pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (hereinafter referred to as the “Redevelopment Law”); and

**WHEREAS**, Redeveloper is the contract purchaser of certain property that is known and designated as Block 18, Lot 1 and Block 12, Lot 7 on the Tax map of the Borough of Hopewell, Mercer County, State of New Jersey, consisting of a total of approximately 4.28 acres (collectively “Property”); and

**WHEREAS**, the Property is located within the Historic District Buffer Zone Area, as defined under § 12-10A.3 of the Hopewell Borough Code; and

**WHEREAS**, the Property contains a vacant 110,000 Sq. ft. structure that formerly housed manufacturing and industrial uses and associated parking lot; and

**WHEREAS**, historical discharges associated with former industrial and manufacturing uses of the Property have resulted in soil and groundwater contamination; and

**WHEREAS**, the Property meets the definition of a “Brownfield Site” under the Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-1 et seq.; and

**WHEREAS**, the Property is the subject of ongoing environmental remediation by the former owner, Rockwell Automation, Inc., as the “Person Responsible for Conducting the

Remediation” (“PRCR”), pursuant to a 1999 Administrative Consent Order executed with the New Jersey Department of Environmental Protection (NJDEP); and

**WHEREAS**, environmental remediation of the Property is taking place under the oversight of a New Jersey Licensed Site Remediation Professional (“LSRP”) retained by Rockwell Automation, Inc.; and

**WHEREAS**, the remediation of exposed soils surrounding the building has been completed; however, soils located beneath the building, which are currently inaccessible, will require additional evaluation and may require additional remediation to meet the NJDEP Remediation Standards (N.J.A.C. 7:26D); and

**WHEREAS**, ongoing groundwater monitoring, groundwater remediation through a “pump and treat” system, and indoor air monitoring and vapor-intrusion mitigation within existing structures are being performed at the Property by the PRCR.; and

**WHEREAS**, the PRCR and the Redeveloper are responsible for the design, construction, permitting, and long-term maintenance of any future vapor-intrusion mitigation systems that may be required in new and existing structures at the Property; and.

**WHEREAS**, Redeveloper (or current property owner) will be listed as a co-permittee on any Remedial Action Permits issued for the Property by the NJDEP; and

**WHEREAS**, pursuant to Resolution # 2015-104 (amended by Resolution #2015-111) adopted on August 6, 2015 the Mayor and Council of the Borough of Hopewell (the “Council”) authorized the Hopewell Borough Planning Board (the “Planning Board”) to undertake a preliminary investigation to determine whether an area identified as Block 12, Lot 7, and Block 18, Lot 1 on the Hopewell Borough (the “Property”) met the statutory criteria to be designated as an “Area in Need of Redevelopment” pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-3 et seq. (the “LRHL”); and

**WHEREAS**, the Planning Board held a public hearing regarding the preliminary investigation and the Property was found to meet the standard for an area in need of redevelopment; and

**WHEREAS**, the Borough Council adopted Resolution #2016-104 designating the Property as an “Area in Need of Redevelopment” in accordance with the Planning Board’s recommendation and instructed the Planning Board to prepare a redevelopment plan; and

**WHEREAS**, in consultation with the Borough Planner, the Planning Board prepared a Redevelopment Plan dated June 2024; and

**WHEREAS**, on July 1, 2024, pursuant to Ordinance #887, the Borough Council adopted the above-referenced Redevelopment Plan for the Property; and

**WHEREAS**, on November 7, 2024, pursuant to Ordinance #891, the Borough Council adopted an amendment to the Redevelopment Plan for the Property (the above referenced redevelopment plan and all amendments are collectively referred to as the “Redevelopment Plan”); and

**WHEREAS**, pursuant to the Redevelopment Plan, the Redeveloper intends to construct a multi-family development with approximately 130 units (the “Project”); and

**WHEREAS**, at least 20% of the residential units will be set aside for affordable housing rental units (the bedroom count of the units shall be as set forth in a Resolution of the Planning Board if the Project is approved); and

**WHEREAS**, the Redevelopment Law authorizes the Borough to arrange or contract with a redeveloper for the planning, construction, or undertaking or any project or redevelopment work in a redevelopment area; and

**WHEREAS**, on November 7, 2024, the Borough Council adopted Resolution 2024-108 designating the Redeveloper as redeveloper for the Property and authorizing the execution of this Redevelopment Agreement; and

**WHEREAS**, the Borough believes that the redevelopment of the Property in the manner set forth in the Redevelopment Plan is in the vital and best interests of the community and promotes the health, safety, morals and welfare of the Borough’s residents and is in accord with the public purpose and provisions of the Redevelopment Law; and

**WHEREAS**, the Borough has determined that it is in the best interest of the community for the Borough to enter into this Redevelopment Agreement with the Redeveloper for the purposes of specifying each of the Parties’ respective rights and obligations for the effectuation of the goals and objectives of redevelopment within the Property; and

**WHEREAS**, the Borough and the Redeveloper desire to fully and thoroughly address the rights and obligations of the Parties hereto in connection with the redevelopment of the Property by way of this Agreement, and the Borough and the Redeveloper acknowledge that the mutual

promises contained in this Agreement are good and valuable consideration for the binding execution of this Agreement.

**NOW, THEREFORE**, for good and valuable consideration, it is agreed as of the date set forth above by and between the Borough and the Redeveloper, as follows:

**ARTICLE I**  
**DEFINITIONS**

**1.01. Defined Terms.** The Parties hereto agree that, unless the context otherwise specifies or requires, the following terms or phrases shall have the meanings specified below, such definitions shall be equally applicable to and shall include the corresponding masculine, feminine and neutral forms, and the singular and plural forms of such terms or phrases and the use of the upper or lower case initial letter of each word contained in such terms or phrases. Unless otherwise noted, the words “include”, “includes” and “including” when used in this Agreement shall be deemed to be followed by the phrase “without limitation”.

**Affiliate:** Shall mean, with respect to any Person, any other Person directly or indirectly controlling or controlled by, or under common Control with such Person.

**Agent:** Shall have the meaning specified in Section 14.17 of this Agreement.

**Agreement or Redevelopment Agreement:** Shall mean this Redevelopment Agreement between the Borough and the Redeveloper for the redevelopment of the Property within the Redevelopment Area situated within the Hopewell Borough, County of Mercer, and State of New Jersey.

**Appeal Period:** Shall mean the period of time specified by statute or court rule within which an appeal may be taken by any party from the grant of any of the Governmental Approvals, and includes the period for filing an appeal to an appellate court after entry of a judgment or decision by a lower court or administrative agency.

**Applicable Law:** Shall mean any and all federal, state and local laws, rules, regulations, statutes, resolutions, orders and ordinances, including but not limited to the Municipal Land Use Law, applicable to the Project, the Property, or any aspect thereof.

**Area of Concern:** Means any existing or former distinct location or environmental medium where any hazardous substance, hazardous waste, or pollutant is known or suspected to have been discharged, generated, manufactured, refined, transported, stored, handled, treated, or

disposed, or where any hazardous substance, hazardous waste, or pollutant has or may have migrated, as defined under the Technical Requirements for Site Remediation (N.J.A.C. 7:26E-1.8).

**Asbestos:** Means the asbestiform varieties of chrysotile (serpentine); crocidolite (riebeckite); amosite (cummingtonite-grunerite); anthophyllite; tremolite; and actinolite, as defined under N.J.S.A. 34:5A-34.

**Asbestos-containing material (ACM):** means any material which contains more than 1% asbestos by weight, as defined under N.J.S.A. 34:5A-34.

**Asbestos Work:** Means the application, enclosure, encapsulation, repair, or removal of asbestos-containing material.

**Borough:** Shall mean the Borough of Hopewell, a municipality of the State of New Jersey with offices located at 88 East Broad Street, Hopewell, New Jersey 08525 together with any successor public body hereinafter designated by or pursuant to law. "Borough" may also include "Mayor and Council of Hopewell Borough.

**Borough's Redevelopment Costs:** Shall have the meaning specified in Section 2.09 of this Agreement.

**Business Day:** Shall mean a calendar day other than a Saturday, Sunday or day when the Federal Reserve Bank of New York is closed.

**Certificate of Occupancy:** Shall mean the written certificate issued by the Borough in accordance with N.J.S.A. 52:27D-133 relative to a residential unit constructed as a part of the Project indicating that the subject residential unit has been completed in accordance with the construction permit, the Uniform Construction Code and the Applicable Law(s), and shall include a Temporary Certificate of Occupancy.

**Certificate of Substantial Completion:** Shall mean a written document issued by the Borough, in recordable form, acknowledging that the Redeveloper has satisfactorily performed all of its duties and obligations pursuant to this Agreement relative to the Project. The issuance and recording of said Certificate of Substantial Completion shall serve to release the Project and the Property from all terms, obligations and conditions contained in this Agreement, except for the requirements pertaining to affordable housing set forth in Article XII.

**Commencement of Construction or Commence Construction:** Shall mean the undertaking by the Redeveloper of any physical construction of any new structure, improvements

and other infrastructure, including but not limited to, any activities related to building demolition and removal, the preparation of the site for such construction, or any activities related to the environmental remediation, mitigation, or clean-up of same.

**Construction Plans**: Shall mean the architectural and engineering plans prepared by the Redeveloper in conformance with approved Final Site Plans, which plans shall be prepared in accordance with Applicable Laws and are to be submitted to the Borough's Building and Construction Department for review and approval prior to the issuance of the necessary permits for Commencement of Construction.

**Control (also referred to as "Controlled by" and "under common Control with")**: With respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

**COAH**: Shall mean the New Jersey Council on Affordable Housing

**Days**: Shall mean calendar days when such term is used to denote time.

**DCA**: Shall mean the New Jersey Department of Community Affairs.

**Effective Date**: Shall mean the date this Agreement is last executed by either the authorized officer of the Borough or by the authorized representative of the Redeveloper.

**Equity Investors**: Shall mean the investor members of the Redeveloper.

**Escrow Agreement**: Shall have the meaning specified in Section 2.09 of this Agreement.

**Event of Default**: Shall mean, individually or collectively, a Borough Event of Default or a Redeveloper Event of Default.

**Final Site Plans**: Shall mean the plans that shall be submitted to and approved by Planning Board for Final Site Plan Approval for the Project in accordance with the Redevelopment Plan, Sections 3.01 and 3.04 hereof and Applicable Law.

**Financial Institution**: Shall mean a bank, savings bank, savings and loan association, mortgage lender or insurance company, pension fund, real estate investment trust, investment bank, mutual fund or similarly recognized reputable source of construction and permanent financing for the Project, chartered or organized under the laws of the United States of America, or any State thereof.

**Force Majeure (also "Event of Force Majeure")**: As used throughout this Agreement this term applies to all time limitations and other obligations and shall mean any acts of God, fire,

volcano, earthquake, hurricane, blizzard, infectious disease, pandemic, technological disaster, catastrophe, large scale infestation of any type, tremors, flood, explosion, release of nuclear radiation, release of biotoxic or of biochemical agents, the elements, war, blockade, riots, mob violence or civil disturbance, any act or acts of terrorism or terroristic threat, an inability to procure goods or services or a general shortage of labor, equipment, facilities, energy, materials or supplies in the open market, failure of transportation, strikes, walkouts, actions of labor unions, governmentally imposed moratoriums, court orders, laws, rules, regulations or other orders of governmental or public agencies, bodies and authorities or any other similar cause not within the reasonable control of the Party claiming the extension of time including legal inability to comply resulting from a change of law including municipal laws regulating land use and construction, or any legal requirements under any applicable environmental laws, as well as all known and unknown rules and regulations of the United States Environmental Protection Agency, Hopewell Borough, and the NJDEP, clearances, approvals or permits typical of the development process, any legal proceedings, decisions or decrees that adversely affect the ability of the Party claiming an extension of time to reasonably perform the obligations of and/or benefit from the terms of this Agreement, any economic conditions that may adversely affect the real estate market or may affect the Redevelopment Area, the Project as demonstrated by an independent market study prepared by a qualified financial consultant selected by the Party seeking the benefit of Force Majeure, or any delay in the Redeveloper's receipt of any necessary Governmental Approvals not within the Redeveloper's control. Notwithstanding anything to the contrary contained herein, the Borough shall not be entitled to seek the benefit of Force Majeure for its own actions or inactions including, without limitation, any act or failure to act by any municipal administrative agency, officer, employee, or consultant thereof, but excluding the Planning Board.

**Friable Asbestos:** Means asbestos-containing material that when dry may be crumbled, pulverized, or reduced to a powder by hand pressure, and includes previously nonfriable asbestos-containing material after that material becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to a powder by hand pressure, as defined under N.J.S.A. 34:5A-4.

**Governmental Agency:** Shall mean any federal, state, county or municipal legislative, administrative, executive or Borough, office, agency, department, commission, authority, court, or tribunal and any successor thereto, exercising executive, legislative, judicial, advisory or administrative functions of or pertaining to government, including, without limitation, the Borough

of Hopewell, the Hopewell Borough Planning Board, the County of Mercer, the Mercer County Planning Board, the State of New Jersey and/or the United States of America.

**Governmental Application:** Shall mean any and all submissions, plans, diagrams, supporting documents, reports or other proofs that are transmitted to any Governmental Agency, or any officer or agent thereof, for the purpose of obtaining a Governmental Approval of any aspect(s) of the Project.

**Governmental Approval:** Shall mean any approval, authorization, permit, including, but not limited to, building and construction permit, license, or Certificate of Substantial Completion issued by any Governmental Agency required in order to implement the Project or any aspect thereof in accordance with the Redevelopment Plan and this Agreement. Any Governmental Approval shall not be deemed to have been obtained (a) until the Appeal Periods relating thereto have expired and no appeal has been taken, or (b) if an appeal is filed by a party challenging any Governmental Approval within the applicable Appeal Period, until such appeal shall have been finally resolved in a manner sustaining the challenged Governmental Approval.

**Hazardous Substances:** Shall mean all substances set forth in the New Jersey “Discharges of Petroleum and Other Hazardous Substances Rules” (N.J.A.C. 7:1E-1.7).

**Improvements:** Shall mean all buildings, improvements, appurtenances and structures physically within or upon the Property comprising the Project, including but not limited to drainage improvements, walkways, hook-ups and service laterals from a building to the curb for water, storm and sanitary sewers, and other utilities, parking, lighting, landscaping and fire hydrants.

**Institution:** Shall mean any savings and loan association, savings bank, commercial bank or trust company (whether acting individually or in any fiduciary capacity), an insurance company, a real estate investment trust, an educational institution or a state, municipal or similar public employee’s welfare, pension or retirement system or any corporation subject to supervision and regulation by the insurance or banking departments of the state or of the United States Treasury, or any successor, department or departments hereafter exercising the same functions as said department.

**Liability:** Shall have the meaning specified in Section 14.17 of this Agreement.

**Long Term Tax Exemption Law:** Shall mean the Long-Term Tax Exemption Law, N.J.S.A. 40A:20-1 *et. seq.*

**LSRP:** Shall mean an individual Licensed Site Remediation Professional licensed by the New Jersey Site Remediation Professional Licensing Board pursuant to section 7 of P.L.2009, c.60 (C.58:10C-7) or the NJDEP pursuant to section 12 of P.L.2009, c.60 (C.58:10C-12).

**LSRP of Record:** Shall mean one or more LSRPs that have been retained by the PRCR to oversee environmental remediation of one or more areas of concern at the Property.

**MCSCD:** Shall mean the Mercer County Soil Conservation District

**Mortgage:** Shall mean any written instrument encumbering the Property or any portion thereof that secures the performance of obligations or the payment of debt, including, without limitation any grant of, pledge of, or security interest in, any collateral, or any grant, directly or indirectly, of any deed of trust, mortgage or similar instrument or any other security whatsoever.

**Mortgagee:** Shall mean the holder of any Mortgage.

**NJDEP:** Shall mean the State of New Jersey Department of Environmental Protection together with any successor agencies thereto.

**Off-Tract Improvements:** Shall mean any improvements outside the Property, made necessary by the Project, that are to be constructed and maintained by the Borough and/or by the Redeveloper in order that the Redeveloper may satisfy the requirements of any applicable Governmental Approvals, including, without limitation, (a) all roadways, bridges and off-tract infrastructure improvements (b) grading, site drainage, drainage outfalls, walkways, subsurface excavation and other site preparatory work for the off-tract infrastructure improvements, lighting within off-site parking areas, landscaping, fire hydrants and roadways, in each case, (c) water and sewer service lines for the Project, including hook-ups and service laterals for water, storm and sanitary sewers, and other utilities, including electric, gas, telephone and cable services (which are to be built underground), and (d) all other improvements which are or may be required to accommodate construction, occupancy and use of the Project. Except as otherwise provided in the Governmental Approvals and this Agreement, the cost of any Off-Tract Infrastructure Improvements shall be borne solely by the Redeveloper whether constructed or maintained by the Borough or the Redeveloper.

**Party/Parties:** Shall mean individually, the Borough or the Redeveloper and collectively, the Borough and Redeveloper.

**Permitted Transfer:** Shall mean any transfer permitted by Article 7 herein or consented to by the Borough pursuant to Article 7 herein.

**Person(s)**: Shall mean any individual, sole proprietorship, corporation, partnership, joint venture, limited liability company, trust, unincorporated association, institution, public or governmental body, or any other entity.

**Person Responsible for Conducting the Remediation (“PRCR”)**: Shall mean the party that executes or is otherwise subject to an oversight document to remediate the Property, as defined under the Site Remediation Reform Act (N.J.S.A 58:10C-20).

**Planning Board**: (also referred to as the **Borough Planning Board**) shall mean the Hopewell Borough Planning Board together with any successor(s) in interest thereto exercising similar functions in accordance with the Applicable Law.

**Project**: Shall mean the Property and the Improvements and construction and installation thereof in accordance with the Redevelopment Plan. The Project is more particularly described in Section 2.01 hereof.

**Project Area**: Shall mean all areas of construction, demolition, environmental remediation, landscaping, or ground disturbance associated with the Project, along with temporary facilities such as office trailers and portable toilets, parking and equipment-staging areas, on-site vehicles access routes, and any other areas disturbed or utilized during the execution of the Project.

**Property**: Shall mean the property that is the subject matter of this Agreement and designated as Block 18, Lot 1 and Block 12, Lot 7 on the Tax Maps of the Hopewell Borough, Mercer County, State of New Jersey.

**Redeveloper**: Shall mean Hopewell 57 Urban Renewal Entity, LLC, a limited liability company formed and operated pursuant to the laws of the State of New Jersey, having corporate offices located 19 Longview Drive, Princeton, New Jersey 08540, together with any Transferee(s) of its rights in accordance with the provisions of this Agreement.

**Redevelopment Area**: Shall mean the Property, which is depicted on the maps included in the Redevelopment Plan (**Exhibit A**) and is comprised of the lots specified in the Redevelopment Plan.

**Redevelopment Law**: Shall mean the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., and as same may be amended from time to time.

**Redevelopment Plan**: Shall mean the Redevelopment Plan for Redevelopment of Block 18, Lot 1 and Block 12, Lot 7, as further defined in the Recitals of this Agreement and annexed

hereto as **Exhibit A**, as adopted by the Borough, together with any amendments adopted in accordance with the Applicable Law.

**Site Plans**: Shall have the meaning specified in Section 3.01(a) of this Agreement.

**Site Plan Approval**: Shall mean, individually or collectively, approval by the Planning Board of Final Site Plans for the Project.

**Special Flood Hazard Area**: Shall mean any Special Flood Hazard Area shown on the most recent Flood Insurance Rate Map issued by the Federal Emergency Management Agency.

**SSESC**: Shall mean the “Standards for Soil Erosion and Sediment Control in New Jersey”, published by the New Jersey Department of Agriculture State Soil Conservation Committee (2017 revisions or most recent version).

**Tolling Event**: Shall mean: (i) an act or omission by one Party or a third Party that has a material and adverse effect on the other Party’s ability to perform any obligation, requirement, commitment, or responsibility prescribed under this Agreement; or (ii) any extension granted by either Party to the other Party, to extend any proposed date to perform in this Agreement; or (iii) any reasonable request by one Party to the other to extend the time for performance of any obligation, requirement, commitment or responsibility arising pursuant to this Agreement; or (iv) during the period of any challenge or litigation related to an approval or denial of any Governmental Approval, whether brought by the Borough, the Redeveloper or a third party; or (v) an Event of Force Majeure.

**Transfer**: Shall mean any transaction, other than a Permitted Transfer, by which a Transferee obtains an interest in the Property, or any portion thereof and/or any or all of the Improvements, or in this Agreement by means or methods which include, but are not limited to, conveyance, transfer, lease, encumbrance, acquisition or assignment through sale, merger, consolidation, reorganization, foreclosure or otherwise, including the appointment of a trustee in bankruptcy or assignee for the benefit of creditors.

**Transferee**: Shall mean any third party to whom an interest in the Property, the Improvements or rights in or under this Agreement is conveyed, transferred, leased, encumbered, acquired or assigned, by sale, merger, consolidation, reorganization, foreclosure or otherwise, including through designation of a trustee in bankruptcy or assignee for the benefit of creditors.

**UHAC**: Shall mean Uniform Housing Affordability Controls, as defined under N.J.A.C. 5:80-26.1 et seq.

**ARTICLE II**  
**REDEVELOPER'S RESPONSIBILITIES**

**2.01 The Project Description.** The Redeveloper shall develop the Property as a multi-family residential development materially in conformance with the Redevelopment Plan, together with such amenities, common areas and ancillary uses ordinarily associated with a high quality residential rental development. It is anticipated that the market rate residential units constructed as part of the Project will be made available to the general public as rental units. The affordable units will be made available as rental units pursuant to Article XII below.

The Project may encompass areas outside of the Property for development and construction of necessary Off Tract Improvements, including, but not limited to, roadway and utility infrastructure improvements.

Redeveloper shall make the appropriate applications to the Planning Board for any required site plan, design waivers, or bulk variances. Nothing herein guarantees approval of any applications to the Planning Board.

**2.02 Phases of Project and Sequence of Construction.** It is anticipated that the Project will be constructed in a single phase. The Parties agree that the phase(s) of the Project may be modified by the Redeveloper and the Planning Board as part of the site plan approval process.

The general sequence of construction will involve:

1. Demolition and removal of existing structures.
2. Environmental investigation and remediation (if required) of soils located beneath existing structures, followed by issuance of a Response Action Outcome (“RAO”) letter upon completion of the remediation.
3. Backfilling, compaction, and re-grading of soil and fill materials.
4. Building construction
5. Landscaping.

**2.03 Certification of Completion.** Upon completion of the Project, the Redeveloper may request in writing a Certificate of Substantial Completion which shall be issued subject to the Borough’s finding that the Project has been completed in conformity with the Final Site Plans and

Construction Plans for the Project. Upon issuance and recording of the Certificate of Substantial Completion, unless specifically stated otherwise herein, the Redeveloper shall be released from all obligations, responsibilities and liabilities set forth in this Agreement as same relates to the Project. Upon the issuance of the Certificate of Substantial Completion, the conditions determined to exist at the time the area was determined to be in need of redevelopment shall no longer exist, and the land and improvements thereon shall no longer be permitted to become subject to eminent domain as a result of those determinations.

**2.04 Commencement of Construction and Redevelopment Project Schedules.** The Redeveloper shall commence construction of the Project within twelve (12) months after all Governmental Approvals become final and unappealable.

**2.05 Planning, Design and Marketing of Project.** In accordance with, and subject to, the terms of this Agreement, including, without limitation Section 12.01 of this Agreement, the Redeveloper shall undertake, at its sole cost and expense, to plan, design, develop, market, and construct the Project. The Redeveloper shall, in its sole but reasonable discretion, develop and construct the Project in accordance with the Redevelopment Plan and Final Site Plans (as may be amended from time to time with the written approval of the Planning Board, and subject to approval of the Borough Council as set forth herein (as well as any other Governmental Agency having jurisdiction), and the Project shall not be deemed complete until approved as complete by the Borough in accordance with Section 4.08 hereof. Except as may be expressly set forth herein, the Borough shall not be responsible for any costs associated with any Improvements necessary for the development and construction of the Project. Except as may be specifically set forth herein, the costs of developing the Project and of constructing all Improvements thereon shall be borne entirely by the Redeveloper. Additionally, the costs of marketing the Project, including the affirmative marketing of all affordable residential units as set forth in Section 12.01 herein, shall be borne solely by the Redeveloper.

**2.06 Architectural Design.** The Redeveloper shall cooperate with the Borough's professionals to design the Project to be compatible with the architecture, style, scale, and character of the nearby neighborhoods and Historic District. The details of the architectural design of the Project shall be addressed during the site plan approval process. Additionally, prior to making application for site plan approval to the Planning Board, Redeveloper shall meet with the Borough

Historic Preservation Commission and make good faith efforts to incorporate suggestions from the Historic Commission into the design of the Project. The Redeveloper is required to obtain a Certificate of Appropriateness for the Project from the Borough Planning Board, in accordance with § 12-10A.4b of the Hopewell Borough Code.

**2.07. Exclusive Redeveloper.** Subject to the provisions hereof, the Redeveloper shall have the exclusive right to carry out the Project as long as this Agreement has not been terminated by the Borough due to a Redeveloper Event of Default, as hereinafter defined. For the term of this Agreement, the Borough shall not designate any person or entity, other than the Redeveloper (which the Redeveloper has been so designated), as redeveloper of the Project, nor enter into any form of understanding or agreement pursuant to any Applicable Law(s) with such persons or entities, unless the Redeveloper fails to cure a Redeveloper Event of Default and this Agreement is terminated.

**2.08. Covenant to Build.** In accordance with, and subject to, the terms of this Agreement, the Redeveloper covenants and agrees to perform the construction of the Project upon the Property together with any ancillary uses as indicated in and on the Redevelopment Plan, Governmental Approvals, the Final Site Plans, and the Construction Plans. The Project must be constructed in accordance with the Redevelopment Plan, and any variances or design waivers therefrom duly granted by the Planning Board. All Improvements to be situated upon the Property (i.e.; sidewalks, utilities and site lighting, off street parking, roadways, pilings, foundations, footings, open space, walkways, landscaping, etc.) shall be installed by the Redeveloper at its sole cost and expense as the Project requires, subject to the terms of Section 3.06 of this Agreement.

**2.09. Payment of Borough's Professionals; Escrow Agreement.**

The Redeveloper agrees to pay the Borough's actual, reasonable out of pocket professional costs, including, without limitation, all reasonable legal, planning and engineering fees, related to the Project (the "Borough's Redevelopment Costs"). Such costs shall include, but are not limited to the Borough's (1) legal fees incurred in drafting, reviewing, and revising this Redevelopment Agreement; (2) legal fees incurred in drafting, reviewing, revising, and recording any easements required for the Project; and (3) legal, planning, and engineering costs incurred by the Planning Board and its professionals in the review of any application submitted for the Project to the Planning Board. This obligation shall continue until termination of this Agreement, a Borough Event of Default, or such time as the final Certificate of Completion is issued by the Borough for

the Project, at which time the Redeveloper shall no longer have the obligation to pay for the Borough's Redevelopment Costs.

The Redeveloper shall establish an escrow account to pay for the Borough's Redevelopment Costs, which shall be administered in accordance with the Municipal Land Use Law, specifically N.J.S.A. 40:55D-53.2 (the "Escrow Account"). Within ten (10) days of execution of this Agreement, Redeveloper shall deposit with the Borough the amount of \$5,000.00. Commencing upon the Effective Date, the Borough shall regularly provide the Redeveloper with monthly statements setting forth the actual, out-of-pocket costs incurred by the Borough during the prior month (and on a cumulative basis). The Parties acknowledge that additional escrowed funds may be required. The Borough shall have the right to request the additional escrowed funds in writing upon the Escrow Account balance falling below \$2,500.00. The Redeveloper shall be required to pay such additional escrowed funds within ten (10) days of the Borough's written request

Upon Redeveloper filing an application with the Planning Board, all funds in the Escrow Account contemplated herein shall be transferred to the escrow account required by the Planning Board. The administration and minimum balance of the escrow account required for the Planning Board application shall be governed by applicable Borough Ordinances.

This obligation shall be in addition to the Redeveloper's obligation to pay for any of the Borough's professional costs incurred in reviewing and processing Redeveloper's application to the Planning Board pursuant to Article III herein, including any application fees set forth in Borough Ordinances.

**2.10**            **Deposits as Preconditions.** Building/construction permits or certificates of occupancy shall not be issued unless the deposits mentioned in this Agreement, or other necessary deposits, have been made.

### **ARTICLE III**

#### **GOVERNMENTAL APPROVAL PROCESS**

##### **3.01. Approval of Site Plan and Subdivision Plan.**

(a) Within six (6) months of the Effective Date of this Agreement, the Redeveloper shall file with the Planning Board a reasonably complete application for Preliminary and Final Site Plan Approval for the Project (the "Site Plans"), which shall be prepared by a licensed architect,

surveyor and/or engineer of the State of New Jersey. The Site Plans shall be prepared in accordance with Applicable Laws and shall be consistent with the Redevelopment Plan. This six (6) month deadline may be extended by the Borough upon a request in writing by the Redeveloper in order to accommodate the required review by the Borough Historic Commission.

In addition to all requirements set forth in the Hopewell Borough Planning Board Development Application and Borough Code Section 13-3, Redeveloper shall provide the following to the Planning Board with its application:

- **Traffic Impact Study.** A Traffic Impact Study report shall describe the impact of traffic that will be generated from the proposed development, including but not limited to, estimated traffic generation, impact on the traffic patterns of the immediate area including surrounding intersections within 200 feet, and any traffic mitigation proposed. The Traffic Impact Study shall be prepared by a traffic engineer.
- **School Impact Study.** A School Impact Study report shall estimate the proposed development's student generation for grades pre-school through 12th grade utilizing industry-standard techniques and reasonably available and accepted data. Such study must be based on the specific characteristics of the proposed development and localized population and student data. The report must be prepared by a qualified professional with demography experience.
- **Emergency Services Impact Study.** An Emergency Services Impact Study report shall describe impacts of the proposed development upon local police, fire, rescue, and emergency medical services, including vehicles, apparatus, building needs, staffing during various times of the day, water supply, and equipment.

(b) The Planning Board shall hold a hearing regarding the Site Plans in compliance with the Municipal Land Use Law. If, after review and public hearing, the Planning Board approves the Site Plans, it shall adopt an appropriate Resolution evidencing such approval. The Planning Board or other appropriate municipal official shall hold hearings on (if required) and review as required by Applicable Law all other applications filed by the Redeveloper, including applications for building permits in compliance with the Municipal Land Use Law, Borough Ordinances, or other applicable laws or regulations. The Borough shall support all applications

made by the Redeveloper to the Planning Board or other Borough official, insofar as such applications are in compliance with this Agreement and the Redevelopment Plan.

**3.02. Variances and Other Waivers.** *Any departure from the permitted principal or accessory uses or maximum permitted residential density and/or number of units in this plan must be addressed through amendment of the Amended Redevelopment Plan by the Borough Council.*

The Borough acknowledges that bulk variance relief, design exceptions, and/or *de minimis* exceptions from Residential Site Improvement Standards (“RSIS”) may be required by the Redeveloper in order to maintain the Project yield. Therefore, the Planning Board may review such applications and grant such relief in accordance with N.J.S.A. 40:55D-70(c) and N.J.S.A.40:55D-51, as applicable. In the event of a conflict between the provisions of the Redevelopment Plan and the RSIS, the Redevelopment Plan shall control, and the Borough shall support any waiver requests by Redeveloper to the New Jersey Department of Community Affairs and shall, if necessary, adopt Special Area Standards for the Property, pursuant to N.J.A.C. 5:21–3.5, and obtain the approval of same from the Site Improvement Advisory Board of the New Jersey Department of Community Affairs.

With the exception of the relief contemplated in this Section 3.02, all residential improvements shall comply with the RSIS and municipal ordinances. Where the RSIS conflict with municipal ordinances (other than the Redevelopment Plan), the RSIS will control. Notwithstanding the foregoing, the Project shall comply with the parking standard set forth in the Redevelopment Plan, which differs from the RSIS parking standard. The Parties agree to cooperate, and the Borough agrees to assist in processing before the New Jersey Department of Community Affairs (the “DCA”) reasonable requests for de minimus relief or exceptions that may be required from RSIS standards in order to facilitate development of the Project.

**3.03. Other Governmental Approvals, Construction Plan Review and Commencement of Construction.**

(a) Upon receipt of all Governmental Approvals, except for building permits, the Redeveloper will prepare Construction Plans for the Project to be constructed, as well as materials, and an application for approval of the Construction Plans by the Borough’s Building and Construction Department.

(b) The Borough, including its Planning Board, and Engineering, Building and Construction Departments will review all plans for compliance with the Applicable Laws after submittal of same.

(c) The Redeveloper agrees to obtain all applicable Governmental Approvals for the Project within twelve (12) months of adoption of a resolution of approval of any site plan and/or subdivision application. If the Redeveloper is using diligent efforts and is still unable to obtain all applicable Governmental Approvals for the Project within the twelve (12) month period, the Redeveloper may request an extension from the Planning Board, which approval shall not be unreasonably withheld. This provision shall be incorporated into any resolution of approval issued for the Project by the Planning Board.

**3.04. Final Site Plan Approval.** The Redeveloper is required to obtain Final Site Plan Approval prior to the Commencement of Construction of the Project.

**3.05. Reporting; Conditions of Approval.** As it relates to the Project, upon written request of the Borough, the Redeveloper shall submit to the Borough, a written report of the current status of any pending Governmental Approvals.

**3.06. Project Improvements.** In accordance with and subject to the terms of this Agreement, the Redeveloper shall install and maintain, at its own expense, any Improvements in the approved Site Plans. The Redeveloper, at its cost and expense, shall provide all necessary engineering and traffic studies for, and construct or install all on- and off-tract municipal infrastructure improvements and capacity enhancements or upgrades required in connection with the provision of water, sanitary sewer, and stormwater sewer service to the project, in addition to all required tie-in or connection fees in accordance with municipal ordinances and N.J.S.A. 40:14A-1 *et seq.*, N.J.S.A. 40:14B-1 *et seq.* and N.J.S.A. 40A:31-1 *et seq.* The Redeveloper shall also be responsible for providing, at the Redeveloper's cost and expense, all sidewalks, curbs, street trees and street lighting on and along the frontage of the Property, and its pro rata share of on- and off-tract traffic controls and road improvements for the Project or required as a result of the impacts of the Project. Notwithstanding the foregoing, the Redeveloper shall not be responsible for sidewalks, curbs, street trees and street lighting that are not located on and along the frontage of the Property.

**3.07. Project Modifications.** The Redeveloper hereby acknowledges and agrees that the development and construction of the Project shall be in accordance with the

Redevelopment Plan, as may be modified by the Governmental Approvals in accordance with this Agreement. The Redeveloper may not modify, alter or amend the approved Final Site Plans at any time without the express prior written approval of the Borough and the Planning Board, which respective approvals shall not be unreasonably withheld, conditioned or delayed, subject to the provisions of Applicable Laws. However, the Redeveloper may make those modifications, alterations and amendments to the Final Site Plans and/or Construction Plans, as the case may be, that are “minor” in nature, with the approval of the Borough Planner and Borough Engineer and where field conditions and good engineering practices permit. The Borough reserves its rights to contest any material modifications that may potentially arise in the course of the construction of the Project.

**ARTICLE IV**  
**GENERAL DEVELOPMENT REQUIREMENTS AND**  
**CONSTRUCTION OF THE PROJECT**

**4.01. Standards of Construction.** Without limitation, all work on the Project shall be performed in a good and workmanlike manner, with such materials as are required by the Redevelopment Plan and Governmental Approvals (including any approvals from the Planning Board) and as are appropriate for a Project of the character and quality of similarly situated projects in the County of Mercer and State of New Jersey. All construction work shall be performed in accordance with the Applicable Laws.

**4.02.** Intentionally omitted.

**4.03. Construction of Project.** Subject to the advent of an Event of Force Majeure or other Tolling Event, the Redeveloper shall Commence Construction of the Project within twelve (12) months after all Governmental Approvals become final and unappealable. Subject to the advent of an Event of Force Majeure or other Tolling Event, the construction of the Project shall commence in accordance with the respective time frame references set forth in this Agreement.

**4.04. Completion of Construction.** Subject to Section 14.02 hereof, construction of all Improvements necessary for the Project shall be completed within two (2) years after Commencement of Construction. Nothing herein shall extend the time period for which any

Planning Board approval remains valid pursuant to the Municipal Land Use Law and Borough Ordinances.

**4.05. Report on Progress.** Upon written request of the Borough, the Redeveloper shall make, in such detail as may be reasonably required by the Borough, a report in writing concerning the actual progress of the Redeveloper with respect to the Project. The work and construction activities of the Redeveloper on the Property shall be subject to inspection by the Borough, upon a reasonable, advance written notice given to the Redeveloper in accordance with Section 11.01 hereof.

**4.06. Insurance.** At all times during the construction of the Project, the Redeveloper shall maintain or cause to be maintained at its own cost and expense, with responsible insurers, the following kinds and the following amounts of insurance with such variations as shall reasonably be required to conform to customary insurance practice:

(a) Builder's Risk Insurance for the benefit of the Redeveloper during the term of construction which will protect against loss or damage resulting from fire and lightning, the standard extended coverage perils, and vandalism and malicious mischief.

(b) Comprehensive General Liability Insurance (including coverage for any construction on or about each parcel of property contained within the Property) against claims for bodily injury, death or property damage occurring on, in or about the Project Property and the adjoining streets, sidewalks and passageways, in amounts not less than Two Million (\$2,000,000) Dollars for each claim with respect to any bodily injury or death, with respect to any one occurrence and Two Million (\$2,000,000) Dollars with respect to all claims for property damage relating to any One (1) occurrence;

(c) Worker's Compensation Insurance coverage in the amount of the full statutory liability of the Redeveloper;

(d) Such other insurance, in such amounts and against such risks, as is customarily maintained by the Redeveloper with respect to other similar properties owned or leased by it, including automobile insurance.

Prior to commencing work on the Property, the Redeveloper shall submit to the Borough proof of all applicable insurance(s). The policies of liability insurance required to be maintained by the Redeveloper and for which the Redeveloper shall be a named insured, pursuant to this

Section 4.06, shall name as additional insureds (except for Worker's Compensation insurance), the Borough, as its respective interest may appear.

**4.07. Indemnification and Defense.**

(a) The Redeveloper agrees to indemnify and hold harmless the Borough against, and the Redeveloper shall pay for, any and all liability, loss, cost, damage, claims, judgments or expenses, of any and all kinds or nature and however arising, imposed by law, which the Borough may sustain, be subject to or be caused to incur by reason of any claim, suit or action based upon personal injury, death, or damage to property, whether real, personal or mixed, resulting from the Redeveloper's activities in constructing the Project or the Redeveloper's actual breach of contracts entered into by the Redeveloper which directly relate to the construction of the Project, or resulting solely from the Redeveloper's ownership of portions of the Property, or resulting from the acquisition, construction or installation of the Project. Further, said indemnification shall include but not be limited to any and all claims by workmen, employees and agents of the Redeveloper and unrelated third parties, which claims result from the construction of the Project, the maintenance and functioning of the Improvements or Off-Tract Improvements, or any other activities of the Redeveloper within the Property during the construction of the Project. Notwithstanding the foregoing, the Redeveloper shall have no obligation to indemnify and hold the Borough harmless from and against any liability, loss, cost, damage, claims, judgments or expenses, of any kind or nature arising from the negligent, intentional or willful acts of the Borough, its commissioners, officers, agents, servants or employees. Neither the Borough, nor its commissioners, officers, agents, servants or employees shall be liable in any event for any action performed under this Agreement, except for any liability, loss, cost, damage, claims, judgments or expenses, of any kind or nature arising from the negligent, intentional or willful acts of the Borough, its commissioners, officers, agents, servants or employees.

(b) The Redeveloper, at its own cost and expense, shall defend any and all such claims, suits and actions, as described in and for which indemnification is required by this Section 4.07, which may be brought or asserted against the Borough, its officers, agents, servants, or employees; but this provision shall not be deemed to relieve any insurance company which has issued a policy of insurance as may be provided for in this Agreement from its obligation to defend the Redeveloper, the Borough and any other insured identified in such policy of insurance in connection with claims, suits or actions covered by such policy.

Any cost for reasonable attorneys' fees in situations where it is necessary for the Borough to engage its own attorneys as determined by a court of competent jurisdiction, reasonable experts' testimony costs and all reasonable costs to defend the Borough or any of its commissioners, officers, agents, servants, or employees shall be reimbursed to it by the Redeveloper in connection with such indemnification claim. The Borough shall give the Redeveloper notice of any such claim for which indemnification under this Agreement is sought (together with copies of any documents received) within Fifteen (15) Days of the Borough's receipt of same.

**4.08. Certificates of Occupancy and Certificate of Substantial Completion.** Upon the completion of the construction of the Project in accordance with the Governmental Approvals, the Redeveloper shall request from the Borough the issuance of a Certificate of Occupancy for the Project. When issued, the Certificate of Occupancy will constitute conclusive evidence that the Redeveloper has fully performed its obligations to construct the Project in accordance with all Applicable Laws, the Amended Redevelopment Plan, Planning Board Approvals, and this Agreement.

Upon the completion of the Project, the Borough shall issue a Certificate of Substantial Completion in proper form for recording, which shall acknowledge conclusively that with respect to the Project, the Redeveloper has performed all of its duties and obligations under this Agreement and has completed the development and construction of the Project, in accordance with the requirements of the Applicable Law, the Redevelopment Plan, the Site Plan Approval, , and this Agreement. The Certificate of Substantial Completion shall constitute an independent, recordable, conclusive determination of the satisfaction and termination of the obligations under the Applicable Laws, this Agreement, and the Redevelopment Plan with respect to the Redeveloper's obligation to develop and construct the Project.

If the Borough shall fail or refuse to provide the Certificate of Substantial Completion within Forty-Five (45) Days after written request to do so is served by the Redeveloper, the Borough shall provide to the Redeveloper a written statement setting forth in detail the reasons why it believes that the Redeveloper has failed to complete the Project, in accordance with the provisions of this Agreement and what reasonable action(s) will be necessary to be taken by the Redeveloper in order for the Redeveloper to be entitled to the Certificate of Substantial Completion. Upon receipt of the Certificates of Substantial Completion, the Redeveloper may record it in the Mercer County Clerk's Office.

To enable the Redeveloper to lease each residential or retail unit developed and constructed as a part of the Project prior to the issuance of the relevant Certificate of Occupancy, the Borough may issue a temporary certificate of occupancy for the subject residential or retail unit, including issuance of a temporary certificate of occupancy on a floor-by-floor basis.

**4.09. Governmental Approval Fees.** The Redeveloper shall pay all Borough permit and other non-Borough fees for Governmental Approvals, which include, but are not limited to, any application fees for Governmental Approvals payable by the Borough to all required Governmental Agencies in connection with the Project, or fees for Governmental Applications for which the Borough is required to reimburse other Governmental Agencies in connection with the Governmental Approvals required for the Project.

**4.10. Traffic.** The Redeveloper shall provide traffic analyses and information regarding traffic to the Planning Board in connection with its application for Site Plan Approval, and shall comply with the conditions of said Site Plan Approval with regard to traffic both during construction and thereafter. Without limiting the foregoing, the Redeveloper agrees to work closely with the Borough and to comply with all Borough ordinances to mitigate the impact of construction vehicles, traffic around the Property during construction and related concerns, and to use commercially reasonable efforts to minimize the traffic effects of the Project upon the surrounding neighborhoods. The Parties agree that the traffic impact of the Project must be monitored as buildout takes place.

**4.11. Illumination, Noise, and Pollution.** The Redeveloper is mindful of the size of the Project and the potential effects that the construction of such an undertaking may have on the surrounding communities. Therefore, the Redeveloper agrees that it will take commercially reasonable steps to minimize the passage of excessive or unwarranted illumination, noise, or pollution during construction into the surrounding communities.

**4.12. Security and Safety.** The Redeveloper further commits to be cognizant of and address reasonable traffic safety issues by complying with all applicable traffic safety provisions of Applicable Law both during and after construction of the Project.

**4.13. Parking During Construction.** The Redeveloper shall be responsible, at its own cost, for making on-site parking available to all construction workers during construction of the Project. The Redeveloper shall make arrangements with the Borough Construction Official

and the Police Department for off-street parking for construction vehicles and construction worker's vehicles, if such vehicles cannot be parked on the Project Area itself.

**4.14. Construction Hours.** Construction practices and hours shall be in accordance with Borough Ordinances, which are available at the Borough Building Department or through the Borough Clerk.

**4.15. Maintenance.** The Project Area will be kept free of debris on a regular basis by the Redeveloper. The stockpiling of grass clippings, leaves, brush, tree limbs, and logs or other debris within any Special Flood Hazard Area at the Property is prohibited. The Redeveloper shall inspect the Property at least monthly and prior to major storm events, and shall promptly remove tree limbs and other debris could potentially enter or obstruct the stream passing through the Property. The Redeveloper shall sweep the public roadways adjacent to the Project as needed to keep such free of all debris. All fencing shall be kept in good condition. Subject to weather conditions and Force Majeure Events, the Redeveloper agrees to clean up the Project, sweep adjacent public roadways and sidewalks, and / or repair fencing within forty-eight (48) hours of a specific, reasonable request by the Borough that the Redeveloper do so, or by the close of the following Business Day, whichever is later. Should Redeveloper fail to comply with this obligation, then the Borough may send the Redeveloper a second request, in writing, providing the Redeveloper with an additional twenty-four (24) hour period during which Redeveloper shall clean up the Project or make requested repairs. Should Redeveloper fail to comply following the Borough's second request, the Borough may at its option undertake actions to remove debris from streets or sidewalks and repair fencing and charge Redeveloper for the costs of same. The Redeveloper shall repair, at the Redeveloper's cost, any damage to the streets or sidewalks caused by the Redeveloper during the construction of the Project.

**4.16. Pedestrian Access and Safety.** The Borough acknowledges that for safety reasons, the sidewalks adjacent to the Project may need to be closed from time to time during construction of the Project. Notwithstanding the foregoing, the Redeveloper will provide appropriate signage and crosswalks to ensure the continued flow of pedestrian traffic. The Redeveloper shall supply to the Borough Building Department plans and specifications providing for pedestrian safety at and across the Project as applicable. The Redeveloper shall keep the sidewalks abutting the Project clean and free of debris, ice and snow during the construction of the Project.

**4.17. Compliance with Environmental and Public Health Laws and Regulations.**

The Redeveloper and its contractors shall comply with all applicable federal, state, county and municipal environmental, public health, and health & safety laws, regulations, and ordinances during the execution of the Project.

**4.18. Communication and Emergency Preparedness.** The Redeveloper shall provide the Borough Administrator with a schedule of key project milestones in advance of the commencement of construction and keep the Borough apprised of major changes in the project schedule. The Redeveloper (or a designated agent) shall provide the Borough Administrator with biweekly status updates via email concerning the anticipated schedule of construction work, upcoming project milestones, anticipated impacts on local traffic (*e.g.*, trucks transporting demolition materials from the Project Area), and other events that may be of particular concern to Borough residents. The Redeveloper or a designated agent shall coordinate directly with the Borough Administrator and the Borough Office of Emergency Management (OEM) Coordinator regarding emergency preparedness measures in advance of major storms with the potential to cause flooding or other damage to the Property or surrounding neighborhood.

**4.19. Construction and Truck Traffic.** No construction vehicles or trucks having a gross weight in excess of four (4) tons shall be permitted on Hamilton Avenue except for the pickup and delivery of materials and the off-site transportation of soil and demolition materials. Construction and truck traffic shall be limited to specific routes and hours to be determined by the Borough, and parking of construction vehicles shall be adjacent to the Project in areas to be designated by the Borough.

**4.20. Perimeter Fencing.** Prior to the commencement of construction, the Redeveloper shall install a temporary chain-link fence with a minimum height of six feet around the entire Project Area at Block 18, Lot 1, which shall include a privacy screen. The temporary fence shall remain in place until the first certificate of occupancy is issued for the Project. Access gates to the Project Area shall be securely locked during non-working hours to prevent unauthorized access. A perimeter safety fence(s) at least four feet high (or temporary traffic barriers, as appropriate) shall be installed around work areas at Block 12, Lot 7 in advance of the commencement of construction, which shall remain in place until construction is complete. Appropriate warning and “No Trespassing” signs shall be posted at all entrances and at regular intervals around the Project Area perimeter.

#### **4.21. Soil Erosion & Sediment Control.**

The Redeveloper shall prepare and implement a Soil Erosion and Sediment Control Plan, in accordance with the Soil Erosion and Sediment Control Act (N.J.S.A. 4:24-39 et seq.) and the 2014 “Standards for Soil Erosion and Sediment Control in New Jersey” (“SSESC”), which must be certified by the Mercer County Soil Conservation District (“MCSCD”). The Redeveloper shall also obtain a Stormwater Construction General Permit (5G3) authorization from the NJDEP following receipt of MCSCD certification of the Soil Erosion and Sediment Control Plan. The Redeveloper shall provide the Borough with copies of the Soil Erosion and Sediment Control Plan, MCSCD certification letter, and Stormwater Construction General Permit prior to the start of construction or issuance of any permits. The Redeveloper shall install the required soil erosion and sediment controls prior to the commencement of construction, and shall maintain them until the MCSCD issues a Report(s) of Compliance for the areas where they are required. The soil erosion and sediment controls shall include (but not be limited to) the following specific measures:

- a) Protection of Surface Water Receptors. The Redeveloper shall implement measures to prevent the migration of soil, sediment, and pollutants from the Project Area into the stream passing through the Property, as well as stormwater catch basins, streets, and other structures that convey stormwater. Silt fences adjacent to the stream corridor shall consist of wire-backed, “Super” silt, reinforced silt fence attached to metal T-posts. Storm Sewer Inlet Protection shall be installed on storm sewer inlets that receive runoff from the Project Area, in accordance with the SSESC. These controls shall be inspected, cleaned, and maintained to ensure that they remain intact and functional.
- b) Stabilized Construction Access (Tracking Pad) Requirements. A stabilized construction access (tracking pad) shall be constructed at each construction access point to the Project Area, in accordance with the “Standard for Stabilized Construction Access” contained in the SSESC. The length of stone shall be as specified for “fine grained soils” in Table 27-1 of the SSESC. The Redeveloper shall periodically clean or replace the crushed stone on tracking pad surfaces as needed to ensure that the tracking pads remain effective.
- c) Vehicle and Equipment Inspection and Cleaning. Prior to leaving the Project Area, the exteriors of all trucks, roll-off containers, excavation equipment, and vehicles shall be inspected for the presence of adhering soil and other solid materials, which shall be removed prior to allowing the vehicle or equipment to leave the Project Area. The

Redeveloper shall operate one or more wheel-washing stations using a high-pressure washer to remove adhering materials from the tires of vehicles prior to their leaving the Project Area, to prevent the off-site tracking of debris, dirt, mud, stones, etc.

- d) Vehicle and Equipment Decontamination During Environmental Remediation. The Redeveloper shall coordinate with the PRCR and LSRP of Record to ensure that all vehicles and equipment used for environmental remediation are properly decontaminated prior to leaving the Project Area. Decontamination fluids shall be stored, labeled, managed, and disposed off-site in accordance with applicable state and federal regulations. Decontamination fluid containers shall be securely stored prior to being transported off-site for disposal.
- e) Covering of Trucks and Roll-Off Containers. All loaded trucks and roll-off containers must be fully covered prior to leaving the Project Area. Drivers shall be instructed that covers may only be raised or lowered while inside the Project Area (raising or lowering of covers while on the adjacent streets is prohibited).
- f) Inspection and Maintenance of Controls. Soil erosion and sediment controls shall be inspected at least monthly, and before major storm events, and maintained as needed to ensure to their proper function. Inspection and maintenance records for soil erosion and sediment controls shall be maintained by the Redeveloper and made available for inspection by to the Borough Engineer, upon request.

**4.22. Pre-Demolition Asbestos Survey and Abatement.** Prior to initiating building demolition work, the Redeveloper shall hire a New Jersey Licensed Asbestos Contractor to conduct an asbestos survey to identify and characterize asbestos containing materials (ACM) that may be present at the Project Site. All friable asbestos and asbestos containing material that may become friable during demolition must be removed by a New Jersey Licensed Asbestos Contractor prior to building demolition, and air monitoring shall be performed, pursuant to N.J.A.C. 5:23-8.18. A construction permit and a demolition permit must be obtained for asbestos abatement in accordance with N.J.A.C. 5:23-8.5.

**4.23. Pre-Demolition Hazardous Substances Survey.** The Redeveloper shall hire a qualified professional to a conduct a pre-demolition survey of hazardous substances that may require special handling, management, disposal, mitigation, or recycling prior to building demolition. Hazardous substances to be surveyed shall include lead paint covered materials,

polychlorinated biphenyls (PCBs) (e.g., in caulk, electrical transformers, and fluorescent light ballasts), mercury (found in some batteries, lighting, gas-pressure regulators, electrical switches), ozone-depleting substances (in some fire extinguishers, refrigerators and other cooling equipment), radioactive materials (e.g., found in tritium exit signs and smoke detectors), and stored hazardous chemicals. A report documenting the results of the hazardous substance survey and, a plan for the special handling, management, disposal, mitigation, or recycling of hazardous substances that may be identified, shall be provided to the Borough Engineer and the Borough Construction Official in conjunction with the demolition permit application.

**4.24. Dust Control.** The Redeveloper shall implement best management practices for dust suppression and control throughout the duration of the Project, both during active work hours and non-working periods when soils or demolition materials are exposed or temporarily stockpiled within the Project Area. Best management practices for dust suppression and control shall include:

- Use of a high-powered water or mist “cannon” to suppress dust during building demolition.
- Wetting exposed soils and staged demolition materials with water.
- Minimizing or ceasing activities during periods of high wind.
- Sweeping or wetting paved areas.
- Wetting of unpaved areas.
- Application of dust or vapor suppressant materials, if needed.
- Covering of soil and debris stockpiles during non-working hours.
- Compliance with any directions of the Mercer County Soil Conservation District

The Redeveloper shall conduct continuous perimeter air monitoring during building demolition to verify that the best management practices described above are effective in protecting ambient air quality. The Redeveloper shall hire a qualified professional to develop and implement a Perimeter Air Monitoring Plan that includes monitoring of airborne particles less than or equal to 10 micrometers in diameter (PM<sub>10</sub>). The Perimeter Air Monitoring Plan shall describe the constituent(s) to be monitored; corresponding human-health based response level(s); monitoring instruments and their proposed locations; standard operating procedures for instrument calibration, operation; data collection and reporting requirements; and procedures to be followed if a response level is exceeded. If perimeter air monitoring results show that a response level has or is likely to

be exceeded, the Redeveloper will immediately suspend work until the cause of the exceedance has been addressed. Copies of the Perimeter Air Monitoring Plan shall be submitted to the Borough Engineer, the Construction Officer, and the local Health Officer for review in conjunction with the demolition permit application.

The dry cutting or grinding of masonry materials is prohibited during the Project, except as provide for under N.J.A.C. 34:5-182.

**4.25. Building Demolition Permit.** The Redeveloper shall obtain a Demolition Permit from the Borough Construction Officer in accordance with N.J.A.C. 5:23-2.14(a), prior to performing demolition at the Property. The following information shall be provided in conjunction with the Demolition Permit application:

1. A boundary and topographic survey showing existing conditions at the Property, including all existing structures.
2. A Certificate of Appropriateness issued by the Planning Board approving the demolition of structures located within the Historic District Zone Buffer Area, in accordance with § 12-10A.4b of the Hopewell Borough Code.
3. Proof of rodent extermination from a licensed extermination company.
4. A plan showing the locations of all active and abandoned underground and overhead utilities on the Property, as verified by a geophysical location survey.
5. Certification that all known underground storage tanks and appurtenant piping at the Property have been removed and administratively closed.
6. Certification by the LSRP of Record that the proposed building demolition by the Redeveloper will not disturb contaminated soil at the Property or, if contaminated soil is to be disturbed during the demolition work, a description of measures that will be undertaken prevent the off-Site release of soil contaminants.
7. Proof of notification of all utilities having service connections on the Property, and written releases from all utilities stating that their respective service connections and appurtenant equipment have been removed, sealed, or plugged in accordance with N.J.A.C. 5:23-2.17. (\*\*note: Sewer and water disconnections must be performed by a licensed plumber and inspected by the Hopewell Borough Director Water & Sewer.)

8. Well abandonment reports signed by a New Jersey Licensed Well Driller for wells to be abandoned prior to demolition, and a plan to protect any monitoring wells that will remain in place during demolition, if applicable.
9. A Letter from the Fire Marshal granting permission to terminate fire alarm systems and fire suppression systems.
10. Documentation demonstrating that the Pre-Demolition Asbestos Survey and Abatement requirements under Section. 4.22 of this Agreement have been met in accordance with all applicable state and federal regulations.
11. Documentation that the hazardous substance survey requirements under Section 4.23 of this Agreement have been met, and a plan for the handling, management, disposal, mitigation, or recycling of hazardous substances, if applicable.
12. Copy of the Soil Erosion and Sediment Control Plan certification by the MCSCD.
13. Copy of the Perimeter Air Monitoring Plan (refer to Section 4.24 above).
14. Documentation describing the type of backfill to be used and confirming that it meets the NJDEP Remediation Standards (N.J.A.C. 7:26D) and does not contain extraneous debris or solid waste.
15. Soil compaction test reports (to be provided prior to final inspection) issued by a certified testing agency or signed by a New Jersey licensed Professional Engineer confirming that not less than 90% compaction has been achieved during infill of the demolition.
16. Proof of compliance with other tests and special inspection requirements (if applicable) under N.J.A.C. 5:23-2.20.
17. Copies of disposal receipts documenting where the demolition debris is being disposed of (or recycled) and the quantities of debris removed.
18. An acceptance letter from the Borough engineer (to be issued prior to final inspection) stating that the demolished site meets all local ordinances and engineering requirements of the municipality.

**4.26. Environmental Remediation.** The Redeveloper shall coordinate with the PRCR and the LSRP of Record regarding scheduling and logistics and roles and responsibilities of each party during environmental remediation at the Property, as well as the protection and long-term maintenance of monitoring wells and engineering controls that are currently in place or will

be installed in the future. The Redeveloper shall execute an access agreement with the PRCR to allow environmental remediation on the Property as well as long-term maintenance of environmental engineering controls such as vapor intrusion mitigation systems. The remediation of soils located beneath existing structures on the Property, if required, shall take place after the demolition and removal of above-ground structures but before the construction of new buildings. The Redeveloper shall coordinate with the PRCR and the LSRP of Record concerning any soil investigation or remediation required in connection with the removal of building floor slabs and sub-grade structures such as basement walls, foundations, and footings. The Redeveloper is prohibited from disturbing soils within any known contaminated Area of Concern at the Property, or any potential Area of Concern identified by the LSRP of Record, except under the direct supervision of the LSRP of Record or after an Unrestricted-Use Soil Response Action Outcome (RAO) has been issued for that Area of Concern. The Redeveloper will coordinate with the LSRP of Record to prevent damage to existing monitoring wells during construction. The Redeveloper shall cooperate with the PRCR and the LSRP of Record regarding the design, permitting, and installation of remediation systems such as vapor intrusion mitigation systems in newly constructed buildings, and the long-term maintenance of engineering controls. Vapor intrusion mitigation systems shall comply with the all applicable NJDEP rules and technical guidance and shall meet the Residential New Jersey Indoor Air Remediation Standards for the Vapor Intrusion Exposure Pathway (N.J.A.C. 7:26D-5.2).

**4.27. Rodent, Insect and Animal Control.** The Redeveloper will take reasonable steps to minimize and control the migration of rodents, insects, or other animals (including feral cats) from the Property during the construction of the Project. The Redeveloper will undertake to provide controls in accordance with all Applicable Laws and other construction standards such that the issue of rodent, insect, and animal control is reasonably addressed prior to the Commencement of Construction. The Redeveloper agrees to coordinate this effort with the Borough's Police Department and Animal Control Officer.

**4.28. Violations, Fines, and Stop Work Orders.** Failure to comply with Sections 4.10 through 4.27 above, above may result in a Stop Work Order and / or Notice of Violation being issued by the Borough. The Notice of Violation may include a penalty of \$1,000.00 for the first violation, with subsequent violations resulting in incremental penalties increasing by \$100.00 each (i.e. \$1,100 for the second offense, \$1,200 for the third offense). In the event the

penalty is not paid within ten (10) Business Days of receipt by the Redeveloper, the Borough is hereby authorized to issue a Stop Work Order. Any violation of this Article IV above may result in all enforcement procedures and remedies of the applicable regulatory agency.

**ARTICLE V**  
**BOROUGH RESPONSIBILITIES**

**5.01. Tax Abatements.** (a) The Borough acknowledges and agrees that the Redeveloper will be submitting an Application to the Borough under the Long Term Tax Exemption Law for approval of an agreement for payment in lieu of taxes, (hereinafter referred to as a “Financial Agreement”).

The Borough further recognizes that in order to be eligible for a tax abatement pursuant to the New Jersey Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq., Redeveloper must be an urban renewal entity as defined in N.J.S.A. 40A:20-5. Redeveloper shall make all necessary applications and other arrangements to meet the requirements of the New Jersey Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq.

Nothing herein shall obligate the Borough to approve such Application or grant such tax abatement; however, in the event such Application is not approved or the tax abatement not granted, Redeveloper may terminate this Agreement.

**ARTICLE VI**  
**DEFAULT**

**6.01. Redeveloper Events of Default.** Subject to an Event of Force Majeure or Tolling Event pursuant to Section 14.02 hereof, as it relates to the Project, prior to completion of the Project as evidenced by the issuance of the Certificate of Substantial Completion for same, each of the following actions shall constitute an event of default by the Redeveloper limited to the Project (and each shall hereinafter be referred to as a “Redeveloper Event of Default”).

Events of Default. Prior to the Borough's issuance of a Certificate of Completion for the Project, the following shall constitute Events of Default:

(a) Redeveloper shall default in its obligations with respect to the construction of the Project in a material respect or shall abandon or substantially suspend construction work (unless such suspension arises out of an Event of Force Majeure or Tolling Event, and any such default, violation, abandonment, or suspension shall not be cured, ended, or remedied within sixty (60) days of the default after written demand by the Borough to do so or such longer period as may be reasonably required if incapable of cure within such sixty (60) day period, provided that Redeveloper has commenced and is diligently prosecuting such cure; or

(b) Redeveloper or its successor in interest shall fail to pay any real estate taxes, payments in lieu of taxes, or assessments on the Property or any part thereof when due, if any, or if any such unpaid real estate taxes, payments in lieu of taxes, or assessments on the Property or any part thereof shall result in any encumbrance or lien being made on the Property not and such real estate taxes or assessments shall not have been paid, or the encumbrance or lien removed or discharges or provision satisfactory to the Borough made for such payment, removal, or discharge, within thirty (30) days after written demand by the Borough to do so; or

(c) There is, in violation of this Agreement, any transfer of Redeveloper's interest in the Property, other than a transfer permitted under Article 7 hereof, and such violation shall not be cured within thirty (30) days after written demand served upon Redeveloper by the Borough, unless extended in writing.

**6.02 Borough Remedies.** Upon the occurrence of any uncured material Event of Default, subject to the provisions of this Agreement hereof, the Borough shall have the right in its sole and absolute discretion, upon sixty (60) days' notice to Redeveloper and any Mortgagee to terminate this Agreement, subject, however, to the rights of any Mortgagee as set forth in this Agreement.

**6.03 Rights and Remedies; No Waiver.** The Parties shall have the right to institute such actions or proceedings as they may deem desirable for effectuating the purposes of this Article. However, prior to exercising any such action, the Party bringing the action agrees to notify the defaulting Party of a breach under the Agreement at the address set forth herein, and /or by email to allow the defaulting party to cure the default and/or to undertake curative action. The defaulting Party shall have thirty days from the time of notification, which shall be effective upon mailing,

to take such action. If no such action is taken, the Party bringing the action may proceed at its own discretion. Any delay in instituting or prosecuting any such actions, proceedings or otherwise asserting its rights under this Article shall not operate as a waiver of such rights or to deprive it of or limit its rights in any way, it being the intent of this provision that the Party should not be constrained to exercise such remedy at a time when it may still hope otherwise to resolve the problems caused by the default involved; nor shall any waiver in fact made by any Party with respect to a specific default under this Agreement be considered or treated as a waiver of rights of that Party with respect to any other defaults by that Party under this Article or with respect to the particular default except to the extent specifically waived in writing.

**6.04 Rights and Remedies Cumulative.** The rights and remedies of the Parties to this Agreement, whether provided by law or by this Agreement, shall be cumulative, and the exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or breach, or of any of its remedies for any other default or breach by the other party. No waiver made by either such Party with respect to the performance, or manner or time thereof, or any obligation of the other party or any condition to its own obligation under the Agreement shall be considered a waiver of any rights of the Party making the waiver with respect to the particular obligation of the other Party or condition to its own obligation beyond those expressly waived in writing and to the extent thereof, or a waiver in any respect in regard to any other rights of the Party making the waiver or any other obligations of the other party.

**6.05. No Waiver of Rights and Remedies by Delay.** Any delay by the aggrieved Party in instituting or prosecuting any actions or proceedings or otherwise asserting its rights under this Agreement shall not operate as a waiver of such rights and shall not deprive the aggrieved Party of or limit that Party's rights in any way. In addition, no waiver made by the aggrieved Party with respect to any specific Event of Default by the defaulting Party under this Agreement shall be considered or treated as a waiver of the rights of the aggrieved Party with respect to any other Event(s) of Default by the Party under this Agreement or with respect to the particular Event of Default except to the extent specifically waived in writing.

## **ARTICLE VII**

### **PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER**

**7.01 Prohibition Against Transfer of Interests in Redeveloper, The Agreement or The Properties.** Redeveloper recognizes the importance of the Project to the general welfare of the community and that the identity of the Redeveloper and its qualifications are critical to the Borough in entering into this Redevelopment Agreement. The Borough considers that a change of control in Redeveloper and the transfer of 10% or more of the ownership interest in Redeveloper to any Person other than an Institution or Equity Investor, is for practical purposes a Transfer or disposition of the Project. Redeveloper recognizes that it is because of such qualifications and identity that the Borough is entering into this Redevelopment Agreement with Redeveloper, and, in so doing, the Borough is relying on the obligations of Redeveloper and not some other person for the faithful performance of all undertakings and covenants to be performed by Redeveloper hereunder.

As a result, except for Permitted Transfers, prior to Completion of the Project as evidenced by the issuance of a Certificate of Completion, and without the prior written approval of the Borough, which shall not be unreasonably withheld, conditioned or delayed, Redeveloper agrees for itself and all successors in interest that there shall be no change in Control of Redeveloper, nor shall there be any transfer of 10% or more of the ownership interest in Redeveloper to any Person other than an Institution or Equity Investor.

**7.02 Consent to Permitted Transfers.** The Borough hereby consents, without the necessity of further approvals from the Borough, to the following Transfers (each, a “Permitted Transfer”)

(a) A Mortgage or related security granted by Redeveloper to a Mortgagee for the purpose of obtaining the financing necessary to enable Redeveloper to perform its obligations under this Redevelopment Agreement, including any Mortgage or Mortgages and other liens and encumbrances granted by Redeveloper to a Mortgagee for the purpose of financing costs associated with the acquisition, development, construction, or marketing of the Project and not any transaction or project unrelated to the Project; provided, however, that Redeveloper shall give the Borough at least fifteen (15) days prior written notice of such Permitted Transfer, including a description of the name of such Transfer, and the name(s) and addressees of the Mortgagee; or

(b) Transfers of easements or dedications of portions or interests in the Property as may be required for utilities for the Project or otherwise as conditions of Governmental Approvals;

(c) environmental covenants and restrictions imposed by a regulatory agency as a condition of any permit or approval;

(d) a lease agreement to a tenant or end user of the Project;

(e) a Transfer to an Affiliate of the Redeveloper, to an Equity Investor as of the Effective Date (an “Existing Member”), to a relative of an Existing Member, or to an entity or trust controlled by one or more of the Existing Members.

(f) a Transfer pursuant to a Foreclosure, and any Transfer by any Mortgagee or any Mortgagee's successor and/or assigns after Foreclosure; and

(g) any contract or agreement with respect to any of the foregoing.

**7.03 Automatic Approval of Transfer.** Notwithstanding anything to the contrary contained herein, with respect to any Transfer that requires the Borough’s consent pursuant to the terms of this Section 7.01, the Borough shall not unreasonably withhold, condition or delay its consent to such Transfer. The Borough shall notify the Redeveloper in writing whether the Borough consents to a Transfer within thirty (30) days after Redeveloper's written request to the Borough for such consent. If the Borough does not deliver a written response to the Redeveloper’s request within said thirty (30) day period, then the Redeveloper may deliver a second written request to the Borough for consent to the Transfer. However, if the Borough does not deliver a written response to the Redeveloper within thirty (30) days after Redeveloper’s second request to the Borough for such consent, the Borough shall be deemed to have approved such requested Transfer. The Borough shall not, however, unreasonably withhold, condition or delay its consent to any Transfer to a transferee that has the same or greater experience and technical capability to carry out the Project as Redeveloper, and has the same or greater wherewithal to obtain financing for the Project as Redeveloper.

## **ARTICLE VIII**

### **PROJECT FINANCING**

**8.01 Financing and Capital.** The Redeveloper represents that it shall use commercially reasonable efforts to obtain sufficient financing for all costs associated with the Project. The Redeveloper represents that its Affiliates have completed many projects larger than the Project and that it has the capacity to obtain financing to complete the Project.

## ARTICLE IX

### MORTGAGE FINANCING AND RIGHTS OF MORTGAGEE

**9.01. Notice to Borough.** Subject to the Permitted Transfers set forth in Article VII hereof prior to the completion of the Project, as certified by the issuance of the Certificate of Substantial Completion by the Borough, the Redeveloper shall not engage in any financing or any other transaction creating any Mortgage, whether by express agreement or operation of law, except for the purpose of obtaining funds in connection with any aspect of the Project. Prior to the completion of the Project, as certified by the issuance of the Certificate of Substantial Completion by the Borough, the Redeveloper shall notify the Borough of any financing, secured by a Mortgage, which it has entered into with respect to the Property and, in any event, the Redeveloper shall promptly notify the Borough of any encumbrance or lien that has been created on or attached to the Property, whether by voluntary act of the Redeveloper or otherwise, upon obtaining knowledge or notice of same.

**9.02. Mortgagee/Equity Investor Not Bound.** Subject to the terms of this Article IX, any Mortgagee, Equity Investor or any Person who obtains title to the Property as a result of foreclosure proceedings, or action in lieu thereof, shall in no way be obligated by the provisions of this Agreement. If the Property shall be sold or conveyed to any Person upon the exercise of any remedy provided for in any Mortgage or by law or equity, such Person thereafter succeeding to its interest in the Property shall not be liable for any act or omission of Redeveloper under this Agreement occurring prior to such sale or conveyance.

**9.03 Completion of Project.** Notwithstanding anything to the contrary contained herein, any Mortgagee, or any Person who obtains title to the Property as a result of foreclosure proceedings, or action in lieu thereof, shall have the right to receive an assignment of all of Redeveloper's rights under this Agreement, with respect to Property, and undertake or continue the construction or completion of the Project, including the construction of the Improvements already begun. Any such Mortgagee or other Person who shall properly complete the Project shall be entitled, upon written request made to the Borough, to receive Certificate(s) of Occupancy and/or the individual Certificates of Occupancy or the Certificate(s) of Substantial Completion as set forth in Section 4.10 hereof.

**9.04. Notice to Mortgagee.** Whenever the Borough shall deliver any notice or demand to the Redeveloper with respect to any Event of Default on the part of the Redeveloper under this Agreement, the Borough shall at the same time forward a copy of such notice or demand to each Mortgagee at the last known address of such Mortgagee, provided that Redeveloper has delivered to the Borough a written notice of the name and address of such Mortgagee.

**9.05. Mortgagee's Right to Cure Default and Assume The Redeveloper's Obligations.** (a) After any Redeveloper Event of Default, each Mortgagee shall (insofar as the rights of the Borough are concerned) have the right within ninety (90) days after the receipt of the notice set forth in Section 9.04, to cure or remedy such Redeveloper Event(s) of Default and to add the cost thereof to the Mortgage. If the Redeveloper Event(s) of Default is/are with respect to the construction of the Project, nothing contained in this Section 9.05 or any other section of this Agreement shall be deemed to permit or authorize such Mortgagee, either before or after foreclosure or action in lieu thereof, to undertake or continue the construction or completion of the Project (beyond the extent necessary to conserve or protect the Mortgagee's security), including the construction of the Improvements already begun until it provides written notice to the Borough. The Borough shall not seek to enforce any of its remedies under this Agreement during the aforementioned ninety (90) day period in which any such Mortgagee is proceeding diligently and in good faith to cure a Redeveloper Event of Default. Any Mortgagee who shall properly complete the Project shall be entitled, upon written request made to the Borough, to receive Certificate(s) of Occupancy and/or the individual Certificates of Occupancy or the Certificate(s) of Substantial Completion as set forth in Section 4.08 hereof.

**9.06. Borough Subordination.** In the event of a default under this Agreement, the Borough agrees that any remedies of the Borough under this Agreement shall be subordinated to the interests of any financial institution which holds the first mortgage on all or a portion of the Property. This Section 9.06 shall have no effect on the priority of liens for taxes or payments in lieu of taxes or utility charges or deed restrictions for affordable housing purposes.

## **ARTICLE X**

### **REPRESENTATIONS**

**10.01. Representations and Warranties by Redeveloper.** The Redeveloper hereby represents and warrants the following to the Borough for the purpose of inducing the Borough to enter into this Agreement and to consummate the transactions contemplated hereby, all of which shall be true as of the date hereof:

(a) The Redeveloper is a limited liability company organized under the laws of the State of New Jersey, is in good standing under the laws of the State of New Jersey, is qualified to do business in New Jersey and is in good standing under the laws of the State of New Jersey, and has all requisite power and authority to carry on its business as now conducted, and to enter into and perform its obligations under this Agreement.

(b) The Redeveloper has the legal power, right and authority to enter into this Agreement inclusive of all attached and incorporated instruments to which the Redeveloper is a party.

(c) This Agreement has been duly authorized, executed and delivered by the Redeveloper; and is valid and legally binding upon the Redeveloper and enforceable against Redeveloper in accordance with its terms. The execution and delivery thereof shall not constitute a default under or violate the terms of any indenture, agreement or other instrument to which the Redeveloper is a party.

(d) No receiver, liquidator, custodian or trustee of the Redeveloper has been appointed as of the Effective Date, and no petition to reorganize the Redeveloper pursuant to the United States Bankruptcy Code or any other Applicable Laws that are applicable to the Redeveloper has been filed as of the Effective Date.

(e) No adjudication of bankruptcy of the Redeveloper or a filing for voluntary bankruptcy by the Redeveloper under the provisions of the United States Bankruptcy Code or any other Applicable Laws that are applicable to the Redeveloper has been filed.

(f) No indictment has been returned against any member of the Redeveloper with respect to any transaction contemplated by the terms of this Agreement.

(g) To the best of the Redeveloper's knowledge, there are no suits, other proceedings or investigations pending or threatened against the Redeveloper that would have a material adverse effect on the financial condition of the Redeveloper.

(h) To the best of Redeveloper's knowledge, all materials and documentation submitted by the Redeveloper and its agents to the Borough and its agents were, at the time of such

submission, and as of the Effective Date, materially accurate, and the Redeveloper shall continue to inform the Borough of any material and adverse changes in the documentation submitted. The Redeveloper acknowledges that the facts and representations contained in the information submitted by the Redeveloper are a material factor in the decision of the Borough to enter into this Agreement.

(i) The Redeveloper is financially and technically capable of acquiring those parcels of property contained within the Property and developing, designing, financing and constructing the Project.

(j) To the best of Redeveloper's knowledge there is no pending, or to the best of the Redeveloper's knowledge, threatened litigation, action or proceeding that (i) would prevent or delay the Redeveloper from performing its duties and obligations hereunder and/or (ii) questions the validity of this Agreement or any essential element on which this Agreement depends.

**10.02. Representations of Borough.** The Borough hereby makes the following representations and covenants for the purpose of inducing the Redeveloper to enter into this Agreement and to consummate the transactions contemplated hereby, all of which shall be true as of the date hereof:

(a) The Borough is a municipality of the State of New Jersey and has the requisite power and authority to enter into this Agreement.

(b) This Agreement has been duly authorized by virtue of a certain Resolution, Resolution No. 2024-108 validly adopted by the Borough on November 7, 2024 and, on or after the Effective Date, shall constitute a legal, valid and binding obligation of the Borough enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization or other Applicable Law(s) affecting creditors' rights and subject to the availability of equitable remedies.

(c) The execution and delivery of this Agreement by the Borough and consummation of the transactions contemplated hereby do not violate, conflict with or constitute a default under the provisions of any agreement, understanding or arrangement to which the Borough is a Party or by which it is bound or of any in force as of the Effective Date.

(d) There is no pending, or to the best of the Borough's knowledge, threatened litigation, action or proceeding that (i) would prevent or delay the Borough from performing its duties and obligations hereunder and/or (ii) questions the validity or enforceability of this

Agreement or any essential element on which this Agreement depends or (iii) relates specifically to the Property or the title thereto.

(e) No official or employee of the Borough has any personal interest, direct or indirect, in this Agreement.

(f) The execution and delivery hereof and the performance by the Borough of its obligations hereunder will not violate or constitute an event of default under the terms or provisions of any Applicable Laws applicable to the Borough or the Property.

**ARTICLE XI**  
**NOTICES AND DEMANDS**

**11.01. Manner of Notice.** A notice, demand, or other communication required under this Agreement by either Party to the other shall be considered given and delivered if it is dispatched by (a) registered or certified mail, postage prepaid, return receipt requested, or (b) delivered personally by a reputable messenger service or a nationally recognized priority delivery service such as Federal Express at the addresses listed below for each party:

**AS TO THE BOROUGH**

BOROUGH OF HOPEWELL  
Municipal Building  
Attn. Clerk  
88 East Broad Street  
Hopewell, New Jersey 08525

with a copy to: Tara Ann St. Angelo, Esq.  
Gebhardt & Kiefer, P.C.  
1318 Route 31  
P.O. Box 4001  
Clinton, New Jersey 08809  
Email: [tstangelo@gklegal.com](mailto:tstangelo@gklegal.com)

**AS TO THE REDEVELOPER**

HOPEWELL 57 URBAN RENEWAL ENTITY, LLC  
19 Longview Drive  
Princeton, New Jersey 08540  
Attention: Jeffrey B. Albert

with a copy to: Charles B. Liebling, Esq.

Windels Marx Lane & Mittendorf, LLP  
 120 Albany Street Plaza  
 New Brunswick, New Jersey 08901

The foregoing addresses may be changed or supplemented by written notice given as above provided. Any such notice sent by mail shall be deemed to have been received by the addressee on the third business day after posting in the United States mail, or, if transmitted by messenger or a priority delivery service, on the first business day after transmittal. Counsel for a party may give notice to the other party with the same effect as if given by a party.

## ARTICLE XII

### AFFORDABLE HOUSING OBLIGATIONS

The Parties acknowledge that the affordable units are to be applied against the Borough's affordable housing obligations.

**12.01 Affordable Housing Set-Aside.** In compliance with the Redevelopment Plan, and any approvals received from the Borough Planning Board, Redeveloper shall have an obligation to deed-restrict twenty percent (20%) of the residential units in the Project as very low, low, and moderate income affordable family rental units. Any such affordable rental units shall comply with Uniform Housing Affordability Controls (UHAC), applicable New Jersey Council on Affordable Housing (COAH) or Department of Community Affairs (DCA) affordable housing regulations, any applicable order of the Court provided the requirements of this Article XII to deed-restrict 20% of the units are not exceeded, and other applicable laws, including 13% of the units being deed restricted as very low income units, very low income being defined as 30% or less of the regional median income, embodied in the Fair Housing Act at N.J.S.A. 52:27D-329.1, *et seq.*, in lieu of the UHAC requirement as to very low income of 10% at 35% or less of the regional median income.

(a) The affordable units shall remain affordable rental units for a period of at least thirty (30) years from the date of their initial occupancy (“Deed- Restriction Period”) consistent with UHAC (N.J.A.C. 5:80-26.1 1) or the then applicable regulation, so that the Borough may count the units against its obligations to provide family rental affordable housing. This obligation includes, but is not limited to, the Redeveloper's obligation to comply with: bedroom distribution requirements, income split requirements, pricing requirements pursuant to the income limits in effect at the time of issuance of the certificate of occupancy for the affordable unit, affirmative

marketing requirements, candidate qualification, and screening requirements, integrating the affordable units amongst the market rate units, and deed restriction and monitoring requirements.

(b) Each income tier (very-low-income, low-income, and moderate-income) shall be proportionally distributed across each bedroom size. The breakdown of income distribution and bedroom counts shall be reviewed by the Planning Board during the site plan application process for compliance with this Section 12.01. This Agreement may be amended to reflect such bedroom counts and income distributions.

**12.02. Administration.** Redeveloper shall be responsible for administering the affordable housing rental units. The Borough shall have no financial obligations under this provision to assure the creditworthiness of the units, and all associated expenses shall be solely borne by the Redeveloper, its successors, or assigns, which expenses include, but are not limited to providing an Administrative Agent at its exclusive expense to perform all administrative tasks. The Redeveloper or its affiliated entity shall be a permitted Administrative Agent. The administrative tasks include those responsibilities as set forth in N.J.A.C. 5:80-26.14 including, but not limited to, conducting an outreach process, conducting interviews with interested households, creating and maintaining a list of eligible households, determining income eligibility and all other activities to ensure that restricted units are rented to low- and moderate-income households. Redeveloper shall also be responsible for the costs of all funding applications including, but not limited to, low income housing tax credits, special needs trust funds, County HOME funds, Federal Home Loan Bank financing, construction and permanent financing.

Redeveloper shall contract with a qualified affordable housing administrative agent (“Administrative Agent”) for the administration of the affordable units and shall have the obligation to pay all costs associated with properly deed restricting and the long-term administration of the affordable units in accordance with UHAC, the Borough’s affirmative marketing plan, and other applicable laws for the Deed-Restriction Period. The selection of the Administrative Agent shall be subject to the Borough’s approval, which shall not be unreasonably withheld. Redeveloper shall provide the Borough in writing with the name, contact information, and resume of the selected Administrative Agent.

**12.03 Cooperation with Reporting.** The Parties acknowledge that the Borough may have the obligation from time to time to generate information necessary to demonstrate the creditworthiness of the units. Redeveloper will cooperate with the Borough and provide all monitoring and reporting

requirements within fifteen (15) Business Days of the request. Redeveloper shall cooperate with the Borough regarding any affordable housing monitoring requirements imposed by COAH, DCA, or a Court of competent jurisdiction. Upon written notice, Redeveloper shall provide detailed information requested by the Borough within 30 days concerning Redeveloper's compliance with UHAC and other applicable laws, regulations, or ordinances.

### ARTICLE XIII

#### INTENTIONALLY OMITTED

### ARTICLE XIV

#### MISCELLANEOUS

##### **14.01 Performance Guarantee, Maintenance Bond, and Inspection Fee Escrow.**

(a) Performance Guarantee. Not less than seven (7) days prior to the date for the Commencement of Construction, the Redeveloper shall submit a performance bond or letter of credit, in a customary form acceptable to the Borough Attorney, issued by a duly authorized surety company or financial institution (as applicable) authorized to do business in the State of New Jersey in an amount equal to 120% of the cost (as determined by the Borough Engineer) of those improvements for which such security may be requested under the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-53a.(1)(a) and (b), and Borough Ordinances, to secure the Redeveloper's faithful performance of all such work required under the Governmental Approvals. The performance bond provided shall not be released until final acceptance of all of the work covered under the required performance guarantees and then only if any liens or claims have been satisfied and any maintenance bonds required have been executed and approved by the Borough. However, the Borough shall provide partial releases of the performance bond pursuant to N.J.S.A. 40:55D-53.d. Failure to timely deliver this bond shall be cause for declaring a default under the Agreement subject to Section 6.01.

b. Maintenance Bond. After completion of construction of the Project, the Redeveloper shall post a maintenance bond required pursuant to the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-53a.(2), and Borough Ordinances.

c. Inspection Escrow. The Redeveloper shall post an inspection escrow in accordance with the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-53h not less than seven (7) days prior to the date for the Commencement of Construction.

d. Review Escrow and Application Fees. Upon filing an application for site plan approval with the Planning Board, Redeveloper shall post a review escrow and pay all application fees in accordance with Borough Ordinances.

**14.02. Events of Force Majeure, Tolling Events.** It is agreed that the terms, obligations and responsibilities set forth in this Agreement and the schedules and deadlines set forth throughout this Agreement shall be suspended or modified if the acquisition of the Property or any portion thereof, or the acquisition of the Governmental Approvals for the Project, Commencement of Construction, completion of construction of any aspect of the Project or other compliance with this Agreement is/are prevented by an Event of Force Majeure or Tolling Event, as these terms are respectively defined elsewhere in this Agreement. Where the acquisition of the necessary Governmental Approvals for or the completion of the construction of the Improvements or other compliance with this Agreement is prevented by an Event of Force Majeure or Tolling Event, the relevant terms of this Agreement and any schedules and deadlines shall be modified/extended for the period of delay caused thereby. The performance or non-performance by the Parties or either of them of any obligation, requirement, commitment or responsibility set forth in this Agreement shall not be deemed to be an Event of Default pursuant to this Agreement where such performance, failure of performance or delay in performance is/are the result of an Event of Force Majeure or Tolling Event; provided, however, that the Event of Force Majeure or Tolling Event was not the result of any unlawful action or non-action of the Party relying on such Event of Force Majeure or Tolling Event as justification for the non-performance, failure of performance or delay in performance of the subject obligation, requirement, commitment or responsibility.

**14.03. Equal Employment Opportunity.** The Redeveloper agrees that during the construction of the Improvements:

(a) To the extent required by Applicable Law, the Redeveloper will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. To the extent required by Applicable Law, the Redeveloper will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. To the extent required by Applicable Law, the

Redeveloper agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause and any such notices provided by the Borough which are consistent therewith.

(b) To the extent required by Applicable Law, the Redeveloper will, in all solicitations or advertisements for employees placed by or on behalf of the Redeveloper, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(c) To the extent required by Applicable Law, the Redeveloper will comply with all provisions of N.J.S.A. 10:5-31, Mandatory Equal Employment Opportunity Act, and all rules, regulations, and relevant orders relating thereto, including but not limited to N.J.A.C. 17-27 et seq.

(d) To the extent required by Applicable Law, subcontractors and suppliers to the Project shall to the extent reasonably possible include qualified and certified minority enterprises.

(e) To the extent required by the Applicable Law, the obligations in this Section 12.04 shall be binding on all contractors and subcontractors to the extent that any work is done by any contractor or subcontractor, and any contract entered into by the Redeveloper shall so provide.

**14.04. Entire Agreement.** This Agreement constitutes the entire agreement of the Parties on the subject matter hereof and supersedes any prior or contemporaneous writings, representations, discussions, or agreements between the Parties with respect to the subject matter hereof.

**14.05. Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the permitted successors in interest, Transferees and assigns of the Parties hereto, and the respective heirs, executors, and administrators.

**14.06. Exhibits.** All Exhibits attached hereto and/or referred to in this Agreement are incorporated herein, as though set forth in full.

**14.07. Severability.** If any term or provision of this Agreement or the application thereof shall to any extent be held to be invalid or unenforceable, to any Person or circumstances, the remainder of this Agreement, or the application of such term or provision to any Persons or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each other term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by Applicable Law.

**14.08. Modification of Agreement.** No modification, waiver, amendment, discharge, or change of this Agreement shall be valid unless the same is in writing, duly authorized, and signed by the Party against which the enforcement of such modification, waiver, amendment, discharge, or change is or may be sought.

**14.09. Execution of Counterparts.** This Agreement may be executed in One (1) or more counterparts. This Agreement shall become binding on the Parties and such counterparts shall constitute One (1) and the same instrument, upon the Effective Date.

**14.10. Drafting Ambiguities; Interpretation.** In interpreting any provision of this Agreement, no weight shall be given to, nor shall any construction or interpretation be influenced by, the fact that counsel for one of the Parties drafted this Agreement, each Party acknowledging that it and its counsel have had an opportunity to review this Agreement and have contributed to the final form of same.

**14.11. Time Period for Notices.** All notices to be given hereunder shall be given in writing in conformance with Section 11.01 hereof, and, unless a certain number of Days is specified, within a reasonable time.

**14.12. Waivers and Amendments in Writing.** The waiver by either Party of an Event of Default on the part of the other Party shall not operate or be construed to be a waiver of any other or subsequent Event of Default as provided for in Article 6 hereof.

**14.13. Governing Law.** The Applicable Laws of the State of New Jersey govern this Agreement without regard to conflict of laws principles.

**14.14. Withholding of Approvals.** All approvals, consents and acceptances required to be given or made by any Person or Party, shall not be unreasonably withheld, conditioned or delayed, except for instances in which such approval is expressly allowed in a Party's sole discretion.

**14.15. Recitals Incorporated; Definitions Incorporated.** The Preamble and Recitals to this Agreement and the Definitions contained in this Agreement are incorporated by reference into this Agreement, as if set forth at length.

**14.16. Titles of Articles and of Sections.** Any titles of the several Articles or Sections of this Agreement: are inserted for reference only and shall be disregarded in construing or interpreting any of its provisions; and are not intended to limit or define the contents of the Articles or Sections.

**14.17. Limitation on Liability.** Notwithstanding anything to the contrary in this Agreement, any liability(ies), commitments, obligations and/or responsibility or responsibilities of any type or kind whatsoever (whether actual, contingent, consequential or otherwise) (hereinafter referred to collectively as “Liability”) of the Redeveloper in, resulting from, or relating in any way to this Agreement shall be those of the Redeveloper only. Nothing in this Agreement, arising out of, or related in any way to this Agreement or to the Project or any aspect thereof shall, in any way, give the Borough or any other Person recourse to, or be construed to impose, directly or indirectly, any Liability on any Person other than the Redeveloper.

The foregoing limitation on Liability shall apply to, but is not limited to, (i) any Affiliate of the Redeveloper or of the Redeveloper’s members, (ii) any member, shareholder, manager, officer, director, partner, managing member, vendor, trustee, employee, agent, and/or other representative (hereinafter collectively referred to as the “Agent”) of the Redeveloper or of the Redeveloper’s members, (iii) any Agent of any Affiliate of the Redeveloper or of the Redeveloper’s members, (iv) any Affiliate of any Agent of the Redeveloper or of the Redeveloper’s members, (v) any Agent of any Agent of the Redeveloper or of the Redeveloper’s members, (vi) any Person directly or indirectly holding, controlling and/or owning any interest in the Redeveloper or in the Redeveloper’s members, in any Agent or Affiliate of the Redeveloper or of the Redeveloper’s members, in any Agent of any Affiliate of the Redeveloper or of the Redeveloper’s members, and/or in any Affiliate of any Agent of the Redeveloper or of the Redeveloper’s members, and/or (vii) any successors and/or assigns of any of the Parties referenced in subsections (i) through (vi), above unless they have assumed an interest in the Project in accordance with a Permitted Transfer pursuant to Article VII and Article VIII hereof.

The Borough understands and acknowledges that their respective acceptance of the Limitation on Liability set forth in this Section 14.17 is a condition precedent to the Redeveloper’s execution of this Agreement and constitutes specifically bargained-for consideration.

**14.18. Borough’s Limitation on Liability.** Any liabilities, obligations or responsibilities of any type or kind (contingent or otherwise) herein are solely those of the Borough. No member, director, employee, officer, representative or agent of the Borough shall be liable to the Redeveloper or any other Person for any matter arising out of or related to the payment or performance of any such liabilities, obligations or responsibilities of the Borough in this Agreement.

**14.19 Limitation on Third Parties.** Nothing in this Agreement is intended to nor shall create any rights for or confer any benefits on any third party.

**14.20 Estoppel Certificate.** (a) Within Ten (10) Days following written request therefor by Redeveloper, or by any Mortgagee, purchaser, tenant or other party having an interest in the Property, the Borough shall issue a signed estoppel certificate either stating that (i) this Agreement is in full force and effect, (ii) to the best of the Borough's knowledge, no Redeveloper Event of Default has occurred under this Agreement (nor any event which, with the passage of time and the giving of notice would result in the occurrence of a Redeveloper Event of Default under this Agreement), or stating the nature of the Redeveloper Event of Default, if any, (iii) to the best of the Borough's knowledge, no Borough Event of Default has occurred under this Agreement (nor any event which, with the passage of time and the giving of notice would result in the occurrence of a Borough Event of Default) or stating the nature of the Borough Event of Default, if any; and (iv) stating any such other reasonable information as may be requested. In the event the estoppel certificate discloses any Event of Default, it shall also state the manner in which such Event of Default may be cured.

(b) Within Ten (10) Days following written request therefor by the Borough, the Redeveloper shall issue a signed estoppel certificate either stating that (i) this Agreement is in full force and effect, (ii) to the best of the Redeveloper's knowledge, no Borough Event of Default has occurred under this Agreement (nor any event which, with the passage of time and the giving of notice would result in the occurrence of a Borough Event of Default under this Agreement), or stating the nature of the Borough Event of Default, if any, (iii) to the best of the Redeveloper's knowledge, no Redeveloper Event of Default has occurred under this Agreement (nor any event which, with the passage of time and the giving of notice would result in the occurrence of a Redeveloper Event of Default) or stating the nature of the Redeveloper Event of Default, if any; and (iv) stating any such other reasonable information as may be requested. In the event the estoppel certificate discloses an Event of Default, it shall also state the manner in which such Event of Default may be cured.

**14.21. No Consideration for Redevelopment Agreement.** The Redeveloper warrants it has not paid or given, and shall not pay or give, any third person any money or other consideration in connection with obtaining this Agreement, other than normal costs of conducting business and costs of professional services such as architects, engineers, financial consultants and attorneys.

The Redeveloper further warrants it has not paid or incurred any obligation to pay any officer or official of the Borough, any money or other consideration for or in connection with this Agreement.

**14.22 Maintenance.** The Redeveloper shall be responsible for the maintenance and security of each parcel of property contained within the Property subject to the terms of this Agreement subsequent to its acquisition of title to each such parcel of property and until such time as the Redeveloper no longer owns the Property or any portions thereof.

**14.23 Lender Changes.** If the Redeveloper's Financial Institution(s) requires modifications of the terms of this Agreement, the Borough shall reasonably cooperate with the Redeveloper in approving such modifications, so long as such modifications do not materially and substantially change the rights or obligations of the Borough as set forth in this Agreement and, in the opinion of the Borough, do not materially impair the objectives and interest of the Borough or the completion of the Project.

**14.24 Conflict of Interest.** No member, official or employee of the Borough shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by the Applicable Laws.

**14.25 Local Purchase of Services, Supplies, Materials and Equipment.** Whenever possible and practicable, and to the extent permitted by Applicable Law, the Redeveloper, its contractors and/or subcontractors shall purchase services, supplies, materials and equipment from businesses located within the Borough or Mercer County.

**14.26 Recordation.** This Agreement, and any modifications thereof or additions thereto shall be duly recorded by Redeveloper or Borough in the office of the Mercer County Clerk and the cost of such recordation shall be paid by the Redeveloper.

**IN WITNESS WHEREOF**, the Borough has caused this Agreement to be duly executed in its name of and by the Council President of the Borough on behalf of the Borough, and its seal to be hereunto duly affixed and attested by the Borough Clerk, and the Redeveloper has caused this Agreement to be duly executed in its name and behalf by the managing member, on or as of the day first above written.

**[SIGNATURE PAGES FOLLOW]**

Attest:  
**Borough of Hopewell**

  
\_\_\_\_\_  
Regina Toth, Clerk  
Date: 11/15/24

By:   
\_\_\_\_\_  
Krista Weaver, Council President

Attest:

**Hopewell 57 Urban Renewal Entity, LLC**

  
\_\_\_\_\_

By:   
\_\_\_\_\_  
Name: Jeffrey B. Albert  
Title: Managing Member

Date: November 13, 2024

**EXHIBIT A**  
**REDEVELOPMENT PLAN**

## Appendix G

### BOROUGH OF HOPEWELL MERCER COUNTY, NEW JERSEY

#### ORDINANCE NO. 25-

#### AN ORDINANCE OF THE BOROUGH OF HOPEWELL, COUNTY OF MERCER AND STATE OF NEW JERSEY, AMENDING CHAPTER XVII OF THE CODE ENTITLED “LAND USE AND DEVELOPMENT” TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE BOROUGH’S AFFORDABLE HOUSING OBLIGATIONS

BE IT ORDAINED by the Borough Council of the Borough of Hopewell, Mercer County, New Jersey, that the Code of the Borough of Hopewell is hereby amended to include provisions addressing Hopewell’s constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985.

The Hopewell Borough Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. This Ordinance implements and incorporates the adopted and endorsed Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C.5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985.

#### **Section 1. Monitoring and Reporting Requirements**

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

1. Beginning \_\_\_\_\_, and on every anniversary of that date through \_\_\_\_\_, the Borough agrees to provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center (FSHC) and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs (NJDCA), Council on Affordable Housing (COAH), or Local Government Services (NJLGS). The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

2. Beginning on February 1, 2018, and on every anniversary of that date through February 1, 2025, the Borough agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by COAH or any other forms endorsed by the Special Master and FSHC.
3. By July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough will post on its municipal website, with a copy provided to FSHC, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to FSHC, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the Court regarding these issues.
4. By March 1, 2020, and every third year thereafter, as required by N.J.S.A. 52:27D-329.1, the Borough will post on its municipal website, with a copy provided to FSHC, a status report as to its satisfaction of its very low income requirements, including its family very low income requirements. Such posting shall invite any interested party to submit comments to the municipality and FSHC on the issue of whether the municipality has complied with its very low income and family very low income housing obligations.

## **Section 2. Definitions**

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

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

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

“Administrative agent” means the entity designated by the Borough to administer affordable units in accordance with this Ordinance, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26).

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

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

“Affordable” means, a sales price or rent level that is within the means of a low- or moderate-income household as defined within N.J.A.C. 5:93-7.4, and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be

amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

“Affordable housing development” means a development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Borough's fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable housing development.

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

“Affordable unit” means a housing unit proposed or created pursuant to the Act and approved for crediting by the Court and/or funded through an affordable housing trust fund.

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

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

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

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

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

“COAH” means the Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.).

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

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

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

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

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

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

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

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

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

“Median income” means the median income by household size for the applicable housing region, as adopted annually by COAH or a successor entity approved by the Court.

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

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

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

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

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

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

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

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

“UHAC” means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, et seq.

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

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

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

### **Section 3. Applicability**

1. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the

Borough of Hopewell pursuant to the Borough's most recently adopted Housing Element and Fair Share Plan.

2. Moreover, this Ordinance shall apply to all developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

#### **Section 4. Borough Wide Mandatory Set-Aside**

1. Any future multifamily development of five (5) or more units in the Borough developed through planning board approval, zoning board approval, redevelopment or rehabilitation plan requires an affordable housing set aside of at least 20% of all units, with at least 50% of the units in each development being affordable to low-income households including 13% to very low-income households. All such affordable units including the required bedroom distribution, shall be governed by controls on affordability and affirmatively marketed in conformance with the Uniform Housing Affordability Controls (“UHAC”), N.J.A.C. 5:80-26.1 et seq. or any successor regulation, and all other applicable law.
2. Developers shall not subdivide a project for the purpose of avoiding compliance with this requirement.
3. This requirement does not give any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of Hopewell Borough to grant such rezoning, variance or other relief. No subdivision shall be permitted or approved for the purpose of avoiding compliance with this requirement.

#### **Section 5. Phasing Schedule for Inclusionary Zoning**

In inclusionary developments the following schedule shall be followed:

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

**Section 6. New Construction**

1. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

a. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit. At least 13 percent of all restricted rental units shall be very low income units (affordable to a household earning 30 percent or less of regional median income by household size). The very low income units shall be counted as part of the required number of low income units within the development.

b. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be very low or low-income units.

c. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:

1) The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;

2) At least 30 percent of all low- and moderate-income units shall be two bedroom units;

3) At least 20 percent of all low- and moderate-income units shall be three bedroom units; and

4) The remaining units may be allocated among two and three bedroom units at the discretion of the developer.

d. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

2. Accessibility Requirements:

a. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free SubCode, N.J.A.C. 5:23-7 and the following:

b. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:

- 1) An adaptable toilet and bathing facility on the first floor; and
- 2) An adaptable kitchen on the first floor; and
- 3) An interior accessible route of travel on the first floor; and
- 4) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
- 5) If not all of the foregoing requirements in b.1) through b.4) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs b.1) through b.4) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
- 6) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, et seq.) and the Barrier Free SubCode, N.J.A.C. 5:23-7, or evidence that Hopewell has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:
  - a) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
  - b) To this end, the builder of restricted units shall deposit funds within the Borough of Hopewell's Affordable Housing Trust Fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.
  - c) The funds deposited under paragraph 6)b) above shall be used by the Borough of Hopewell for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.

d) The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Borough of Hopewell for the conversion of adaptable to accessible entrances.

e) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free SubCode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's Affordable Housing Trust Fund in care of the Borough Treasurer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

6) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free SubCode, N.J.A.C. 5:23-7.

3. Design:

a. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.

b. In inclusionary developments, low- and moderate-income units shall have access to all of the same common elements and facilities as the market units.

4. Maximum Rents and Sales Prices:

a. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and the calculation procedures set forth in the Consent Order entered on December 16, 2016, by the Honorable Douglas K. Wolfson, JSC, in In the Matter of the Borough of East Brunswick for a Judgment of Compliance of its Third Round Housing Element and Fair Share Plan, Docket No.: MID-L-004013-15.

b. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52 percent of median income.

c. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13 percent of all low- and moderate-income rental units shall be affordable to very low-income households, which very low-income units shall be part of the low-income requirement.

d. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.

e. In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:

- 1) A studio shall be affordable to a one-person household;
- 2) A one-bedroom unit shall be affordable to a one and one-half person household;
- 3) A two-bedroom unit shall be affordable to a three-person household;
- 4) A three-bedroom unit shall be affordable to a four and one-half person household; and
- 5) A four-bedroom unit shall be affordable to a six-person household.

f. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:

- 1) A studio shall be affordable to a one-person household;
- 2) A one-bedroom unit shall be affordable to a one and one-half person household; and
- 3) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.

g. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

h. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

i. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.

j. The rents of very low-, low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the Northeast Urban Area. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.

### **Section 7. Utilities**

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

### **Section 8. Occupancy Standards**

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

1. Provide an occupant for each bedroom;
2. Provide children of different sexes with separate bedrooms;
3. Provide separate bedrooms for parents and children; and
4. Prevent more than two persons from occupying a single bedroom.

### **Section 9. Control Periods for Restricted Ownership Units and Enforcement Mechanisms**

1. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until Hopewell takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.

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

**Section 10. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices**

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

1. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
2. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
3. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.
4. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See Section 13.

### **Section 11. Buyer Income Eligibility**

1. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.
2. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the Borough Council, and subject to the Court's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit.
3. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.
4. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's eligible monthly income.

### **Section 12. Limitations on Indebtedness Secured by Ownership Unit; Subordination**

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

### **Section 13. Capital Improvements To Ownership Units**

1. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements made since

the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that add an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.

2. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

#### **Section 14. Control Periods for Restricted Rental Units**

1. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 30 years, until Hopewell takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.

2. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Mercer. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.

3. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:

- a. Sublease or assignment of the lease of the unit;
- b. Sale or other voluntary transfer of the ownership of the unit; or

3. The entry and enforcement of any judgment of foreclosure on the property containing the unit.

### **Section 15. Rent Restrictions for Rental Units; Leases**

1. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
2. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
3. Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.
4. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 15% of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

### **Section 16. Tenant Income Eligibility**

1. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
  - a. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of the regional median household income by household size.
  - b. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of the regional median household income by household size.
  - c. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of the regional median household income by household size.
2. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
  - a. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;

b. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;

c. The household is currently in substandard or overcrowded living conditions;

d. The household documents the existence of assets with which the household proposes to supplement the rent payments; or

e. The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.

3. The applicant shall file documentation sufficient to establish the existence of the circumstances in 1.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.

### **Section 17. Municipal Housing Liaison**

1. The Borough of Hopewell shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for overseeing the Borough's affordable housing program, including overseeing the administration of affordability controls on the affordable units and the affirmative marketing of available affordable units in accordance with the Borough's Affirmative Marketing Plan; fulfilling monitoring and reporting requirements; and supervising Administrative Agent(s). Hopewell shall adopt an Ordinance creating the position of Municipal Housing Liaison and a Resolution appointing the person to fulfill the position of Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee. The Municipal Housing Liaison shall be approved by the Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.

2. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Hopewell, including the following responsibilities which may not be contracted out to the Administrative Agent:

a. Serving as Hopewell's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;

b. Monitoring the status of all restricted units in Hopewell's Fair Share Plan;

c. Compiling, verifying, submitting and posting all monitoring reports as required by the Court and by this Ordinance;

d. Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and

e. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.

3. Subject to the approval of the Court, the Borough of Hopewell shall designate one or more Administrative Agent(s) to administer and to affirmatively market the affordable units constructed in the Borough in accordance with UHAC and this Ordinance. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The Operating Manual(s) shall be available for public inspection in the office of the Borough Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the work of the Administrative Agent(s).

### **Section 18. Administrative Agent**

An Administrative Agent shall be an independent entity serving under contract to and reporting to the municipality. *The fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required.* The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which includes:

1. Affirmative Marketing:

a. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of Hopewell and the provisions of N.J.A.C. 5:80-26.15; and

b. Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

2. Household Certification:

a. Soliciting, scheduling, conducting and following up on interviews with interested households;

b. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;

c. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;

d. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;

e. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located;

f. Employing a random selection process as provided in the Affirmative Marketing Plan of the Borough of Hopewell when referring households for certification to affordable units; and

g. Notifying the following entities of the availability of affordable housing units in the Borough of Hopewell: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, NORWESCAP, the Supportive Housing Association, and the Central Jersey Housing Resource Center.

3. Affordability Controls:

a. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;

b. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;

c. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Mercer County Register of Deeds or Mercer County Clerk's office after the termination of the affordability controls for each restricted unit;

d. Communicating with lenders regarding foreclosures; and

e. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

4. Resales and Rerentals:

a. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or rental; and

b. Instituting and maintaining an effective means of communicating information to low- (or very low-) and moderate-income households regarding the availability of restricted units for resale or re-rental.

5. Processing Requests from Unit Owners:

- a. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;
- b. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;
- c. Notifying the municipality of an owner's intent to sell a restricted unit; and
- d. Making determinations on requests by owners of restricted units for hardship waivers.

6. Enforcement:

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

7. Additional Responsibilities:

- a. The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

b. The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Ordinance.

c. The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

### **Section 19. Affirmative Marketing Requirements**

1. The Borough of Hopewell shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.

2. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 4 and is required to be followed throughout the period of restriction.

3. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 4, comprised of Mercer, Monmouth and Ocean Counties.

4. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and rerentals. The Administrative Agent designated by the Borough of Hopewell shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.

5. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

6. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.

7. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.

8. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within

the housing region; the municipal administration building and the municipal library in the municipality in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.

9. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

## **Section 20. Enforcement of Affordable Housing Regulations**

1. Upon the occurrence of a breach of any of the regulations governing an affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.

2. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

a. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:

1) A fine of not more than \$500.00 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;

2) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Hopewell Affordable Housing Trust Fund of the gross amount of rent illegally collected;

3) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.

b. The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a

judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- or moderate-income unit.

1) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.

2) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.

3) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.

4) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.

5) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.

6) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

**Section 21. Appeals**

Appeals from all decisions of an Administrative Agent appointed pursuant to this Ordinance shall be filed in writing with the Court.

**REPEALER**

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

**SEVERABILITY**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**EFFECTIVE DATE**

This Ordinance shall take effect upon passage and publication as provided by law.

**ATTEST:**

**BOROUGH OF HOPEWELL**

\_\_\_\_\_  
Regina Toth, Borough  
Municipal Clerk

\_\_\_\_\_  
Ryan Kennedy, Mayor

Introduced: \_\_\_\_\_

Motion by: \_\_\_\_\_

Second by: \_\_\_\_\_

Introduction Roll Call:

Ayes:

Nayes:

Absent:

Abstain:

Adopted: \_\_\_\_\_

Motion by: \_\_\_\_\_

Second by: \_\_\_\_\_

Adoption Roll Call:

Ayes:

Nayes:

Absent:

Abstain:

I hereby certify the foregoing to be a true copy of an Ordinance adopted by the Mayor and Council at a meeting held on \_\_\_\_\_, 2017.

\_\_\_\_\_  
Regina Toth, Borough Clerk

**NOTICE**

NOTICE IS HEREBY GIVEN, that the above Ordinance was introduced and passed on first reading at the Regular Business Meeting of the Governing Body of the Borough of Hopewell held in the Municipal Building on the \_\_\_ day of \_\_\_\_\_. 2025, and the same shall come up for public hearing at the Regular Business Meeting of the Governing Body to be held on the \_\_\_ day of \_\_\_\_\_, 2025, at \_\_\_ P.M., at which times any persons interested shall be given the opportunity to be heard concerning said Ordinance. Following the public hearing, said Ordinance shall be considered for final adoption.

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Regina Toth, Borough Clerk

## Appendix H

### § 2-9B. MUNICIPAL HOUSING LIAISON. [Ord. 660]

#### § 2-9B.3. Establishment of Municipal Housing Liaison Position and Compensation; Powers and Duties.

- a. Establishment of Position of Municipal Housing Liaison. There is hereby established the position of municipal housing liaison for Hopewell Borough.
- b. Subject to the approval of the Council on Affordable Housing (COAH), the municipal housing liaison shall be appointed by the mayor with the advice and consent of the council and may be a full or part-time municipal employee.
- c. The municipal housing liaison shall be responsible for oversight and administration of the affordable housing program for Hopewell Borough, including the following responsibilities that may not be contracted out:
  1. Serving as Hopewell Borough's primary point of contact for all inquiries from the state, affordable housing providers, administrative agents, and interested households;
  2. Monitoring the status of all restricted units in Hopewell Borough's Fair Share Plan;
  3. Compiling, verifying, and submitting annual reports as required by COAH;
  4. Coordinating meetings with affordable housing providers and administrative agents, as applicable;
  5. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH;
  6. If applicable, serving as the administrative agent for some or all of the restricted units in Hopewell Borough.
- d. Subject to approval by COAH, Hopewell Borough may contract with or authorize a consultant, authority, government or any agency charged by the borough council, which entity shall have the responsibility of administering the affordable housing program of Hopewell Borough. If Hopewell Borough contracts with another entity to administer all or any part of the affordable housing program, including the affordability controls and Affirmative Marketing Plan, the municipal housing liaison shall supervise the contracting administrative agent.
- e. Compensation shall be fixed by the borough council at the time of the appointment of the municipal housing liaison.

## Appendix I

### ATTACHMENT A: AFFIRMATIVE FAIR HOUSING MARKETING PLAN For Affordable Housing in (REGION 4)

#### I. APPLICANT AND PROJECT INFORMATION

(Complete Section I individually for all developments or programs within the municipality.)

1a. Administrative Agent Name, Address, Phone Number	1b. Development or Program Name, Address	
1c. Number of Affordable Units:  Number of Rental Units:  Number of For-Sale Units:	1d. Price or Rental Range From  To	1e. State and Federal Funding Sources (if any)
1f. <input type="checkbox"/> Age Restricted  <input type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising:	Occupancy:
1h. County <b>Mercer, Monmouth, Ocean</b>	1i. Census Tract(s):	
1j. Managing/Sales Agent's Name, Address, Phone Number		
1k. Application Fees (if any):		

(Sections II through IV should be consistent for all affordable housing developments and programs within the municipality. Sections that differ must be described in the approved contract between the municipality and the administrative agent and in the approved Operating Manual.)

**II. RANDOM SELECTION**

2. Describe the random selection process that will be used once applications are received.

**III. MARKETING**

3a. Direction of Marketing Activity: (indicate which group(s) in the housing region are least likely to apply for the housing without special outreach efforts because of its location and other factors)

- White (non-Hispanic)     Black (non-Hispanic)     Hispanic     American Indian or Alaskan Native
- Asian or Pacific Islander     Other group:

3b. **HOUSING RESOURCE CENTER** ([www.nhhousing.gov](http://www.nhhousing.gov)) A free, online listing of affordable housing   

3c. Commercial Media (required) (Check all that applies)

DURATION & FREQUENCY OF OUTREACH	NAMES OF REGIONAL NEWSPAPER(S)	CIRCULATION AREA
TARGETS PARTIAL HOUSING REGION 4		
Daily Newspaper		

<input type="checkbox"/>		Trenton Times	Mercer
<input type="checkbox"/>		Trentonian	Mercer
<input type="checkbox"/>		Asbury Park Press	Monmouth, Ocean
<input type="checkbox"/>		Ocean County Observer	Ocean
<b>Weekly Newspaper</b>			
<input type="checkbox"/>		Ewing Observer	Mercer
<input type="checkbox"/>		Hopewell Valley News	Mercer
<input type="checkbox"/>		Lawrence Ledger	Mercer
<input type="checkbox"/>		Pennington Post	Mercer
<input type="checkbox"/>		Princeton Town Topics	Mercer
<input type="checkbox"/>		Tempo Mercer	Mercer
<input type="checkbox"/>		Trenton Downowner	Mercer
<input type="checkbox"/>		Windsor Heights Herald	Mercer
<input type="checkbox"/>		West Windsor-Plainsboro News	Mercer, Middlesex
<input type="checkbox"/>		Princeton Packet	Mercer, Middlesex, Somerset
<input type="checkbox"/>		Messenger-Press	Mercer, Monmouth, Ocean
<input type="checkbox"/>		Woodbridge Sentinel	Middlesex
<input type="checkbox"/>		Atlanticville	Monmouth
<input type="checkbox"/>		Coaster	Monmouth
<input type="checkbox"/>		Courier	Monmouth

<input type="checkbox"/>		Examiner	Monmouth
<input type="checkbox"/>		Hub, The	Monmouth
<input type="checkbox"/>		Independent, The	Monmouth
<input type="checkbox"/>		News Transcript	Monmouth
<input type="checkbox"/>		Two River Times	Monmouth
<input type="checkbox"/>		Coast Star, The	Monmouth, Ocean
<input type="checkbox"/>		Beach Haven Times	Ocean
<input type="checkbox"/>		Beacon, The	Ocean
<input type="checkbox"/>		Berkeley Times	Ocean
<input type="checkbox"/>		Brick Bulletin	Ocean
<input type="checkbox"/>		Brick Times	Ocean
<input type="checkbox"/>		Jackson Times	Ocean
<input type="checkbox"/>		Lacey Beacon	Ocean
<input type="checkbox"/>		Manchester Times	Ocean
<input type="checkbox"/>		New Egypt Press	Ocean
<input type="checkbox"/>		Ocean County Journal	Ocean
<input type="checkbox"/>		Ocean Star, The	Ocean
<input type="checkbox"/>		Tri-Town News	Ocean
<input type="checkbox"/>		Tuckerton Beacon	Ocean
<input type="checkbox"/>		Atlantic Highlands Herald	Monmouth

	DURATION & FREQUENCY OF OUTREACH	NAMES OF REGIONAL TV STATIONS)	CIRCULATION AREA AND/OR RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE
<b>TARGETS ENTIRE HOUSING REGION 4</b>			
<input type="checkbox"/>		2 WCBS-TV CBS Broadcasting Inc.	
<input type="checkbox"/>		4 WNBC NBC Telemundo License Co. (General Electric)	
<input type="checkbox"/>		5 WNYW Fox Television Stations, Inc. (News Corp.)	
<input type="checkbox"/>		7 WABC-TV American Broadcasting Companies, Inc (Walt Disney)	
<input type="checkbox"/>		9 WWOR-TV Fox Television Stations, Inc. (News Corp.)	
<input type="checkbox"/>		10 WCAU NBC Telemundo License Co. (General Electric)	
<input type="checkbox"/>		11 WPIX WPIX, Inc. (Tribune)	
<input type="checkbox"/>		13 WNET Educational Broadcasting Corporation	
<input type="checkbox"/>		58 WNJB New Jersey Public Broadcasting Authority	
<b>TARGETS PARTIAL HOUSING REGION 4</b>			
<input type="checkbox"/>		25 W25AW WZBN TV, Inc.	Mercer
<input type="checkbox"/>		39 WLVT-TV Lehigh Valley Public Telecommunications Corp.	Mercer

<input type="checkbox"/>		60 WBPH-TV Sunshine Family Television Corp	Mercer
<input type="checkbox"/>		63 WMBC-TV Mountain Broadcasting Corp.	Mercer
<input type="checkbox"/>		69 WFMZ-TV Maranatha Broadcasting Company, Inc.	Mercer
<input type="checkbox"/>		41 WXTV WXTV License Partnership, G.P. (Univision Communications Inc.)	Mercer, Monmouth
<input type="checkbox"/>		3 KYW-TV CBS Broadcasting Inc.	Mercer, Ocean
<input type="checkbox"/>		6 WPVI-TV American Broadcasting Companies, Inc (Walt Disney)	Mercer, Ocean
<input type="checkbox"/>		12 WHYI-TV WHYY, Inc.	Mercer, Ocean
<input type="checkbox"/>		17 WPHL-TV Tribune Company	Mercer, Ocean
<input type="checkbox"/>		23 WNJS New Jersey Public Broadcasting Authority	Mercer, Ocean
<input type="checkbox"/>		29 WTXF-TV Fox Television Stations, Inc. (News Corp.)	Mercer, Ocean
<input type="checkbox"/>		35 WYBE Independence Public Media Of Philadelphia, Inc.	Mercer, Ocean
<input type="checkbox"/>		48 WGTW-TV Trinity Broadcasting Network	Mercer, Ocean
<input type="checkbox"/>		52 WNJT New Jersey Public Broadcasting Authority	Mercer, Ocean
<input type="checkbox"/>		57 WPSG CBS Broadcasting Inc.	Mercer, Ocean
<input type="checkbox"/>		61 WPPX Paxson Communications License Company, LLC	Mercer, Ocean
<input type="checkbox"/>		65 WUVP-TV Univision Communications, Inc.	Mercer, Ocean

<input type="checkbox"/>	25 WNYE-TV New York City Dept. Of Info Technology & Telecommunications	Monmouth
<input type="checkbox"/>	31 WPXN-TV Paxson Communications License Company, LLC	Monmouth
<input type="checkbox"/>	47 WNJU NBC Telemundo License Co. (General Electric)	Monmouth
<input type="checkbox"/>	50 WNJN New Jersey Public Broadcasting Authority	Monmouth
<input type="checkbox"/>	68 WFUT-TV Univision New York LLC	Monmouth, Ocean (Spanish)
<input type="checkbox"/>	62 WWSI Hispanic Broadcasters of Philadelphia, LLC	Ocean

	DURATION & FREQUENCY OF OUTREACH	NAMES OF CABLE PROVIDER(S)	BROADCAST AREA
<b>TARGETS PARTIAL HOUSING REGION 4</b>			
<input type="checkbox"/>		Cablevision of Hamilton	Partial Mercer, Monmouth
<input type="checkbox"/>		Comcast of Central NJ,	Partial Mercer, Monmouth
<input type="checkbox"/>		Patriot Media & Communications, CNJ	Partial Mercer
<input type="checkbox"/>		Cablevision of Monmouth, Raritan Valley	Partial Monmouth
<input type="checkbox"/>		Comcast of Mercer County, Southeast Pennsylvania	Partial Middlesex
<input type="checkbox"/>		Comcast of Monmouth County	Partial Monmouth, Ocean
<input type="checkbox"/>		Comcast of Garden State, Long Beach Island, Ocean County, Toms River	Partial Ocean

	DURATION & FREQUENCY OF OUTREACH	NAMES OF REGIONAL RADIO STATION(S)	BROADCAST AREA AND/OR RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE
<b>TARGETS ENTIRE HOUSING REGION 4</b>			
AM			
<input type="checkbox"/>		WWJZ 640	
<input type="checkbox"/>		WOR 710	
<input type="checkbox"/>		WABC 770	
<input type="checkbox"/>		WCBS 880	
<input type="checkbox"/>		WBBR 1130	
<input type="checkbox"/>		WPST 94.5	
FM			
<input type="checkbox"/>		WKXW-FM 101.5	
<input type="checkbox"/>		WPRB 103.3	
<b>TARGETS PARTIAL HOUSING REGION 4</b>			
AM			
<input type="checkbox"/>		WFIL 560	Mercer, Monmouth
<input type="checkbox"/>		WMCA 570	Monmouth, Ocean
<input type="checkbox"/>		WFAN 660	Mercer, Monmouth
<input type="checkbox"/>		WNYC 820	Mercer, Monmouth
<input type="checkbox"/>		WWBD 860	Mercer
<input type="checkbox"/>		WPHY 920	Mercer
<input type="checkbox"/>		WNTP 990	Mercer

<input type="checkbox"/>		WCHR 1040	Mercer
<input type="checkbox"/>		WOBM 1160	Monmouth, Ocean
<input type="checkbox"/>		WWTR 1170	Mercer
<input type="checkbox"/>		WPHT 1210	Mercer, Monmouth
<input type="checkbox"/>		WBUD 1260	Mercer, Monmouth
<input type="checkbox"/>		WIMG 1300	Mercer
<input type="checkbox"/>		WADB 1310	Monmouth, Ocean
<input type="checkbox"/>		WHTG 1410	Monmouth
<input type="checkbox"/>		WCTC 1450	Mercer, Monmouth
<input type="checkbox"/>		WBCB 1490	Mercer
<input type="checkbox"/>		WTTM 1680	Mercer, Monmouth
FM			
<input type="checkbox"/>		WNJT-FM 88.1	Mercer
<input type="checkbox"/>		WWFM 89.1	Mercer, Monmouth
<input type="checkbox"/>		WRDR 89.7	Monmouth, Ocean
<input type="checkbox"/>		WRTI 90.1	Mercer
<input type="checkbox"/>		WBJB-FM 90.5	Monmouth
<input type="checkbox"/>		WWNJ 91.1	Ocean
<input type="checkbox"/>		WTSR 91.3	Mercer
<input type="checkbox"/>		WBGD 91.9	Ocean

<input type="checkbox"/>		WFNY-FM 92.3	Mercer, Monmouth
<input type="checkbox"/>		WXTU 92.5	Mercer
<input type="checkbox"/>		WOBM-FM 92.7	Ocean
<input type="checkbox"/>		WPAT-FM 93.1	Mercer, Monmouth
<input type="checkbox"/>		WMMR 93.3	Mercer
<input type="checkbox"/>		WNYC-FM 93.9	Mercer, Monmouth
<input type="checkbox"/>		WYSP 94.1	Mercer
<input type="checkbox"/>		WJLK-FM 94.3	Monmouth, Ocean
<input type="checkbox"/>		WFME 94.7	Mercer, Monmouth
<input type="checkbox"/>		WZZO 95.1	Mercer
<input type="checkbox"/>		WPLJ 95.5	Mercer, Monmouth
<input type="checkbox"/>		WBEN-FM 95.7	Mercer
<input type="checkbox"/>		WRAT 95.9	Monmouth, Ocean
<input type="checkbox"/>		WCTO 96.1	Mercer
<input type="checkbox"/>		WOXR-FM 96.3	Mercer, Monmouth
<input type="checkbox"/>		WRDW-FM 96.5	Mercer
<input type="checkbox"/>		WOHT 97.1	Mercer, Monmouth
<input type="checkbox"/>		WSKQ-FM 97.9	Mercer, Monmouth
<input type="checkbox"/>		WUGL 98.1	Mercer
<input type="checkbox"/>		WMSG 98.3	Mercer, Monmouth

<input type="checkbox"/>		WRKS 98.7	Mercer, Monmouth
<input type="checkbox"/>		WUSL 98.9	Mercer, Monmouth
<input type="checkbox"/>		WAWZ 99.1	Mercer, Monmouth
<input type="checkbox"/>		WBAI 99.5	Mercer, Monmouth
<input type="checkbox"/>		WJRZ-FM 100.1	Ocean
<input type="checkbox"/>		WHTZ 100.3	Mercer, Monmouth
<input type="checkbox"/>		WCBS-FM 101.1	Mercer, Monmouth
<input type="checkbox"/>		WQCD 101.9	Mercer, Monmouth
<input type="checkbox"/>		WIOQ 102.1	Mercer
<input type="checkbox"/>		WNEW 102.7	Mercer, Monmouth
<input type="checkbox"/>		WMGK 102.9	Mercer
<input type="checkbox"/>		WKTV 103.5	Mercer, Monmouth
<input type="checkbox"/>		WAXQ 104.3	Mercer, Monmouth
<input type="checkbox"/>		WVPR-FM 105.1	Mercer, Monmouth
<input type="checkbox"/>		WDAS-FM 105.3	Mercer, Monmouth
<input type="checkbox"/>		WCHR-FM 105.7	Ocean
<input type="checkbox"/>		WJZ 106.1	Mercer, Monmouth
<input type="checkbox"/>		WHTG-FM 106.3	Monmouth, Ocean
<input type="checkbox"/>		WLTW 106.7	Mercer, Monmouth
<input type="checkbox"/>		WKDN 106.9	Mercer

<input type="checkbox"/>		W/ZY 107.1	Monmouth, Ocean
<input type="checkbox"/>		WBLS 107.5	Mercer, Monmouth
<input type="checkbox"/>		W/MPH 107.9	Mercer

3d. Other Publications (such as neighborhood newspapers, religious publications, and organizational newsletters)  
(Check all that apply)

	NAME OF PUBLICATIONS	OUTREACH AREA	RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE
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**TARGETS ENTIRE HOUSING REGION 4**

Weekly	Nuestra Comunidad	Central/South Jersey	Spanish-Language
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**TARGETS PARTIAL HOUSING REGION 4**

Weekly			
<input type="checkbox"/>	New Jersey Jewish News	Northern and Central New Jersey	Jewish
<input type="checkbox"/>	El Hispano	Camden and Trenton areas	Spanish-Language
<input type="checkbox"/>	Ukrainian Weekly	New Jersey	Ukrainian community

3e. Employer Outreach (names of employers throughout the housing region that can be contacted to post advertisements and distribute flyers regarding available affordable housing) (Check all that apply)

DURATION & FREQUENCY OF OUTREACH	NAME OF EMPLOYER/COMPANY	LOCATION
Mercer County		
<input type="checkbox"/>	Mercer County Board of Education	1075 Old Trenton Rd, Trenton, NJ
<input type="checkbox"/>	Penn Medicine Princeton Medical Center	1 Plainsboro Road, Plainsboro, NJ 08536

<input type="checkbox"/>		Bristol-Myers Squibb	100 Nassau Park Blvd, Princeton, NJ and 820 Bear Tavern Rd, Trenton, NJ
<input type="checkbox"/>		St. Lawrence Rehabilitation Center	2381 Lawrenceville Rd, Lawrenceville, NJ
<input type="checkbox"/>		McGraw-Hill	120 Windsor Center Dr, East Windsor, NJ
<input type="checkbox"/>		Conair Corporation	150 Milford Rd, Hightstown, NJ
<input type="checkbox"/>		Shiseido America, Inc.	366 Princeton Hightstown Rd, East Windsor, NJ
<input type="checkbox"/>		NJ Manufacturers Insurance Company	1001 Grand St S, Hammonton, NJ
<input type="checkbox"/>		Homasote	932 Lower Ferry Rd, Trenton, NJ
<input type="checkbox"/>		Robert Wood Johnson University Hospital	1 Hamilton Health Pl, Trenton, NJ
<input type="checkbox"/>		Congoleum Corp.	3500 Quakerbridge Rd, Mercerville, NJ
<input type="checkbox"/>		Coca-Cola Foods	480 Mercer St, Hightstown, NJ
<input type="checkbox"/>		Peddle School	111 Armellino Ct, Hightstown, NJ
<input type="checkbox"/>		Dana Communications	2 E Broad St, Hopewell, NJ
<input type="checkbox"/>		Merrill Lynch	410 Scotch Rd, Hopewell, NJ
<input type="checkbox"/>		Janssen Pharmaceutical	1125 Trenton Harbourton Rd, Titusville, NJ
<input type="checkbox"/>		St. Francis Medical Center	601 Hamilton Avenue Trenton NJ 08629-1986
<input type="checkbox"/>		The Trenton Times	500 Perry St, Trenton, NJ
<input type="checkbox"/>		Gaumn, Inc.	1080 US Highway 130, Robbinsville, NJ
<input type="checkbox"/>		Capital Health Medical Center	One Capital Way Pennington, NJ 08534
<input type="checkbox"/>		Amazon	50 New Canton Way Robbinsville, NJ 08691

Monmouth County		
<input type="checkbox"/>	Meridian Health System	1350 Campus Parkway Neptune
<input type="checkbox"/>	US Army Communications Electronics Command Fort Monmouth	CECOM Bldg 901 Murphy drive Fort Monmouth
<input type="checkbox"/>	County of Monmouth Hall of Records	1 East Main Street Freehold
<input type="checkbox"/>	Central State Healthcare Systems	West Main Street Freehold
<input type="checkbox"/>	Monmouth Medical Center	300 Second Ave Long Branch
<input type="checkbox"/>	Asbury Park Press	3601 Route 66 Neptune, NJ
<input type="checkbox"/>	Food Circus Super Markets, Inc.	835 Highway 35 PO BOX 278 Middletown, NJ
<input type="checkbox"/>	Monmouth University	Cedar Ave West Long Branch
<input type="checkbox"/>	Naval Weapons Station Earle	State Highway 34 Colls Neck, NJ
<input type="checkbox"/>	Norkus Enterprises, Inc.	505 Richmond Ave Point Pleasant, NJ
<input type="checkbox"/>	Horizon Blue Cross Blue Shield	1427 Wyckoff Road Wall, NJ
Ocean County		
<input type="checkbox"/>	Saint Barnabas Health Care System	300 2nd Ave Long Branch, NJ 07740
<input type="checkbox"/>	Six Flags Theme Parks Inc	Route 537 Jackson, NJ 08527
<input type="checkbox"/>	Meridian Health Care System	415 Jack Martin Blvd, Brick, NJ
<input type="checkbox"/>	Southern Ocean County Hospital	1140 Route 72 West, Manahawkin, NJ
<input type="checkbox"/>	Jenkinsons	300 Ocean Ave Pt. Pleasant Beach, NJ 08742

3f. Community Contacts (names of community groups/organizations throughout the housing region that can be contacted to post advertisements and distribute flyers regarding available affordable housing)			
Name of Group/Organization	Outreach Area	Racial/Ethnic Identification of Readers/Audience	Duration & Frequency of Outreach

**IV. APPLICATIONS**

Applications for affordable housing for the above units will be available at the following locations:		
4a. County Administration Buildings and/or Libraries for all counties in the housing region (list county building, address, contact person) (Check all that apply)		
<input type="checkbox"/>	<b>BUILDING</b>	<b>LOCATION</b>
<input type="checkbox"/>	Mercer County Library Headquarters	2751 Brunswick Pike, Lawrenceville, NJ 08648
<input type="checkbox"/>	Monmouth County Headquarters Library	125 Symmes Drive, Manalapan, NJ 07726
<input type="checkbox"/>	Ocean County Library	101 Washington Street, Toms River, NJ 08753
<input type="checkbox"/>	Hopewell Borough Public Library	13 East Broad Street, Hopewell, NJ 08525
<input type="checkbox"/>	Pennington Public Library	30 North Main Street, Pennington, NJ 08534
<input type="checkbox"/>	Trenton Free Public Library	120 Academy Street, Trenton, NJ 08608
<input type="checkbox"/>	Mercer County Library, Hopewell Branch	245 Pennington-Titusville Road Pennington, NJ 08534
4b. Municipality in which the units are located		
Hopewell Borough Municipal Building 88 East Broad Street, Hopewell, NJ 08525		
4c. Sales/Rental Office for units (if applicable)		

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**V. CERTIFICATIONS AND ENDORSEMENTS**

I hereby certify that the above information is true and correct to the best of my knowledge. I understand that knowingly falsifying the information contained herein may affect the (select one: Municipality's substantive certification or DCA Balanced Housing Program funding or HMF A UHGRP/MONI/CHOICE funding).

Name (Type or Print)

Title/Municipality

Signature

Date

In addition, per the Borough Settlement Agreement with the Fair Share Housing Center, direct notification of the availability of affordable housing units in Hopewell (along with copies of the application form) shall be provided to the following entities:

1. Fair Share Housing Center  
510 Park Boulevard  
Cherry Hill, NJ 08002
2. Latino Action Network (Freehold N.J.)  
P.O. Box 943  
Freehold, NJ 07728
3. STEPS (Solutions to End Poverty Soon)  
14 Clifton Avenue South  
Lakewood, NJ 08701
4. OCEAN Inc.  
40 Washington Street  
P.O. Box 1029  
Toms River, N.J. 08753
5. Supportive Housing Association  
185 Valley Street  
South Orange, NJ 07079
6. New Jersey State Conference of the NAACP  
4326 Harbor Beach Boulevard #775  
Brigantine, NJ 08203
7. NAACP Long Branch Unit  
P.O. Box 472  
Long Branch, N.J 07740
8. NAACP Trenton Branch Unit  
P.O. Box 1355  
Trenton, NJ 08607
9. NAACP Bayshore Branch Unit  
P.O. Box 865  
Matawan, NJ 07747
10. NAACP Red Bank Unit  
P.O. Box 2147  
Red Bank, NJ 07701-2147
11. NAACP Greater Freehold Unit  
P.O. Box 246  
Marlboro Annex 07746
12. NAACP Asbury Park/Neptune Branch Unit  
P.O. Box 1143  
Asbury Park, NJ 07712

13. Shiloh Baptist Church  
340 Reverend S. Howard Woodson Jr. Way  
Trenton, NJ 08618

**To be amended for compliance**

§ 10A-4.4

§ 10A-4.4

5. Use variance; shall also be accompanied by payment to the municipality of \$150 to defray the cost of providing a shorthand reporter at the hearing on said development application.

If more than one application involving the same property is to be heard at the same hearing before the planning board, the applicant shall pay a fee of \$75.

If the application involves 20 or more lots or 20 or more dwelling units or a nonresidential building of 5,000 square feet or more, the application shall be accompanied by a fee of \$100.

If the planning board hearings extend more than one meeting, an additional fee in the same amount as above provided shall be paid prior to each continued hearing.

The planning board may waive in whole or in part or modify the above fees for good cause shown.

g. Court Reporter.

1. If an applicant desires a court reporter, the cost for taking testimony and transcribing it and providing a copy of the transcript to the borough shall be at the expense of the applicant who shall arrange for the reporter's attendance.
2. Each application to the planning board for preliminary major subdivision approval, preliminary site plan approval, conditional use authorization or use variance shall, in addition to any other fees or costs, be accompanied by payment to the borough of \$150 to defray the cost of providing a shorthand reporter at the hearing on such application.

In the event a hearing on any application described in this section continues beyond a single date, payment of \$150 must be made to the borough prior to each and every subsequent hearing date on any such application.

The planning board, as appropriate, may waive in whole or in part the fees provided for in this section for good cause shown.

h. Development Fees.

1. Purpose.

(a) In *Holmdel Builder's Association V. Holmdel Township*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.

(b) Pursuant to P.L. 2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a

COAH-approved spending plan may retain fees collected from non-residential development.

- (c) This paragraph establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L. 2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

## 2. Basic Requirements.

- (a) This paragraph shall not be effective until approved by COAH pursuant to N.J.A.C. 5:96-5.1.
- (b) The Borough of Hopewell shall not spend development fees until COAH has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.

## 3. Definitions.

- (a) The following terms, as used in this paragraph, shall have the following meanings:

**AFFORDABLE HOUSING DEVELOPMENT** — Shall mean a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable development.

**COAH OR THE COUNCIL** — Shall mean the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.

**DEVELOPER** — Shall mean the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

**DEVELOPMENT FEE** — Shall mean money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.

**EQUALIZED ASSESSED VALUE** — Shall mean the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L. 1973, c.123 (C.54:1-35a through C.54:1-35c).

**GREEN BUILDING STRATEGIES** — Shall mean those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

#### 4. Residential Development Fees.

##### (a) Imposed fees.

- (1) Within every zoning district, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1 1/2% of the equalized assessed value for residential development provided no increased density is permitted.
- (2) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers may be required to pay a development fee of 6% of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

##### (b) Eligible exactions, ineligible exactions and exemptions for residential development.

- (1) Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
- (2) Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
- (3) Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- (4) Developers of additions to existing dwelling units that do not result in the creation of an additional dwelling unit or units shall be exempt from this development fee.

#### 5. Nonresidential Development Fees.

##### (a) Imposed fees.

- (1) Within all zoning districts, nonresidential developers, except for developers

of the types of development specifically exempted, shall pay a fee equal to 2 1/2% of the equalized assessed value of the land and improvements, for all new nonresidential construction on an unimproved lot or lots.

- (2) Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2 1/2% of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.
  - (3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2 1/2% shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero.
- (b) Eligible exactions, ineligible exactions and exemptions for non-residential development.
- (1) The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the 2 1/2% development fee, unless otherwise exempted below.
  - (2) The 2 1/2% fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
  - (3) Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to P.L. 2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.
  - (4) A developer of a nonresidential development exempted from the nonresidential development fee pursuant to P.L. 2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.
  - (5) If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this paragraph within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the Borough of Hopewell as a lien against the real property of the owner.

## 6. Collection Procedures.

- (a) Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- (b) For nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a nonresidential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- (c) The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- (d) Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- (e) The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- (f) Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- (g) Should the Borough of Hopewell fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b of section 37 of P.L. 2008, c.46 (C.40:55D-8.6).
- (h) 50% of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.
- (i) Appeal of Development Fees.
  - (1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Borough of Hopewell. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq.,

within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

- (2) A developer may challenge nonresidential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Borough of Hopewell. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

#### 7. Affordable Housing Trust Fund.

- (a) There is hereby created a separate, interest-bearing housing trust fund to be maintained by the chief financial officer for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.
- (b) The following additional funds shall be deposited in the affordable housing trust fund and shall at all times be identifiable by source and amount:
  - (1) Payments in lieu of on-site construction of affordable units;
  - (2) Developer contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached development accessible;
  - (3) Rental income from municipally operated units;
  - (4) Repayments from affordable housing program loans;
  - (5) Recapture funds;
  - (6) Proceeds from the sale of affordable units; and
  - (7) Any other funds collected in connection with the Borough of Hopewell's affordable housing program.
- (c) Within seven days from the opening of the trust fund account, the Borough of Hopewell shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).
- (d) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

#### 8. Use of Funds.

- (a) The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the Borough of Hopewell's fair share obligation and may be

set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing nonresidential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or State standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.

- (b) Funds shall not be expended to reimburse the Borough of Hopewell for past housing activities.
- (c) At least 30% of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income by region.
  - (1) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.
  - (2) Affordability assistance to households earning 30% or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income.
  - (3) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- (d) The Borough of Hopewell may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
- (e) No more than 20% of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a housing element and fair share plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20% of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income

qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

9. Monitoring.

- (a) The Borough of Hopewell shall complete and return to COAH all monitoring forms included in monitoring requirements related to the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Borough of Hopewell's housing program, as well as to the expenditure of revenues and implementation of the plan certified by COAH. All monitoring reports shall be completed on forms designed by COAH.

10. Ongoing Collection of Fees.

- (a) The ability for the Borough of Hopewell to impose, collect and expend development fees shall expire with its substantive certification unless the Borough of Hopewell has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its development fee ordinance. If the Borough of Hopewell fails to renew its ability to impose and collect development fees prior to the expiration of: substantive certification, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L. 1985, c.222 (C.52:27D-320). The Borough of Hopewell shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall the Borough of Hopewell retroactively impose a development fee on such a development. The Borough of Hopewell shall not expend development fees after the expiration of its substantive certification or judgment of compliance.