

XI. Appendix

PREPARED BY THE COURT:

**IN THE MATTER OF THE
DECLARATORY JUDGMENT
ACTION OF THE TOWNSHIP
OF MINE HILL, MORRIS
COUNTY PURSUANT TO P.L.
2024, CHAPTER 2 (N.J.S.A.
52:27D-304.1, et seq.),**

Petitioner.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CIVIL PART
MORRIS COUNTY
DOCKET NO. MRS-L-000313-25

FILED

MAY 13 2025

Civil Action

Mt. Laurel Program

Janine M. Allen, J.S.C.

**DECISION AND ORDER FIXING
MUNICIPAL OBLIGATIONS FOR
“PRESENT NEED” AND “PROSPECTIVE
NEED” FOR THE FOURTH ROUND
HOUSING CYCLE**

THIS MATTER, having come before the Court on referral from and recommendation issued by the Affordable Housing Dispute Resolution Program (“Program”), pursuant to the Complaint for Declaratory Judgment filed on February 3, 2025 (“DJ Complaint”) by the Petitioner, **TOWNSHIP OF MINE HILL** (“Petitioner” or “Municipality”), pursuant to N.J.S.A. 52:27D-304.2, -304.3, and -304.1(f)(1)(c) of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, et seq. (collectively, the “FHA”), and in accordance with Section II.A of Administrative Directive #14-24 (“Directive #14-24”) of the “Program”, seeking a certification of compliance with the FHA;

AND IT APPEARING that, the Municipality timely adopted Resolution 034-2025 on January 31, 2025, agreeing to DCA’s calculation of 13 affordable housing units of “present need” but seeking a downward deviation from “prospective need” calculations allocated to it by the New Jersey Department of Community Affairs (“DCA”) in its report dated October 18, 2024 entitled *Affordable Housing Obligations for 2025-2035 (Fourth Round)* (the “DCA’s Fourth Round Report”) – specifically, a “prospective need” obligation of 65 affordable housing units, which calculations have been deemed “presumptively valid” - and based on the Municipality planners’

recommendation for 47 units for a “prospective need” affordable housing obligation for the Fourth Round housing cycle based on their planner’s report asserting that DCA had included many acres of property in its land capacity analysis that should have been excluded from consideration;

AND IT APPEARING that, a challenge to the Municipality’s calculations (“Challenge”) was timely and properly filed by the New Jersey Builders Association (“NJBA” or “Challenger”), and by M&T at Mine Hill, LLC. (“M&T” or “Challenger”) by and through their respective counsel, wherein the Challengers disputed the Municipality’s proposed obligation for prospective need, with the Municipality’s position and the NJBA and M&T Challenges supported by their own expert reports;

AND IT APPEARING that, pursuant to the Program, the Administrative Office of the Courts (“AOC”) appointed and assigned the case to Program Member, the Hon. Thomas Brogan, P.J.Cv (Ret.) (“Program Member”) to manage the proceedings, host settlement conferences, and make recommendations to the Court in accordance with the FHA and the AOC’s Directive #14-24 (“Directive #14-24”), and that the Program Member appointed Joseph H. Burgis, PP, an independent affordable housing expert, as special adjudicator (“Special Adjudicator”) in this case to work with closely with the Program Member, make recommendations to, and assist the Program;

AND IT APPEARING that, on March 21, 2025 a settlement conference was conducted followed by a session on that same date, on notice to all parties with the participation of local officials, attorneys for the Municipality and NJBA and M&T, and the Special Adjudicator, with the session following the settlement conference when efforts at resolution through mediation failed;

AND IT APPEARING that, the Program Member heard argument at the session of March 21, 2025 from counsel for the Municipality and for the NJBA and for M&T in support of their respective positions, and determined to reserve decision to allow for further consideration;

AND IT APPEARING that, after reviewing the arguments of all parties, the Program Member issued his written Report and Program Recommendation on April 14, 2025, wherein he found that M&T's challenge to the Municipality's calculation as to Land Capacity Factor was reasonable based on their Planner's report and, consequently, recommended to the Court that M&T's calculation be endorsed and effectuated, thereby establishing the prospective need for the Township of Mine Hill at 54 units, and for the reasons set forth in the Program Member's Statement of Reasons accompanying the Recommendation;

AND THE COURT, having received the Program Member's Recommendation dated April 14, 2025, the findings, terms, and recommendations of which are incorporated by reference as though more fully set forth herein (the "Report");

AND THE COURT, having reviewed and considered the Program Member's Report and Recommendations, having been satisfied with the recommendation to fix the municipal present need obligation of the Township of Mine Hill for 13 affordable units for the Fourth Round housing cycle, and to accept a modification as proposed by M&T such that the prospective need obligation be fixed at 54 affordable units for the Fourth Round cycle in the place and stead of the DCA's calculated number of 65 units, without revoking immunity, and that an Order fixing those obligations at those numbers will be fair and equitable as well as in the best interests of the protected class of low- and moderate-income households in the Municipality, and for good and sufficient cause having otherwise been shown:

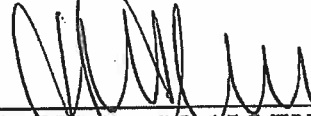
IT IS, THEREFORE, on and effective as of the 13th day of **May 2025 ADJUDGED AND ORDERED**, that the Program Member's Report and Recommendations, be, and the same hereby **ACCEPTED** and **ADOPTED** in their entirety; and to that end, more specifically, it is further

ORDERED, as follows:

1. That the "present need" obligation of the Municipality, be, and hereby is fixed as thirteen (13) affordable units for the Fourth Round housing cycle.
2. That the "prospective need" obligation of the Municipality, be, and hereby is fixed as fifty four (54) affordable units for the Fourth Round housing cycle.
3. That the Petitioner is hereby authorized to proceed to the compliance phase with preparation and adoption of its proposed Housing Element and Fair Share Plan for the Fourth Round, incorporating therein the "present need" and "prospective need" allocations aforesaid (and which plan shall include the elements set forth in the "Addendum" attached to Directive #14-24), by or before June 30, 2025, as provided for and in accordance with Section III.A of Directive #14-24, with immunity, and without further delay; and
4. That any and all "challenges" to the Petitioner's Housing Element and Fair Share Plan as adopted by Paragraph 3 above must be filed by August 31, 2025, by way of Answer/Objection filed in the eCourts case jacket for this matter, and as provided for and in accordance with Section III.B of AOC Directive #14-24.

IT IS FURTHER ORDERED, that a copy of this Order shall be deemed served on the Petitioner, Petitioner's counsel, and Challenger NJBA's counsel upon its posting by the Court to the eCourts case jacket for this matter pursuant to R. 1:5-1(a) and R. 1:32-2A.

SO ORDERED:



HON. JANINE M. ALLEN, J.S.C.

Designated Mt. Laurel Judge – Morris/Sussex Vicinage

(X) Challenged.

Pursuant to R. 1:7-4(a), the Court's Statement of Reasons is attached hereto and made a part hereof.

STATEMENT OF REASONS

[R. 1:7-4(a)]

Having reviewed and considered the Program Recommendation prepared by the Affordable Housing Dispute Resolution Program in this matter and for the reasons that follow, the Court hereby adopts the Program Member's recommendation in full and thus fixes the "present need" obligation of 13 units and a "prospective need" obligation of 54 units for the Petitioner, Township of Mine Hill, for the Fourth Round housing cycle.

I. Discussion and Analysis.

The Fair Housing Act, N.J.S.A. 52:27D-302 to 313.3 (the "Act"), mandates municipalities to determine their fair share of affordable housing obligations. The Act's Fourth Round covers the period from 2025 to 2035, with specific calculations conducted and completed by the New Jersey Department of Community Affairs (DCA) in accordance with the Act. Specifically, in October 2024, DCA published its Affordable Housing Obligations for the 2025-2035 (Fourth Round) Methodology and Background Report (DCA Report), which assigned numerical obligations to all non-exempt municipalities. Municipalities were then required to file binding resolutions establishing their fair share obligations by January 31, 2025, and could challenge these calculations by providing alternative ones in compliance with the Act. The Affordable Housing Dispute Resolution Program, established by the Legislature, provides a mechanism for resolving such disputes.

The case at hand involves the determination of affordable housing obligations for the Township of Mine Hill as part of the Fourth Round process established by the Legislature. More specifically at issue is Mine Hill's "prospective need" obligation for the Fourth Round.

“Prospective Need” represents the projection of housing needs for low and moderate-income households based on expected development and growth over the next decade. The Municipality contested DCA’s calculation of 65 affordable units, proposing a reduced number of 47 units, citing alleged lack of land capacity as the principal basis for its downward deviation and calculation, and which had the effect of reducing Mine Hill’s projected prospective need by 18 units.

Program Member Judge Brogan found that the challenge by M&T was accompanied by a well reasoned report by their expert with regard to the Land Capacity Factor, indicating that the developable acreage is 5.399 acres compared with Mine Hill’s .539 acres and DCA’s 14.979 acres. Therefore, Program Member Judge Brogan recommends that the challenge be confirmed, that is to adopt the total developable property at 5.938 acres and thereby assign the prospective need obligation at 54 units.

The Court agrees.

Having reviewed the record, expert analyses presented, and arguments of counsel for the Petitioner and Challenger, the Court endorses Judge Brogan’s recommendation.

II. Conclusion & Decision.

For the foregoing reasons, the Court concurs in the Program Member’s findings, and will implement the Program Member’s recommendation to implement the numbers as calculated by M&T.

Accordingly, the Court hereby adopts the Report and Recommendations of the Program Member, in their entirety, and will enter an Order fixing a “present need” obligation of 13 affordable units, and a modified “prospective need” obligation of 54 affordable units for the Petitioner, Township of Mine Hill, for the Fourth Round housing cycle.

The Petitioner will be authorized to proceed to the compliance phase with preparation and adoption of its proposed Housing Element and Fair Share Plan for the Fourth Round, incorporating therein the “present need” and “prospective need” allocations aforesaid (and which plan shall include the elements set forth in the “Addendum” attached to Directive #14-24), by or before June 30, 2025, as provided for and in accordance with Section III.A of Directive #14-24, with immunity, and without further delay.

An appropriate form of Order implementing the Court’s decision above accompanies this Statement of Reasons.

SO ORDERED.

JAMES T. BRYCE, Esq.
ATTORNEY ID #016032003
MURPHY McKEON, P.C.
901 Route 23 South, 2nd Floor
Pompton Plains, New Jersey 07444
Tel. (973) 835-0100
Attorneys for Petitioner, Township of Mine Hill

IN THE MATTER OF THE
APPLICATION OF THE TOWNSHIP OF
MINE HILL, A Municipal Corporation of
the State of New Jersey,

Petitioner.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MORRIS COUNTY
DOCKET NO.

CIVIL ACTION
(Mount Laurel)

**COMPLAINT FOR DECLARATORY
JUDGMENT PURSUANT TO
N.J.S.A. 52:27D-313**

The Township of Mine Hill, a Municipal Corporation of the State of New Jersey, having its principal place of business at 10 Baker Street, Mine Hill, NJ, 07803, by way of Complaint for Declaratory Judgment pursuant to N.J.S.A. 52:27D-313 and N.J.S.A. 2A:16-50 et seq. says:

BACKGROUND

1. Petitioner Township of Mine Hill (hereinafter "Petitioner" and/or "Mine Hill" and/or "Township") is a body politic and corporate organized under the laws of the State of New Jersey.
2. Mine Hill is located in Morris County in Region 2 pursuant to the N.J.S.A. 52:27D-304.2.
3. Pursuant to first, second, and third round obligations, Mine Hill has used various mechanisms to provide affordable housing. Mine Hill has made a good faith effort to meet its first, second, and third round affordable housing obligations utilizing these mechanisms.

4. On March 20, 2024, the New Jersey Legislature adopted P.L. 2024, c. 2, which amended the Fair Housing Act (FHA) (N.J.S.A. 52:27D-302 et seq.), abolished the Council of Affordable Housing (COAH), promulgated procedures and guidelines implementing the Affordable Housing Alternate Dispute Resolution Program (the “Program”), and created a new process for municipalities to come into constitutional compliance with their affordable housing obligations.

5. Pursuant to N.J.S.A. 52:27D-304.1(d), the Department of Community Affairs (the “DCA”) was responsible for providing a report setting forth non-binding calculations of regional and municipal affordable housing need based on the provisions of N.J.S.A. 52:27D-304.2 and - 304.3.

6. The DCA issued a report on the calculations of regional need and municipal obligations for each region of the State on or about October 18, 2024 (the “DCA Report”) providing its estimate of the obligation of all municipalities based on its interpretation of the Amended Act. The “Prospective Need” calculation was based upon a “equalized nonresidential valuation factor”, a “land capacity factor”, and a “income capacity factor” each contributing to an “average allocation factor”.

7. The DCA Report set the municipal obligation for Mine Hill Township as Present Need: 13 and Prospective Need: 65

8. The Amended Act provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that the Amended Act would support lower calculations of Fourth Round affordable housing obligations.

9. Township Planning Consultant, Daniel N. Block, P.P., A.I.C.P., issued a memorandum to the Township dated January 29, 2025 containing an evaluation of the accuracy of

the DCA information and calculations used to determine the municipal obligation for the Township of Mine Hill.

10. The Township's Planning Consultant's analysis adjusted the Land Capacity Factor after determining that the total developable acreage correctly utilizing the statutory mechanism was 0.539 acres. This reduced the land capacity factor to 0.01% from the original 0.28%.

11. By applying the adjusted factor to the obligation calculations, the final prospective need obligation for Mine Hill decreased the DCA calculation to 47 units.

12. Pursuant to N.J.S.A.52:27D-304.1(f)(1)(b), participating municipalities must adopt and file resolutions calculating their housing obligations by January 31, 2025.

13. P.L. 2024, c. 2 established the Program within the New Jersey Judiciary for the purpose of resolving disputes associated with municipal affordable housing obligations and compliance. In furtherance of that end, the Administrative Director of the Courts issued Directive #14-24 on December 13, 2024 directing municipalities to file declaratory judgment actions seeking certification of municipal compliance with the FHA within 48 hours of adoption of a resolution establishing the municipality's fair share obligation.

14. On January 31, 2025, Mine Hill adopted a Resolution acknowledging its affordable housing obligations for the Fourth Round. A copy of the Resolution is attached hereto as Exhibit A.

15. Mine Hill desires that the Court review and accept the municipal fair share obligation of Mine Hill Township as set forth in the Resolution attached hereto as Exhibit A.

16. In compliance with P.L. 2024, c. 2, Mine Hill intends to draft and file a Housing Element and Fair Share Plan demonstrating compliance with the Fourth Round affordable housing

obligations.

17. After such filing, the Township requests that the Court review and accept its Housing Element and Fair Share Plan and approve the Program's issuance of a Certificate of Compliance.

COUNT ONE
(DECLARATORY RELIEF, CONSTITUTIONAL COMPLIANCE)

18. Mine Hill repeats and realleges each and every allegation set forth in Paragraphs 1-18 of this Complaint as if set forth herein at length.

19. Pursuant to the Declaratory Judgments Act, N.J.S.A. 2A:16-50 et seq., N.J.S.A. 52:27D-313, and P.L. 2024, c. 2, Mine Hill has a right to a declaratory judgment verifying and confirming Mine Hill's full compliance with its constitutional affordable housing obligations

WHEREFORE, Petitioner, the Township of Mine Hill, respectfully seeks that the Court grant the following relief:

a. An Order exercising jurisdiction over the compliance by the Township of Mine Hill with its constitutional affordable housing obligations; and

b. An Order declaring, pursuant to N.J.S.A. 52:27D-304.1(f), that the affordable housing obligation of 47 units as set forth by Township of Mine Hill in the Resolution dated January 31, 2025 are established; and

c. An Order declaring that the Township of Mine Hill is under the Court's voluntary compliance declaratory judgment jurisdiction and that the Township is immunized and protected against builder's remedy litigation and exclusionary zoning challenges; and

d. An Order declaring that the Township of Mine Hill's Housing Element and Fair Share Plan, including its spending plan, satisfactorily addresses its affordable housing

mandates and provides the Township with immunity and repose against builder's remedy litigation and exclusionary zoning challenges for a period of ten (10) years from the date of the Final Judgment.

e. A Judgment of Compliance and Repose for a period of ten (10) years from its date of entry.

f. An Order granting such additional relief as the Court deems equitable and just.

MURPHY MCKEON, P.C.
Attorneys for Petitioner, Township of Mine Hill

By: _____

JAMES T. BRYCE

Dated: February 3, 2025

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, James T. Bryce, Esq. is hereby designated as Trial Counsel for Petitioner Township of Mine Hill.

MURPHY MCKEON, P.C.
Attorneys for Petitioner, Township of Mine Hill

By: _____

JAMES T. BRYCE

Dated: February 3, 2025

CERTIFICATION

Pursuant to Rule 4:5-1, it is hereby certified that the matter in controversy is not the subject of any other action pending in any other Court or of a pending arbitration or administrative proceeding to the best of knowledge and belief. To the best of our knowledge, no action, arbitration or administrative proceeding is contemplated. Furthermore, we know of no other parties that should be joined in the above action.

MURPHY MCKEON, P.C.
Attorneys for Petitioner, Township of Mine Hill

By: _____

JAMES T. BRYCE

Dated: February 3, 2025

**RESOLUTION 034-2025
TOWNSHIP COUNCIL - MINE HILL TOWNSHIP
MORRIS COUNTY, NEW JERSEY
JANUARY 31, 2025**

**A RESOLUTION OF THE TOWNSHIP COUNCIL OF MINE HILL TOWNSHIP,
MORRIS COUNTY, NEW JERSEY, ADOPTING THE TOWNSHIP'S
FAIR SHARE AFFORDABLE HOUSING OBLIGATION
FOR 2025 THROUGH 2035 "FOURTH ROUND"**

WHEREAS, the New Jersey Supreme Court, through its rulings in Southern Burlington County NAACP v. Mount Laurel, 67 13 N.J. 151 (1975) and Southern Burlington County NAACP 14 v. Mount Laurel, 92 N.J. 158 (1983), determined that every municipality in New Jersey has a constitutional obligation to provide through its land use regulations a realistic opportunity for its fair share of its region's present and prospective needs for housing for low- and moderate-income families; and

WHEREAS, on March 20, 2024, Governor Murphy signed P.L. 2024, c.2. into law, establishing a new framework for determining and enforcing municipalities' affordable housing obligations under the New Jersey Supreme Court's Mount Laurel doctrine and the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et al.); and

WHEREAS, pursuant to N.J.S.A. 52:27D-304.1(f)(1)(b) (herein referred to as the "Amended Act"), each municipality must adopt a binding resolution no later than January 31, 2025 determining its present and prospective fair share obligation for the period of time spanning 2025 through 2035, or "Fourth Round;" and

WHEREAS, pursuant to Administrative Directive No. 14-24 issued by the Administrative Office of the Courts on December 13, 2024, "[a] municipality seeking a certification of compliance with the [Amended Act] shall file an action in the form of a declaratory judgment complaint and Civil Case Information Statement (Civil CIS) in the county in which the municipality is located" within 48 hours of adopting the municipal resolution of fair share obligations; and

WHEREAS, pursuant to N.J.S.A. 52:27D-304.1(d), the New Jersey Department of Community Affairs issued "a report on the calculations of regional need and municipal obligations for each region of the State" on or about October 18, 2024 (the "DCA Report") providing its estimate of the obligation of all municipalities based on its interpretation of the Amended Act; and

WHEREAS, the DCA Report set the municipal obligation for Mine Hill Township as follows:

Present Need: 13

Prospective Need: 65

WHEREAS, the Amended Act provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that the Amended Act would support lower calculations of Fourth Round affordable housing obligations; and

WHEREAS, Township Planning Consultant Daniel N. Bloch, PP, AICP, EADA issued a memorandum to the Township dated January 29, 2025 containing an evaluation of the accuracy of the DCA information and calculations used to determine the municipal obligation for Mine Hill Township, a copy of which is attached hereto and incorporated herein by reference; and

WHEREAS, the evaluation and analysis of the Township Planning Consultant adjusted the Land Capacity Factor after determining that the total developable acreage correctly utilizing the statutory mechanism was 0.539 acres, thus reducing the Land Capacity Factor to 0.01% from the original 0.28%; and


WHEREAS, the Township Planning Consultant's analysis also confirmed that no adjustment was needed to the DCA determined Equalized Nonresidential Valuation Factor or the Income Capacity Factor and;

WHEREAS, by applying the adjusted land Capacity Factor, the Average Allocation Factor decreased from 0.32% to 0.23%, thus reducing the final housing obligation for Mine Hill Township from 65 units to 47 units;

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of Mine Hill Township, in the County of Morris and State of New Jersey, as follows:

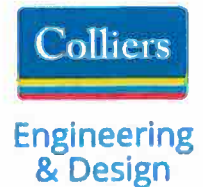
1. The Township Council hereby determines, based on the DCA Report and the evaluation of the accuracy of the DCA Report by the Township's Planning Consultant, to modify the obligations set forth in the DCA Report and declare the municipal Affordable Housing obligation to be:
Present Need: 13
Prospective Need: 47
2. The Township's Fourth Round Affordable Housing Obligation herein established shall be subject to adjustments made to account for future decisions of a court of competent jurisdiction on any challenges to the Amended Act or Department of Community Affairs methodology, any legislative changes adjusting obligations, adjustments in response to any third party challenge to the obligations herein established, and any durational adjustment or vacant land adjustments which will be adopted as part of the municipality's Fourth Round Housing Element and Fair Share Plan.
3. The Municipal Clerk and Municipal Attorney are authorized to take all actions required by N.J.S.A. 52:27D-304.1(f)(1)(b), including:
 - a. Filing a declaratory judgment action with the Superior Court and filing a copy of this Resolution with the Department of Community Affairs within forty-eight hours following adoption of this Resolution.
 - b. Publishing this Resolution on the Township's website.
4. This Resolution shall take effect immediately.

I hereby certify the foregoing to be a true copy of a Resolution passed by the Mine Hill Township Council at a duly convened meeting held on January 31, 2025.


Presiding Council Member


Marcia H. Istvan, RMC, Township Clerk

Shelbourne at Hunterdon
53 Frontage Road, Suite 110
Hampton, New Jersey 08827
Main: 877 627 3772



Memorandum

To: Township of Mine Hill
From: Daniel N. Bloch, PP, AICP, EADA
Date: January 29, 2025
Subject: Fourth Round Allocation Factors
Project No.: MHT0152

P.L. 2024, c.2 specifies the formula and process by which Fourth Round affordable housing obligation numbers are to be calculated. The Department of Community Affairs (DCA) was charged with the preparation of the Fourth Round municipal obligations. DCA published their report on or about October 18, 2024. It was accompanied by a detailed spreadsheet illustrating the various calculations used in determining the Fourth Round affordable housing obligations. The spreadsheet includes a tab for each of the three allocation factors (land capacity, equalized non-residential valuation, and income). However, the spreadsheet only noted an aggregated acreage value for each town. Detailed Geographic Information Systems ("GIS") mapping illustrating the location of the developable areas was not released until November 27, 2024.

The allocation process starts with a state-wide need for affordable housing. DCA has calculated this number to be 84,698 units. This number is allocated amongst the six affordable housing regions. Mine Hill is located in Region 2 – Essex, Morris, Union, and Warren. Region 2 has a Fourth Round obligation of 20,506.

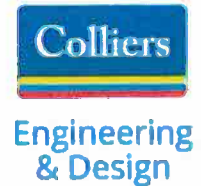
The regional need is then distributed to the non-urban aid municipalities based on three allocation factors:

- Equalized Non-residential Valuation
- Income Capacity
- Land Capacity

Equalized non-residential valuation is determined by the change in value for commercial and industrial parcels between 1999 and 2023. The Township value change is divided by the change in value of Region 2, which produces a percentage. This percentage is the Equalized Non-residential Valuation factor.

Income capacity measures the extent to which the Township's income level differs from that of the lowest-income municipality in its Region. For Region 2, Newark has the lowest median income. The analysis reviews the income difference and does account for number of households in each community. Once again, each community is compared to the Region's aggregate median income difference. Essentially, the higher median income a community has, the higher percentage it is allocated.

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January 29, 2025
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Land capacity estimates the total acreage that is developable based on 2020 aerial imagery. The Township's developable acreage is divided by the Region's total acreage, which produces a percentage. This percentage is the Land Capacity factor.

The three factors are then averaged for each community. That average is then multiplied by the obligation for the municipality's Region.

The information below summarizes the three allocation factors and the average allocation assigned to Mine Hill.

- Non-residential ~ 0.18%
- Land Capacity ~ 0.28%
- Income ~ 0.50%
- Average allocation is 0.32%; therefore the Fourth Round Obligation is 65 (0.32% x 20,506)

DCA provided a detailed excel workbook with their data inputs and calculations. Below is a summary of the data we reviewed and our findings.

Equalized Non-residential Valuation

- 2023 commercial and industrial values are correct (total = \$49,908,500)
- 2023 State Equalization Table Average Ratio – 72.86% from state table on website is correct
- 1999 commercial and industrial values are correct (total = \$20,673,300)
- 1999 State Equalization Table Average Ratio – 94.12% is correct
- The calculations for Mine Hill are correct

Income Capacity

- 2022 number of households is correct (1,396) [2023 number of households is 1,389]
- 2022 median income is correct (\$110,208) [2023 median income is \$113,861]
- Region 2 minimum median income was Newark with \$46,460, correct [2023 Median income for Newark is \$53,818]
- Difference from median household floor with household weight is correct
- Household weighted income difference percentage is correct
- Difference from median household income floor is correct
- Income difference percentage of region is correct
- Income capacity allocation calculations for Mine Hill are correct
- *DCA used 2022 5-year data, which is the latest available. 2023 5-year data was released recently and is included above in brackets for reference.*

Land Capacity

- Table states 14.979 acres – we do not agree with this
 - The DCA GIS data identifies 6 areas within the Township of Mine Hill as developable. These areas total 14.979 acres according to the GIS data. Each area has been assigned a

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January 29, 2025
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unique "ObjectID" or identification number. The table attached as **Exhibit A** lists each area's identification number (see column "DCA ObjectID"), and the associated vacant acres identified by DCA.¹ Our office then added a column to identify the block(s) and lot(s) each area encompasses. We then reviewed each area to confirm if it was developable as it stands at the time of this review. Our findings for each of the 6 areas is provided under "Comments". Finally, the table contains a column labeled "Adjusted Developable Acres" based upon the results of our area-by-area analysis.

This detailed evaluation reveals that 2 of the 6 identified areas are developable. Therefore, Mine Hill's developable acreage is 0.539 acres, not 14.979 acres. When this corrected acreage data is entered into DCA's excel spreadsheet² the Township's Land Capacity Factor decreased from 0.28% to 0.01%. The Township's Average Allocation Factor decreased from 0.32% to 0.23% and, accordingly, Mine Hill's Fourth Round Obligation is reduced from 65 to 47 units.

Based upon our review of the data for Mine Hill Township, the GIS analysis prepared by DCA has the following shortcomings:

- It does not capture conservation easements or deed restrictions.
- It fails to account for a lack of street frontage.
- It is blind to block and lot lines and identifies portions of existing developed sites as developable. Many of these instances occur in rear and side yard setback areas.
- It fails to account for area shape and size. For example, areas as narrow as 9 feet are identified as developable.
- It does not take into account utility easements.

Our analysis has identified discrepancies with the data for the allocation factors, specifically the land capacity factor. Once analyzed and updated to reflect the status of developable land, the land capacity factor was reduced which led to a reduction to the overall average allocation factor. Therefore, there was a decrease in the calculated obligations for the Township. As a result, we have reason to object to the Fourth Round obligation DCA has calculated for Mine Hill and request that the obligation be reduced to 47 units.

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¹ Note that the DCA GIS attribute table labels this column as "vacant acres" not developable acres.

² https://www.nj.gov/dca/dlps/4th_Round_Numbers.shtml

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January 29, 2025
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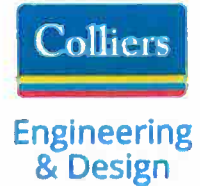


Exhibit A: DCA Land Capacity Factor Analysis

DCA ObjectID	Weighted Acres	Vacant Acres	Block(s) / Lot(s)	Comments	Adjusted Developable Acres
32584	10.045669	10.045669	B1502/L1	This parcel is approved for an inclusionary housing project.	0
32585	3.79922	3.79922	B1502/L1 & B1102/L1	This parcel is approved for an inclusionary housing project.	0
32586	0.378405	0.378405	B1304/L17	Selection is the buffer between Fireman's Park and the rear yards of the adjacent residential homes. Identified as undevelopable	0
32587	0.211215	0.211215	B1303/L15	Selection area in developable	0.211215
32588	0.2172	0.2172	B1303/L15	Selection area is irregularly shaped and with 150ft wetlands buffer. Identified as undevelopable	0
32589	0.327788	0.327788	B1302/5	Area is developable	0.327788
		14.979497			0.539003

Civil Case Information Statement

Case Details: MORRIS | Civil Part Docket# L-000313-25

Case Caption: IN THE MATTER OF MINE HILL TWP
Case Initiation Date: 02/03/2025
Attorney Name: JAMES T BRYCE
Firm Name: MURPHY MC KEON PC
Address: 901 ROUTE 23 SOUTH 2ND FL
POMPTON PLAINS NJ 07444
Phone: 9738350100
Name of Party: PLAINTIFF : TOWNSHIP OF MINE HILL
Name of Defendant's Primary Insurance Company
(if known): None

Case Type: AFFORDABLE HOUSING
Document Type: Complaint
Jury Demand: NONE
Is this a professional malpractice case? NO
Related cases pending: NO
If yes, list docket numbers:
Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO
Does this case involve claims related to COVID-19? NO

Are sexual abuse claims alleged by: TOWNSHIP OF MINE HILL?
NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO Title 59? NO Consumer Fraud? NO
Medical Debt Claim? NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

02/03/2025
Dated

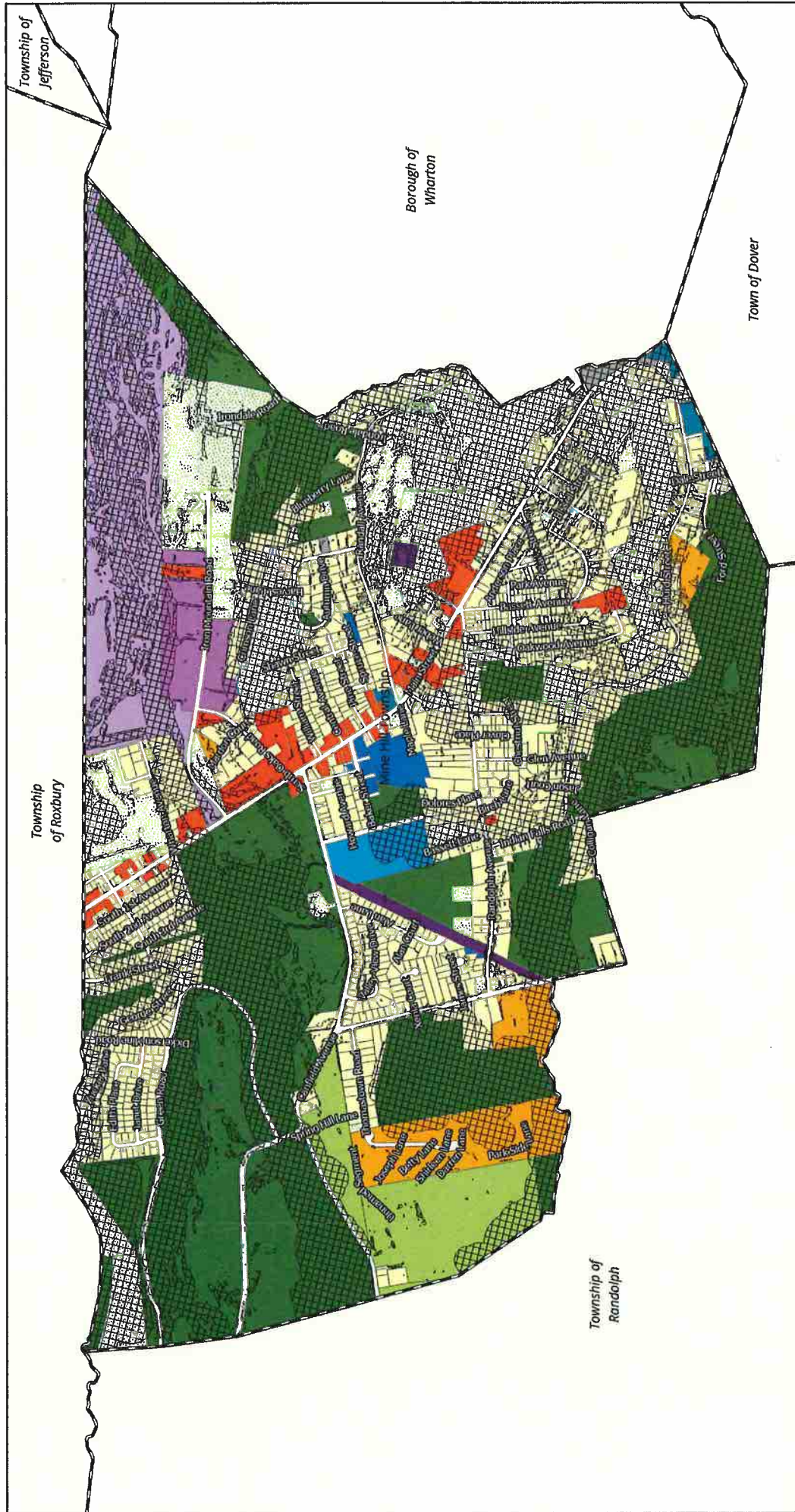
/s/ JAMES T BRYCE
Signed

Mine Hill Township - Vacant Land Inventory

June 2025

Block	Lot	Address	Property Class	Zoning	Planning Area	Sewer Service	Total Acres	Environmental Acres	Developable Acres	Constraints Description	Comments	RDP Units	Potential Units	RDP Units
1102	1	Canfield Ave	3B	O/I	PA2	Yes	19.58	5.06	14.52	Wetlands, C1, Steep Slopes	Third Round RDP Site	Yes	97	19.4
1310	9	1 Bassett Ln	1	SF	PA1	Yes	2.58	2.54	0.04	Wetlands	Third Round RDP Site	Yes	5	1.0
1502	1	Canfield Ave	3B	O/I	PA2	Yes	55.25	10.39	44.85	Wetlands, C1	Third Round RDP Site	Yes	295	59.0
2004	1	106 Hurd St	4C	MFC-1	PA1	Yes	5.58	1.67	3.91	Steep Slopes	Third Round RDP Site	Yes	59	12.0
1303	1-12, 29	168 US Route 46	1/2/4A	RZA-1	PA2	Yes	7.15			Wetlands	Redevelopment Site	Yes	296	60.0
101	97		1	SF	PA2	No	0.58	0.58	0.00	C1, SFHA	Environmentally Constrained	No		
101	98		1	SF	PA2	No	0.10	0.10	0.00		Environmentally Constrained	No		
201	22.01	125 Iron Mountain Rd	1	ED	PA2	No	3.60	0.52	3.08		Potential Infill Development	No		
201	25.01	117 Iron Mountain Rd	1	ED	PA2	No	2.48	0.02	2.46	Steep Slopes	Infill	No		
201	27.01	109 Iron Mountain Rd	1	ED	PA2	No	2.52	0.33	2.20	Steep Slopes	Undersized	No		
203	10.01	118 Iron Mountain Rd	1	ED	PA2	No	2.95	0.74	2.21	Steep Slopes	Undersized	No		
303	2	N First Ave	15C	SF	PA1	No	0.13	0.00	0.13		Undersized	No		
402	18	38 No. First Ave	1	SF	PA1	No	0.05	0.02	0.03		Part of Roxbury Township Property	No		
403	1	S First Ave	1	SF	PA1	No	0.07	0.00	0.07		Undersized/Inaccessible	No		
403	3	S First Ave	15C	SF	PA1	No	0.09	0.00	0.09		Undersized/Inaccessible	No		
403	19	Main St	1	C	PA1	No	0.07	0.00	0.07		Environmentally Constrained	No		
403	21	Main St	1	C	PA1	No	0.12	0.00	0.12		Undersized	No		
404	2		1	C	PA1	No	0.07	0.00	0.07		Undersized/Inaccessible	No		
404	3		1	C	PA1	No	0.08	0.00	0.08		Undersized/Inaccessible	No		
404	10		1	C	PA1	No	0.00	0.00	0.00		Undersized/Inaccessible	No		
405	17		15C	SF	PA1	No	0.08	0.00	0.08		Undersized/Inaccessible	No		
406	22		1	SF	PA1	No	0.02	0.00	0.02		Undersized/Inaccessible	No		
408	4	S Second Ave	1	SF	PA1	No	0.10	0.10	0.00	Wetlands	Undersized	No		
411	1.02	Canfield Ave	1	TH-1	PA2	No	1.64	0.61	1.04		Undersized	No		
412	4	Frank St	1	SF	PA2	No	1.53	1.53	0.00	Wetlands, C1, SFHA	Environmentally Constrained	No		
413	10	Main St	1	C	PA1	No	0.12	0.00	0.12		Undersized	No		
505	7.02		1	SF	PA1	No	0.52	0.40	0.12		Environmentally Constrained	No		
506	7	7 Zucker Ln	15C	SF	PA1	No	0.20	0.20	0.00	C1, SFHA	Environmentally Constrained	No		
601	2		1	SF	PA2	No	0.14	0.06	0.08	C1, SFHA, Steep Slopes	Environmentally Constrained	No		
602	1		1	SF	PA2	No	7.20	7.19	0.00		Environmentally Constrained	No		
703	4	78 Randall	1	SF	PA2	No	0.69	0.00	0.69	Steep Slopes	Environmentally Constrained	No		
703	11	Randall Ave	1	SF	PA2	No	0.49	0.49	0.00	Wetlands, C1	Undersized	No		
801	12		15C	SF	PA2	No	1.71	1.71	0.00		Environmentally Constrained	No		
812	10	2 Shawn St	15C	SF	PA2	No	0.28	0.28	0.00	Wetlands, C1	Undersized	No		
813	25		15C	SF	PA2	No	16.06	16.06	0.00		Environmentally Constrained	No		
901	13		1	SF	PA2	No	3.18	0.99	2.19		Undersized	No		
903	10	Gillen St	15C	SF	PA1	No	0.12	0.00	0.12		Undersized	No		
903	13	Gillen St	1	SF	PA1	No	0.09	0.00	0.09		Undersized/Inaccessible	No		
904	3	Gillen St	1	SF	PA1	No	0.43	0.00	0.43		Undersized	No		
904	9	19 Baker St	1	SF	PA1	No	0.12	0.00	0.12		Undersized	No		
1201	1	Randall Ave	1	RAH	PA2	No	23.29	10.17	13.12	C1, Steep Slopes	Potential Infill Development	No		
1201	5	Randall Ave	1	RAH	PA2	No	0.47	0.19	0.27	Steep Slopes	Undersized	No		
1201	6	Randall Ave	1	RAH	PA1	No	0.21	0.13	0.08		Undersized	No		
1201	7	Randall Ave	1	RAH	PA2	No	11.04	9.23	1.82	Wetlands, C1, SFHA, Steep Slopes	Undersized/Inaccessible	No		
1201	11	Off Randall Ave	1	RAH	PA2	No	9.87	9.28	0.59	Wetlands, Steep Slopes	Environmentally Constrained	No		
1201	12	Randall Ave	1	RAH	PA2	No	44.02	39.29	4.72	Wetlands, C1, SFHA, Steep Slopes	Environmentally Constrained	No		
1201	14	Randall Ave	1	RAH	PA2	No	0.11	0.05	0.06	C1, Steep Slopes	Environmentally Constrained	No		
1202	3	Randall Ave	1	SF	PA2	No	0.48	0.48	0.00	Wetlands, C1	Undersized	No		
1202	5	Randall Ave	1	SF	PA2	No	0.12	0.12	0.00	C1, Steep Slopes	Environmentally Constrained	No		
1202	6		1	SF	PA2	No	0.14	0.14	0.00		Environmentally Constrained	No		
1205	3	Rt 46	1	C	PA1	No	0.15	0.05	0.11	Wetlands	Undersized	No		
1207	2	Fairview Ave	15C	SF	PA1	Yes	0.32	0.31	0.01	Steep Slopes	Environmentally Constrained	No		
1208	1	Fairview Ave	15C	SF	PA1	Yes	0.50	0.31	0.20	Steep Slopes	Environmentally Constrained	No		
1301	5.01	159 Rt 46	1	C	PA1	Yes	0.36	0.12	0.24		Potential Infill Development	No		

Block	Lot	Address	Property Class	Zoning	Planning Area	Sewer Service	Total Acres	Environmental Acres	Developable Acres	Constraints Description	Comments	RDP	Potential Units	RDP Units
1301	10	165 Rt 46	1	C	PA1	Yes	0.35	0.13	0.22	0.29 Steep Slopes	Potential Infill Development	No		
1302	5	Main St	1	C	PA1	Yes	0.45	0.17	0.29	Steep Slopes	Potential Infill Development	No		
1303	12	Reynolds St	1	SF	PA1	Yes	0.16	0.16	0.00		Infill	No		
1303	15	Reynolds St	15C	SF	PA1	Yes	1.06	0.92	0.14	Wetlands	Potential Infill Development	No		
1303	29.02		1	C	PA1	Yes	0.10	0.10	0.00	Wetlands	Environmentally Constrained	No		
1304	1	Route 46	1	C	PA1	Yes	0.49	0.01	0.48		Potential Infill Development	No		
1306	3	Randolph Ave	1	SF	PA1	Yes	0.27	0.27	0.00	Wetlands	Infill	No		
1306	5	Oakwood Ave	1	SF	PA1	Yes	0.28	0.28	0.00	Wetlands	Infill	No		
1306	12	Oakwood Ave	1	SF	PA1	Yes	0.11	0.11	0.00	Wetlands	Undersized	No		
1307	4	Oakwood Ave	1	SF	PA1	Yes	1.07	1.07	0.00	Wetlands	Environmentally Constrained	No		
1401	12	139 Randolph Ave	1	SF	PA1	Yes	1.01	0.00	1.01		Inaccessible	No		
1401	16	163 Randolph Ave	1	SF	PA1	Yes	1.09	0.00	1.09		Inaccessible	No		
1404	40	Randolph Ave	1	SF	PA1	No	0.28	0.00	0.28		Undersized	No		
1502	1.01		38	O/I	PA2	No	1.30	0.01	1.30		Potential Infill Development	No		
1509	9	Thomastown Rd	1	SF	PA2	No	0.38	0.00	0.38		Undersized	No		
1602	7	Overlook Ave	1	SF	PA1	No	0.11	0.00	0.11		Undersized	No		
1606	16	Sixth Ave	15C	SF	PA1	No	0.15	0.00	0.15		Undersized	No		
1606	17	Bissell St	1	SF	PA1	No	0.16	0.06	0.10	Steep Slopes	Undersized	No		
1606	19	Bissell St	15C	SF	PA1	No	0.17	0.08	0.10		Undersized	No		
1607	7	Rt 46	15C	SF	PA1	No	0.15	0.07	0.08	Steep Slopes	Undersized	No		
1608	1	Bissell St	15C	SF	PA1	No	0.05	0.01	0.04		Environmentally Constrained	No		
1608	2	Bissell St	15C	SF	PA1	No	0.06	0.02	0.04		Environmentally Constrained	No		
1608	15	Park Ave	15C	SF	PA1	No	0.37	0.10	0.27	Steep Slopes	Undersized	No		
1609	5	High St	1	SF	PA1	No	0.28	0.06	0.22	Steep Slopes	Undersized	No		
1610	10	Bissell St	15C	SF	PA1	No	0.16	0.09	0.07	Steep Slopes	Environmentally Constrained	No		
1612	1	Rt 46	1	SF	PA1	No	0.21	0.16	0.05		Environmentally Constrained	No		
1612	4	Second Ave	15C	SF	PA1	No	0.25	0.24	0.01	Steep Slopes	Environmentally Constrained	No		
1614	1	Second Ave	1	SF	PA1	No	0.27	0.27	0.00	Steep Slopes	Environmentally Constrained	No		
1616	3	First Ave	15C	SF	PA1	No	1.10	1.09	0.02	Steep Slopes	Environmentally Constrained	No		
1617	2	Rte 46	1	SF	PA1	Yes	3.13	3.13	0.00	C1, SFHA, Steep Slopes	Environmentally Constrained	No		
1617	5	Main St	1	SF	PA1	No	0.26	0.25	0.01	Steep Slopes	Environmentally Constrained	No		
1617	6	Rt 46	15C	SF	PA1	No	0.45	0.43	0.02	Steep Slopes	Environmentally Constrained	No		
1619	2	Fifth Ave	15C	SF	PA1	Yes	0.99	0.64	0.35	Steep Slopes	Inaccessible	No		
1620	4	Rt 46 Rear	1	SF	PA2	No	0.39	0.39	0.00	Wetlands, Steep Slopes	Undersized	No		
1621	5	Rt 46	15C	SF	PA1	No	0.27	0.25	0.03	C1, Steep Slopes	Environmentally Constrained	No		
1622	6		15C	RAH	PA1	No	0.23	0.23	0.00		Environmentally Constrained	No		
1625	0		1	SF	PA1	No	0.01	0.01	0.00		Environmentally Constrained	No		
1704	2	70 Clark St	1	SF	PA1	Yes	0.22	0.08	0.14		Potential Infill Development	No		
1705	7		1	SF	PA1	Yes	1.13	1.03	0.11		Environmentally Constrained	No		
1705	13	Chestnut St	1	SF	PA1	Yes	4.11	4.09	0.02	Wetlands, C1	Infill	No		
1705	19	Hurd St	1	SF	PA1	Yes	2.51	2.32	0.19	C1, Steep Slopes	Environmentally Constrained	No		
1707	24	114 Randolph Ave	1	SF	PA1	Yes	0.07	0.00	0.07		Undersized	No		
1803	10	49 Randolph Ave	15C	SF	PA1	Yes	0.23	0.00	0.23		Potential Infill Development	No		
1803	16		1	SF	PA1	Yes	0.27	0.16	0.11		Potential Infill Development	No		
1806	3		1	SF	PA1	Yes	0.18	0.04	0.14		Potential Infill Development	No		
2002	1	Hurd St	1	SF	PA1	Yes	30.08	26.41	3.67	C1, Steep Slopes	Environmentally Constrained	No		
2005	9	Hurd St	1	SF	PA1	Yes	0.26	0.03	0.23		Potential Infill Development	No		
2006	2	Ford St	1	SF	PA1	Yes	0.08	0.05	0.02		Inaccessible	No		
2006	3	Ford St	1	SF	PA1	Yes	0.28	0.19	0.08	Steep Slopes	Inaccessible	No		
2008	3	Hurd St	1	SF	PA1	Yes	0.10	0.10	0.00	C1	Environmentally Constrained	No		
2008	9	Hurd St	1	SF	PA1	Yes	0.31	0.31	0.00	Wetlands, C1, SFHA, Steep Slopes	Environmentally Constrained	No		
2008	10	Hurd St	1	SF	PA1	Yes	0.23	0.23	0.00	Wetlands, C1, SFHA, Steep Slopes	Environmentally Constrained	No		
2102	9	147 Hurd St	1	SF	PA1	Yes	1.63	1.63	0.00	C1, Steep Slopes	Environmentally Constrained	No		
Total														151.4



Colliers
Engineering & Design

North Arrow

Scale: 1 inch = 1,600 feet

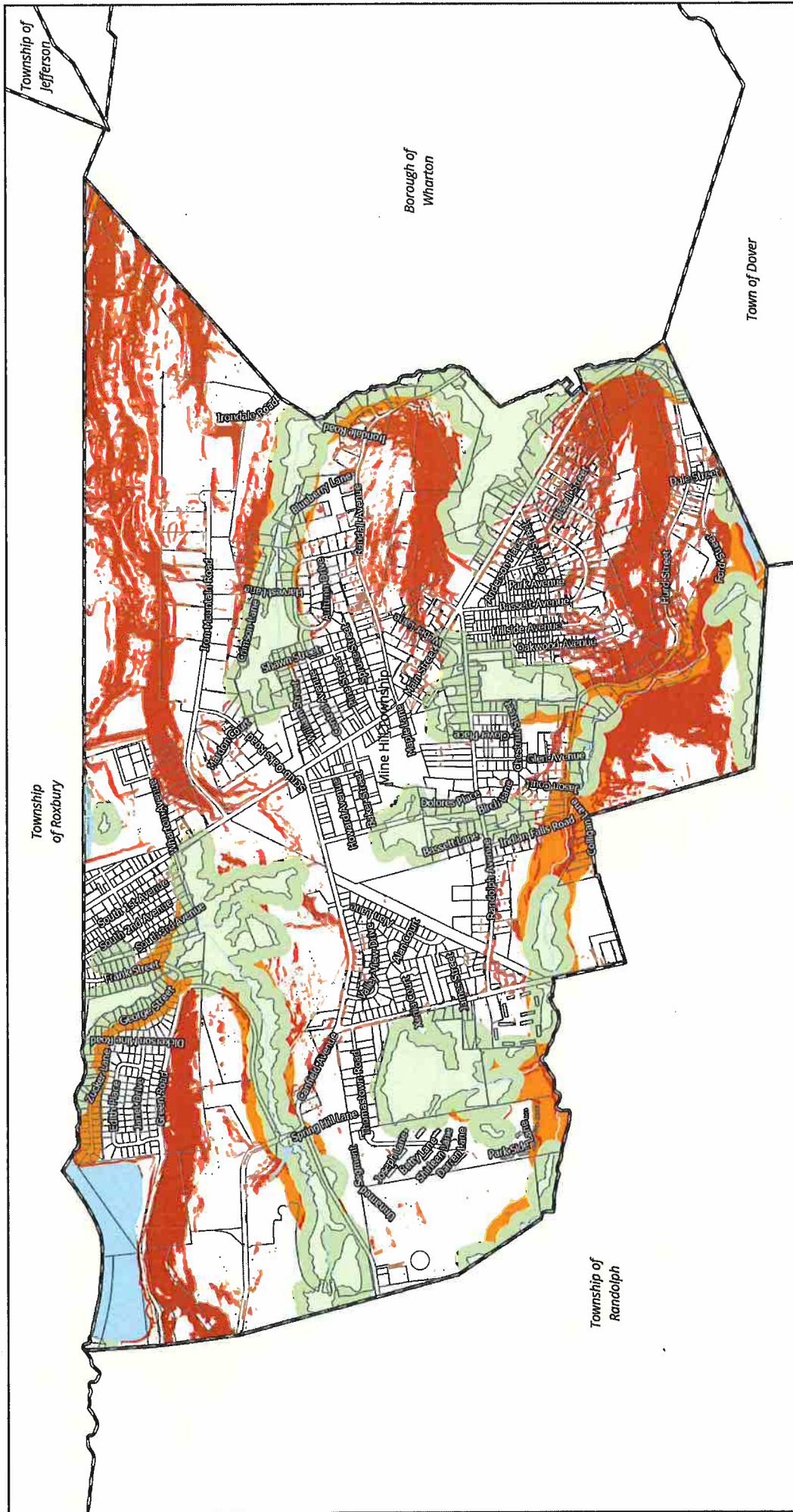
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Legend

 Municipal Boundary	 Public Facility
 Land Use	 Transportation
 Vacant	 Utility
 School	 Mining Operation
 Vacant Public Property	
 Church and Cemetery	

EXISTING 2025 LAND USE
MINE HILL
MORRIS COUNTY, NEW JERSEY

May 2025
Project No.
Mobiv Tax Data from 2023



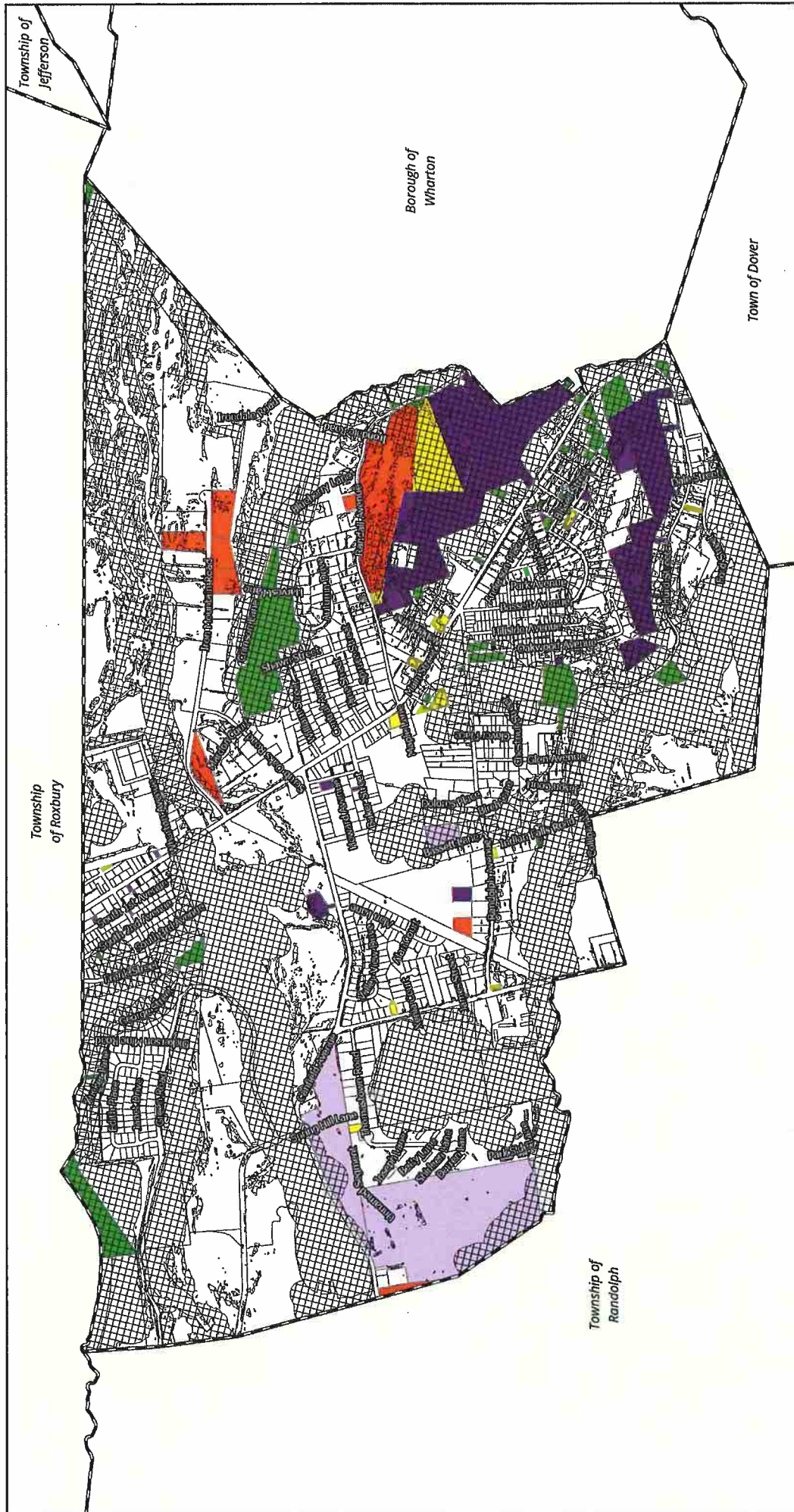
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Legend

 Waterbodies	 Wetlands 150ft Buffer
 C1 Streams	 Steep Slopes (15% or greater)
 Wetlands	 C1 Stream 300ft Buffer

ENVIRONMENTAL CONSTRAINTS
MINE HILL TOWNSHIP
 MORRIS COUNTY, NEW JERSEY

May 2025
 Project No. MHT0155



VACANT LANDS
MINE HILL
MORRIS COUNTY, NEW JERSEY

May 2025
 Project No. MHT0155

Legend

	Municipal Boundary		Potential Development
	Environmental Constraints		Potential Infill Development
	Vacant Land Adjustment		Third Round RDP
	Environmentally Constrained		Undersized/Inaccessible

1600
 0
 1 inch = 1,600 feet

Colliers
 Engineering
 & Design

In the matter of RSD Mine Hill Urban Renewal, LLC
Application No. 004-24

RESOLUTION 006-2025
MINE HILL TOWNSHIP PLANNING BOARD RESOLUTION APPROVING
SITE PLAN AND VARIANCES FOR RSD MINE HILL URBAN RENEWAL,
LLC, LOTS 2-12, BLOCK 1303 AND LOT 1, BLOCK 1304

Application Approved: February 3, 2025
Memorialized: March 3, 2025

WHEREAS, RSD Mine Hill Urban Renewal, LLC (“RSD” or “Applicant”) has made application to the Mine Hill Township Planning Board (the “Board”) for final and preliminary major site plan approval with reference to Lots 2-12, Block 1303 and Lot 1, Block 1304; and

WHEREAS, all lots previously were determined to be located in an area in need of redevelopment by the Township governing body; and

WHEREAS, the Applicant approached the Township to present a redevelopment plan for the area; and

WHEREAS, between the negotiations with the Applicant and the Township, a redevelopment plan was adopted by Ordinance on July 11, 2024, known as “168 US Route 46 Redevelopment Plan Amended”; and

WHEREAS, the amended adopted redevelopment plan proposes one mixed use multi-storied building for the development of 296 residential units and 6,500 square feet of retail space; and

WHEREAS, the Applicant, in accordance with the redevelopment plan, was proposing 59 units to be allocated for affordable housing, which was ultimately determined to be 60 units; and

WHEREAS, the Applicant was proposing a total of 471 parking spaces for the project, 411 to be constructed onsite with the main building, the majority of which were located within a parking garage located beneath the residential units, and 60 spaces on the lot known as Lot 1, Block 1304, which shall all be electric vehicle (“EV”) parking; and

WHEREAS, the redevelopment plan permits construction of the development within two phases, to wit, Phase I consisting of 188 residential units with 38 affordable units, and 2,100 square feet of commercial retail spaces; and Phase II consisting of 108 residential units with 22 being affordable units, and 4,400 square feet of commercial retail space; and

WHEREAS, Applicant contends that it meets all the requirements of the Amended Redevelopment Plan, as well as the applicable ordinances of the Township of Mine Hill, except with the following variances requested:

- A. Ordinance §310-231I permits only 1 sign of a permitted type per structure, and Applicant is seeking 6 building mounting signs, 6 awning signs, and 3 blade signs (which was later reduced to 2 blade signs), pursuant to the Redevelopment Plan;
- B. All driveways shall be 6 feet wider than the minimum required widths at the right-of-way line, pursuant to Ordinance No. 310-188K, which was deemed to be inapplicable to the standards of the Redevelopment Ordinance;
- C. To permit internally lighted signs in violation of Ordinance Section 301-236; and

- D. Maximum height of façade sign to be 5 feet as permitted by Ordinance No. 310-233D, wherein Applicant is proposing 6 feet in height; and

WHEREAS, the proposed plan was reviewed by the Township governing body and determined to be consistent with the Redevelopment Ordinance; and

WHEREAS, public hearings were held on the application on November 18, 2024, December 2, 2024, and February 3, 2025; and

WHEREAS, the Applicant was represented by the firm of Prime Tuvel and Miceli, and more specifically Jason Tuvel, Esq., and Danielle N. Kinback, Esq.; and

WHEREAS, technical review reports and planning reports were received from Colliers Engineering & Design, under dates of November 14, 2024, January 14, 2025, and February 3, 2025; and

WHEREAS, the Board did receive a report from Sean Donlon, of the Construction Department, dealing with the parking requirements; and

WHEREAS, Mr. Frank of the Planning Board has recused himself, as he had a conflict; and

WHEREAS, at the public hearing held on November 18, 2024, the Applicant was represented by Jason Tuvel, Esq., and Mr. Tuvel called as his first witness Mr. Jeffrey Martell, P.E., with Stonefield Engineering Design, the engineers for the project, who was qualified as an expert in the field of civil and traffic engineering and site plan design; and

WHEREAS, at said hearing, the following exhibits were submitted, as well as statements and testimony:

- A1 Aerial exhibit of all sites, dated 11/15/2024, consisting of 3 pages of the properties involved in Block 1303 and the property involved in Block 1304.
- A2 Site plan rendering/colorized, dated 11/18/24, consisting of 3 pages.
- A. Mr. Tuvel provided an overview of the project that the developer had worked for a number of years with the Township in order to develop an acceptable redevelopment plan for the property; that the developer had assembled the properties called for by the redevelopment law Lots 2-12, Block 1303 and Lot 1, Block 1304. The Applicant is not the owner of Lot 1, Block 1303 and no development is proposed for that property. Mr. Tuvel indicated that the property is somewhat problematic in that there are Wetlands present and topographical issues involving steep slopes. The main property having frontage on Randolph Avenue, Reynolds Street, and US Highway Route 46, and Lot 1, Block 1304 having frontage on Route 46 and Maple Lane. The Applicant is proposing 20% of the 296 units, being 60 actual units, to be affordable housing, with a mix of low-income units, very low-income units, and moderate-income units, providing 6,500 square feet of retail commercial space on the ground floor, being 2,100 square feet proposed in Phase I, and 4,400 square feet in Phase II. He explained that the application complies with the height set-back coverage and parking requirements as set forth and negotiated in the Redevelopment Plan. The only deviation and variances that they seek are with reference to signage. The application would need DOT approval for access onto the State highway and potentially for other issues dealing with the project, as well as the Department of Environmental Protection because of the Wetlands and the necessity to obtain an individual permit for passive recreational facilities and minimal construction within a portion of the transition area of the Wetlands.
- B. Mr. Martel provided the following testimony:

That the preliminary and final site plan, dated October 2, 2024, numbering 26 sheets, consisted of the following: a demolition plan and tree removal plan; tree inventory; site plan (first floor); offsite parking lot plans; zoning tables; grading plan; drainage plan; utility plan; lighting plan; soil erosion and sediment control plan; landscaping plans with details; construction details; 200 foot property owners' list; sanitary profiles and storm profiles; that the Applicant had submitted the following: full title study of the properties; survey; engineering site plans; architectural plans; stormwater management report; stormwater operation and maintenance manual; environmental impact statement; traffic impact study and utility "will serve" letters; letter referencing Exhibit A2. Mr. Martel stated that the rectangular structures are the building areas and that u-shaped areas in between are open courtyards. There are 4 stories of residential units and there is structured parking, a portion of which is below the building on 2 levels.

- C. There is an option in the Redevelopment Plan for construction of the project in phases. It has not been determined yet as to whether or not the developer will develop the project in two phases or all in one phase. If the project is to be developed in two phase, Phase I is approximately two-thirds of the building. The Applicant would build all site improvements, whether they are located in the area of Phase I or Phase II, 188 residential units, incorporating 38 of the affordable housing units, 2,100 square feet of retail commercial space, 242 parking spaces, which will be incorporated into the garage, and 11 surface parking spaces providing EV charging capabilities. The separate parking lot located on Lot 1, Block 1304 will have 60 surface parking spaces all with EV charging capabilities.
- D. Phase II would consist of 108 residential units, 22 of which shall be affordable units; with the parking requirements showing a total of 471 spaces with 400 in the garage, 11 behind the building, and 60 in the offsite parking lot.
- E. There would be a 300-foot pedestrian plaza along the Route 46 frontage and would consist of benches, landscaping, planters and brick paver walkways.
- F. There would be a circular drive and turn-around area underneath the building for dropping off and picking up people, as well as parking for temporary deliveries.
- G. Existing trees and Wetlands will remain in the rear of the building; there will be an entrance only to the site from Randolph Avenue, and exit only onto Reynolds Street; the property will have one additional driveway on Route 46. An additional driveway along the easterly side of the project will be for fire access only and will be gated. The building was designed so that firetrucks can reach the top of all buildings.
- H. Trash will be taken by internal trash collection by a private hauler. There will be a trash chute from all upper floors.
- I. Loading area for moving in and deliveries will be in the rear of the building.
- J. A swimming pool will be constructed in the rear of the building as shown; two community rooms within the building to be constructed, and six courtyard areas.
- K. It is intended that the retail space will be designed for convenience for the residents, such as a bakery, coffee shop, drycleaners, etc., but there is no known tenant for the retail space at the time of hearings.
- L. The stormwater management plan has been designed so that runoff will be in all directions and there will be permeable pavement areas. There are two large infiltration-type basins underground beneath the plaza and there will be a net surplus of water that goes back into the ground and a net decrease of water on the surface level.

- M. The Applicant has conducted a traffic study and analyzed the intersection of all driveways with Route 46, Randolph Avenue and Reynolds Street during the peak hours in the morning and evening. There is no change in the level of service as a result of traffic entering or leaving the development.
- N. Lighting is fully compliant with the Township's standards and the Redevelopment Plan.
- O. Landscaping. The Applicant is proposing installation of approximately 120 trees and 300 shrubs.
- P. Pending DEP approval, one of the recreation facilities will be a natural walkway around the perimeter of the site made of woodchips, for which a Wetlands permit will be needed.
- Q. As a result of questions from Board Members and Township professionals, the Applicant will construct a sign "No EV parking allowed in the garage." Applicant will look at designating parking spaces for visitors and for the retail use.
- R. All site plan improvements, including the fire access road, will be constructed during Phase I. The Applicant is proposing a fully ADA compliant route consisting of the sidewalk which will be maintained by the Applicant for access to the remote parking lot.
- S. With reference to removal of utility poles along Route 46, the Applicant will, to the greatest extent possible and where feasible, utilities will be moved underground and poles removed from the southerly side of Route 46 as may be permitted by the DOT and the utilities.
- T. Applicant will reconstruct Maple Lane.
- U. Applicant has made application for a Letter of Interpretation with the DEP, which has not yet been issued, and will be required to make an individual permit for the use of a portion of the development in the transition areas.
- V. The offsite parking lot will be permeable pavement, which will allow for storm drainage; and

WHEREAS, the hearing was open to the public for questioning; and

WHEREAS, the hearing was continued to December 2, 2024; and

WHEREAS, at the December 2, 2024, hearing date, Applicant was represented by Danielle N. Kinback, Esq., who called as her only witness Mr. Yogish Mistry, the Applicant's architect, of Mistry Design, who was qualified to testify as an expert in the field of architecture; and

WHEREAS, at said hearing, the following exhibits were submitted:

- A3 3D colored rendering of the west end of the building going east downhill along Route 46, consisting of 8 pages.

Mr. Mistry testified as follows:

- A. The proposed structure contains 4 stories of apartments over 2 stories of parking; one story of parking above grade and one story of parking below grade.
- B. Two retail spaces on the ground floor. 2,100 square feet for proposed Phase I, and 4,400 square feet for proposed Phase II.

- C. The 296 apartments will contain the following 20 studios; 162 1-bedroom units; 102 2-bedroom units; and 12 3-bedroom units. The COAH units will consist of 12 1-bedroom units; 36 2-bedroom units; and 12 3-bedroom units.
- D. Parking spaces - 400 within the building, 71 total exterior, 11 spaces in the rear of the building, and 60 spaces in the adjacent lot.
- E. The amenities will include an exterior swimming pool in the rear of the building, 2 community rooms on the ground floor, 4 interior amenity rooms (1 proposed to be a fitness center), and various courtyard spaces facing the rear of the building.
- F. The building will meet all current building and fire codes and will be fully sprinklered. There will be 2 entrances to the building from Route 46 which access the parking areas; one in Phase I and one in Phase II, which will be for fire access only. There is also an entrance from the rear of the building off of Randolph Avenue as part of Phase I, with an exit onto Reynolds Street.
- G. Page 1 of A3 shows a proposed level garage plan, Phase II, proposed lower-level garage plan, and Phase I, proposed mid-level garage plan.
- H. Page 3 shows proposed residential floor plan for the first through the fourth floors, and proposed residential floor plan for the second through the fourth floors in Phase II.
- I. Trash chute extends from upper floors down to the parking garage, where there is a trash room. Recycling collected, but residents have to carry that down. The trash goes into bins and is compacted and wheeled out for pickup in the rear of the building.
- J. General loading in the rear of the building is for loading and unloading people moving in and out of the building and deliveries by larger trucks which cannot access the circular driveway. There is also a management office provided.
- K. Questions ensued with reference to the circular drop-off area having a minimum of 12 feet in height and Mr. Mistry said he would look into that clearance.
- L. Page 8 of A3 is a 3D color rendering of the west end of the building going east downhill from Route 46.
- M. Various finishes are consistent with the Redevelopment Plan, being of Hardie siding, brick, shingle roofs, various gables, some units with balconies, and façade relief every 100 feet.
- N. Each unit will have an individual HVAC unit, hot water heater, power meter, and washer/dryer.
- O. 575 square feet of signage is allowed and the Applicant is proposing 562 square feet and requires a variance for the number of signs and interior illumination of the signs.
- P. There was discussion concerning the colors of the exterior of the building, and the Architect indicated that they would look at softer colors for the exterior of the building that would blend in with the area.
- Q. The garage will be ventilated.
- R. Applicant will consider windows that block out sound that may be generated from Route 46 and the surrounding areas.
- S. Applicant will provide restrictions on what can be placed on the exterior balconies.

- T. Issues arose concerning the status of the RVRSA approval for sewage gallonage. Mr. Craig Ryno, a representative of the Applicant, was sworn in and provided the Board with an update that they are continuing to negotiate with the RVRSA and they understand that any approval will be conditioned on obtaining all permits from the RVRSA, Randolph Township if necessary, with reference to the Jackson Brook Interceptor Line, and the State DEP.
- U. Upon questioning by the Board's professionals, Mr. Mistry testified that the 20% of affordable housing units will be met with each phase, and that they would submit a drawing showing the façade of the building on the east end of the building before Phase II begins for the Board to review.
- V. The meeting was opened to the public, the owner of Lot 23, Block 1303, addressed the Board indicating that their house is directly across from the exit from the proposed development onto Reynolds Street. They were concerned about lights from cars. The Applicant indicated that they would look at the situation and make proposals with reference to diminishing any exposure to the property owners. A second resident requested information concerning how the project would appear from the residents along Randolph Avenue. They were advised that the Applicant will not be removing any trees along Randolph Avenue and will be adding approximately 100 trees to the site to shield the residents as much as possible; and

WHEREAS, the public hearing was carried until January 22, 2025, and the Applicant granted an extension through February 3, 2025, the date of the February meeting of the Board, in the event that the hearing did not take place on January 22, 2025; and

WHEREAS, the Applicant was not able to present its case on the January 22, 2025 date, which meeting was adjourned; and

WHEREAS, the matter was carried to the next regular meeting of the Planning Board held on February 3, 2025; and

WHEREAS, the Applicant, because of the failure to have the meeting on January 22, was required to re-notice and did in fact re-notice in accordance with MLUL requirements; and

WHEREAS, the Applicant at this hearing was represented by Danielle N. Kinback, Esq.; and

WHEREAS, the Board since the last hearing had received two additional technical review reports from the Township Engineer, dated January 14, 2025 and February 3, 2025; and

WHEREAS, Mr. Giurintano reviewed the technical report No. 3, dated February 3, 2025, indicating the following:

1. The phasing plan now showed that all of the underground parking garage would be constructed during Phase I.
2. Benches have now been shown within 50 feet of one another along the Route 46 frontage, as well as trash receptacles within 50 feet of each other.
3. Control gates were added to the remote parking lot so that it could only be accessed by residents.
4. There are changes with reference to the circular drive at the entrance of the development.
5. Changes as to how much parking would be allocated for retail, as well as visitor spaces; and

WHEREAS, the latest date of the resubmission of the site plan is January 23, 2025; and

WHEREAS, at this public hearing an additional 4 exhibits were marked, to wit:

- A4 Site plan rendering dated February 3, 2025, consisting of 3 sheets.
- A5 Phasing plan section rendering exhibit dated January 31, 2025, consisting of 2 sheets.
- A6 Parking management plan dated February 3, 2025.
- A7 3D revised rendering of views from Route 46 and the rear of the building; and

WHEREAS, Ms. Kinback recalled Mr. Martel as the Project Engineer, who had previously been sworn in and qualified; and

WHEREAS, Mr. Martel testified as to the changes in the plans as follows:

- A. Changes in the phasing plan showing that the entire parking garage for both Phases I and II will be constructed within Phase I.
- B. The only thing to be constructed in Phase II will be the vertical component of the building.
- C. Referring to Exhibit A5, the phasing plan shall also include the additional entrance from Route 46 for fire access only.
- D. In order to mitigate any views of the top of the concrete slab upon which the Phase II building will be constructed, they are showing 4-foot-high planter boxes with 4- to 6-foot-high shrubs along the entire frontage of Phase II. Around the balance of the concrete slab will be a protective railing. Residents will not be allowed to go out onto this deck area.
- E. All underground work, including installation of all utilities, would be done in Phase I.
- F. With reference to the remote parking lot, Applicant proposes all new sidewalks between the main building and the parking lot.
- G. Applicant will be responsible for maintenance, including snow removal of the sidewalks and parking lots.
- H. There will be improvements to Maple Lane.
- I. They have added decorative style lighting along the Route 46 frontage, as well as street trees.
- J. They will install ADA ramps on both sides of Route 46 for access to the remote parking lot and a new crosswalk.
- K. The EV parking will be done on a phase-in plan permitted by the State Act.
- L. Applicant submitted firetruck exhibits going in and out of the fire access lanes, as well as making the exit movement onto Reynolds Street, claiming that they are adequate widths and turning radii for firetrucks.
- M. The height of the opening under the circular drive area will be 12 feet to provide access by an ambulance.
- N. Two elevators will be sized to accommodate a stretcher.
- O. Applicant has submitted an updated EIS addressing various comments of the Township Engineer.

- P. Applicant will comply with all local noise ordinances in terms of the building and any sound emitting elements.
- Q. All proposed utilities will be underground and the Applicant will make its best effort to remove any other utility poles that exist along Route 46.
- R. Applicant is willing to install plantings across Lot 23, Block 1303, on Reynolds Street, provided that the property owner permits the same. This will reduce the disturbance from headlights entering onto Reynolds Street.
- S. Applicant will take direction from the Township Engineer with reference to the accessway from Randolph Avenue to Reynolds Street if the same becomes a cut-off for general traffic. Applicant is willing to install speed bumps and will post a sign on Randolph Avenue "No Thru Traffic."
- T. Applicant is proposing parking changes with reference to the circular drive area in the front of the building. Previously there was a gate to be installed wherein only the residents would be allowed to enter the underground parking facility. That gate has been removed and new parking facilities have been added for visitors and users of the retail space. Access to the balance of the underground parking will be done by some electronic means to allow entry only by residents.
- U. A review of the parking area is shown by color-coded areas on Exhibit A6. The green area, consisting of 10 spaces, would be for temporary deliveries such as food deliveries, Door Dash, Uber, or if somebody is coming to be picked up. The blue area, consisting of 13 spaces, would be identified for retail only customers. The orange area, consisting of 65 spaces, would be flex parking for additional retail customers, retail employees, guests of the residents or someone coming to take a tour to rent an apartment.
- V. Mr. Martel indicated that the Applicant has complied with all technical conditions of the most recent review letter of Mr. Giurintano dated February 3, 2025.
- W. A discussion took place among Board Members and Mr. Martel concerning drainage on the remote parking lot, which is done through permeable asphalt. The Mayor specifically indicated that there are properties down gradient from this lot which during heavy storms become flooded, and he wanted to make sure that this parking area would not add to that problem. After much discussion, the Applicant agreed to install what are known as wick drains, which would allow the water to drain from the permeable asphalt to approximately 2 feet of crushed stone and the water directed to sandy soil below a clay level. The Applicant also agreed that should there be additional water flow onto these downstream areas caused by the parking area, Applicant would be responsible for remediation to the extent necessary.
- X. Mr. Martel testified that dust will be controlled during demolition and construction, and that they will have a soil conservation district certification that they are required to have.
- Y. The lot consolidation of Lots 2-12, Block 1303, will be done by way of filing a Deed for consolidating the lots into one lot; and

WHEREAS, the meeting was opened to the public, and the first resident requested information concerning the privacy from the walking path that is to go through the Wetlands area. The Engineer advised that they will maintain a minimum offset from the property.

A second resident requested a plaque on the property dedicated to Hattie Rice, who was one of the first police officers in Mine Hill, and was a crossing guard for many years for the children using the previous school which

was on the site. Applicant agreed to work with the Township, and if the Township wanted to construct a plaque or something in memory that they would cooperate with the Township; and

WHEREAS, Mr. Mistry, the Architect, was recalled, who had previously been sworn in and qualified; and

WHEREAS, Mr. Mistry testified as follows:

- A. The ambulance clearance on the circular drive would be made and although Mr. Martel testified 18 feet, that the ceiling would be high enough to clear an ambulance and antenna, so he believes it would be something less than 18 feet. It was determined with the EMT Department that 12 feet of clearance was necessary.
- B. With reference to the signs, the blade sign along Reynolds Street has been eliminated. Once Phase II is completed, the blade sign in the center will be removed so that there will be 2 remaining signs flanking the ends of the building.
- C. The colors of the building have been changed to more earthtone colors.
- D. There was a slight change in the Reynolds Street façade, and there was façade relief installing an 18-inch recess in the middle of the section.
- E. With reference to trash recycling, they have added a trash chute which would be specifically for recycling. The trash chute will be in an enclosed room with doors inside the building. The trash will be removed so that it is collected from the rear of the building by a private hauler.
- F. They have added tenant storage areas at units.
- G. The meeting was opened to the public, and there were no questions from the public; and

WHEREAS, Applicant then produced Mr. Thomas Ricci, P.P., who was sworn in and qualified, as Professional Planner; and

WHEREAS, Mr. Ricci testified as follows:

- A. There are three variances involving signage. The first was as to the number of signs. The Zoning Ordinance only allows one sign of each permitted type and the Applicant is proposing six façade signs, six awning signs and two blade signs, as well as way-finding signs.
- B. The Zoning Ordinance guides the number of signs in the Redevelopment Zone and it was not anticipated in the underlying ordinance that the signage would apply to this type of a proposed use.
- C. Although the Applicant is proposing several signs, the Zoning Ordinance allows signs for up to 575 square feet in aggregate. The proposed signage is actually under 500 square feet. The maximum permitted height of a façade sign is 5 feet and Applicant is proposing 6 feet, and the signs are not to be internally illuminated; however, the Applicant is proposing internal illumination of the signs.
- D. Internal illumination is with reference to letters only.
- E. In Mr. Ricci's opinion, these variances can be granted under the C2 test provided in 40:55D-70(c). In his opinion, purposes of the Land Use Act are promoted, particularly purpose a, to promote the general welfare. He testified that in his opinion the affordable housing component is supporting the general welfare of residents and potentially future residents. He also indicates that the street scape improvements are promoting the general welfare.

- F. He stated that purpose i is to promote a desirable visual environment, and that in place of the vacant office buildings and vacant homes will be a brand-new building with brand new sidewalks, street scapes, *etc.*, which would promote a desirable visual environment. He further testified that there is no substantial detriment to the public good by granting these variances.
- G. He testified as to the deviation from the Redevelopment Plan which requires all parking spaces to be covered, except the proposed 11 outdoor spaces in the rear of the building which is now 13, are not covered because of a conflicting ordinance adopted by the Township after the Redevelopment Plan, which requires that all EV spaces be located on the exterior of the premises be uncovered; and

WHEREAS, the Board opened the meeting to the public for any questions of Mr. Ricci, and for any comments by the members of the public with reference to any issues dealing with the application, and there being no members of the public desiring to speak; and

WHEREAS, as a result of the application, the technical review reports, and planning reports filed by the Board Professionals, the plans and exhibits submitted by the Applicant, and the testimony of the Applicant's witnesses, the Planning Board does make the following findings of fact:

- 1. The proposed development is consistent with the Redevelopment Plan and Ordinance, and this particular property meets all the requirements of the Redevelopment Plan, excepting the covering of parking spaces as set forth above.
- 2. That the proposed development with reference to those Zoning Ordinances which may be applicable to the Redevelopment Zone meets all the zoning requirements, except with reference to the number of signs being proposed, the height of the façade sign, and the illumination of the signs, for which a variance has been applied for.
- 3. That the Applicant has complied with all the requests of the Board's technical advisors, and has agreed to the conditions to be set forth herein; and

WHEREAS, the Board finds that a variance for the number of signs, the height of the façade sign (6 feet proposed versus 5 feet permitted), and the illumination of signs can be granted under the C2 criteria in that the variance advances purposes a and i of the Land Use Planning Act, and the granting of the same would outweigh any detriment.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Mine Hill, that Application No. 004-24, RSD Mine Hill Urban Renewal, LLC, with reference to Block 1303, Lots 2-12, and Block 1304, Lot 1, does hereby grant the variances requested pursuant to this application to allow the number of signs as proposed, and the illumination of the signs, provided that only the letters are illuminated; and

BE IT FURTHER RESOLVED that preliminary and final site plan approval be granted to the Applicant in accordance with the latest plans submitted by the Applicant from Stonefield Engineering and Design, dated January 23, 2025, and the architectural plans prepared by Mistry Design, dated December 19, 2024, and as amended pursuant to the amendments to the engineering plan, dated February 3, 2025, and any future amendments of the plan as reviewed and approved by the Township Engineer, and in accordance with the representations of the Applicant made during the hearings in this matter, as well as the agreements of the Applicant; and

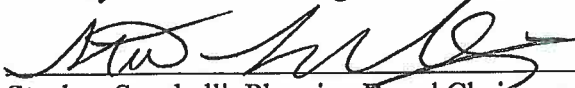
BE IT FURTHER RESOLVED that said approval is granted upon the following conditions:

- 1. Applicant will enter into a Redevelopment Agreement with the Township.

2. Applicant will comply with all professional review letters.
3. Applicant shall receive all approvals from the New Jersey Department of Environmental Protection necessary, including an individual permit with reference to the Wetlands encroachment as proposed.
4. Applicant shall receive approval from the Rockaway River Valley Sewage Authority for connection of the proposed development and, if necessary, approval from the Township of Randolph for the connection of the sewer.
5. Applicant shall endeavor to remove all utilities poles on the south side of Route 46 to the extent that it is permitted by the utility companies.
6. Applicant shall receive all approvals from the Department of Transportation for access onto Route 46.
7. Applicant shall request Title 39 enforcement from the Township of all properties subject to the application.
8. Applicant shall install 6-foot-tall arborvitae hedges on the front yard of Lot 23, Block 1303, in order to shield headlights from the parking garage exit, provided that it is permitted by the owner of said property.
9. Applicant will record a stormwater management operation and maintenance manual with the Morris County Clerk's Office, which shall be approved by the Township Engineer, and perform the required yearly reporting with the Township.
10. Applicant will install vertical wick drains on Block 1304, Lot 1, as reviewed and approved by the Township Engineer, in order to reduce water runoff.
11. If post construction of the parking lot on Block 1304, Lot 1, it is found that Applicant has exacerbated or worsened the existing offsite stormwater drainage conditions, Applicant will mitigate negative offsite impacts attributable to Block 1304, Lot 1, parking lot.
12. Applicant shall provide dust control during demolition and construction.
13. Applicant will record a Deed restriction and provide a restriction in the Leases that dens as shown on the architectural plans cannot be utilized as bedrooms.
14. If Applicant decides to construct the project in two phases as proposed, all site plan improvements will be completed, as well as the parking garage, during the construction of Phase I.
15. Applicant shall comply with all plantings as shown on the landscaping plans, as well as the planter box and shrubs to be planted on the site for Phase II if the development is phased.
16. Applicant shall apply for a tree removal permit.
17. No construction or site work shall be commenced until all conditions are met and approved by the Township Engineer.
18. Applicant, prior to the commencement of any site work, shall provide an Affidavit of Compliance with the Township Attorney and the Township Engineer, demonstrating that all conditions have been complied with.
19. Applicant shall apply for an approval from the NJDEP for a permit to construct a walking path on the property, and will construct same if approved by the NJDEP.

20. Applicant will reconstruct a sidewalk connection from the main property to Block 1304, Lot 1, in compliance with ADA requirements and shall make improvements to Maple Lane as approved by the Township Engineer to permit access onto Maple Lane for the offsite parking lot.
21. Offsite parking lot shall be gated and restricted for use only by residents of the building.
22. The circular drive in the front of the building shall be constructed with a height of no less than 12 feet to allow access for emergency vehicles.
23. Applicant shall prepare and record a Deed consolidating Lots 2-12, Block 1303 into one lot.
24. Applicant shall install "no through" traffic signage at the entry drive from Randolph Avenue.
25. Applicant, if deemed necessary post-occupancy, shall install two speed tables on the entry drive for Randolph Avenue to deter through access.
26. Applicant will pay all outstanding fees for the application to the Township, as well as bring any escrow up to date. In addition, Applicant shall maintain an escrow sufficient to provide fees to the Township Professionals to review proposed amendments and applications that will be pending for the project.
27. Applicant will comply with all representations made during the public hearings on this matter.
28. Applicant will obtain a de minimis exception from the RSIS for the number of parking stalls.
29. Three additional trees will be provided along the site frontage
30. Unit leases will include one reserved parking stall. All other stalls will be on a first come first serve basis.
31. Updated sign details will be provided for review prior to construction.
32. All meters will be located within the building and will not be visible to the public.
33. An additional light will be provided along the Reynolds Avenue Right of Way.
34. No flashing lights are permitted on or within any of the retail areas.

I hereby certify the foregoing to be a true copy of a Resolution passed by the Mine Hill Township Planning Board at a duly convened meeting held on March 3, 2025.


 Stephen Sauchelli, Planning Board Chairman


 Marcia H. Istvan, PB Administrator/Recording Clerk

In the matter of 106 Hurd Street, LLC
Case No. 004-19

**RESOLUTION 009-20
MINE HILL TOWNSHIP PLANNING BOARD
RESOLUTION OF MEMORIALIZATION**

Application Approved: July 6, 2020
Memorialized: August 17, 2020

WHEREAS, 106 Hurd Street, LLC (“Applicant”) has applied to the Planning Board, Township of Mine Hill for Preliminary and Final Major Site Plan Approvals for premises located at 106 Hurd Street and known as Block 2004, Lot 1 on the Tax Map of the Township of Mine Hill which premises are in a “MFIC-1” Zone (Multi-Family Inclusionary Community Overlay Zone 1);

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant and having conducted a public hearing has made the following factual findings:

1. Joshua M. Gorsky, Esquire and Charles Lorber, Esq. of Mandelbaum Salsburg represented the Applicant.
2. The Applicant is the contract purchaser of the subject property, which is owned by Daniel Pansini and Loretta Gareau, who consent to this application.
3. The Applicant is proposing to construct a four-story residential apartment building, with 18,510 square foot per floor, an elevator and walkout basement containing fifty (50) units, including ten (10) affordable units, with associated site improvements and amenities including a parking area, access driveway, stormwater management system, landscaping and lighting.
4. The Applicant submitted the following documents:

- a. Site Plan entitled "Preliminary and Final Site Plan – Residential Development" prepared by Calisto J. Bertin, PE of Bertin Engineering, dated May 22, 2019 revised through March 18, 2020.
- b. Architectural Plan entitled "106 Hurd St. Apartments – Mine Hill Township, NJ" prepared by Frederick Kincaid, RA, of Jarmel Kizel Architects and Engineers, Inc., dated December 11, 2015 revised May 2, 2019 consisting of 14 sheets. Sheets SD100, SD101, SD103 and SD200, were further revised through May 11, 2020 and issued May 18, 2020.
- c. Stormwater Drainage Analysis prepared by Calisto J. Bertin, PE, of Bertin Engineering, dated April 30, 2019 revised February 5, 2020.
- d. Stormwater Operation & Maintenance Manual prepared by Calisto J. Bertin, PE, of Bertin Engineering, dated November 22, 2019 revised February 5, 2020.
- e. Traffic Impact Assessment for 106 Hurd St, LLC prepared by Elizabeth Dolan, PE and Gary W. Dean, PE, PP of Dolan and Dean Consulting Engineers, LLC, dated May 8, 2019.
- f. Environmental Impact Statement prepared by Najarian Associates, dated November 2019, Revised February 2020.
- g. Fiscal Impact Statement, prepared by Richard B. Reading Associates, dated May 23, 2020.
- h. Memorandum, prepared by Richard B. Reading Associates, dated June 3, 2020.

- i. Soils and Foundation Investigation – Proposed Landmark at Hedden Park prepared by Melick-Tully and Associates, PC, dated December 27, 2017.

5. The Board received the following reports:

- a. Paul Sterbenz, Planning Board Engineer, dated June 21, 2019 September 7, 2019, October 30, 2019, January 16, 2020, February 24, 2020, May 6, 2020, and June 2, 2020.
- b. Department of Environmental Protection Letter of Interpretation, received on August 19, 2019
- c. Morris County Planning Board, dated August 23, 2019 & February 11, 2020.
- d. Mine Hill Fire Department, Fire Marshal Thomas Trapasso, undated.
- e. Borough of Wharton, Department of Police, dated February 20, 2020.
- f. Fox Architectural Design, P.C. dated March 20, 2020.

6. The Board received a letter from Paul W. Ferriero, PE, PP, CME, Township Engineer for the Township of Randolph, dated October 29, 2019, opposing the application in connection with the Jackson Brook Interceptor Agreement.

7. The application was heard over the course of five (5) public hearings; January 29, 2020, February 3, 2020, March 2, 2020, June 8, 2020, and July 6, 2020. The first 3 meetings took place at the Township of Mine Hill's Municipal Building. The final two (2) hearing occurred via Zoom, a web-based meeting platform and telephone conferencing service, consistent with Governor Phil Murphy's statewide ban on public gatherings and in accordance with the

Municipal Land Use Law, the Open Public Meetings Act, and the guidance document entitled “Planning Board and Zoning Board of Adjustments Operational Guidance – COVID-19: N.J.S.A. 40:55D-1: Recommendations for Land Use Public Meetings in New Jersey” issued by the Department of Community Affairs, Division of Local Government Services.

8. The proposed development is consistent with the provisions of the Multi-Family Inclusionary Community Overlay Zone.
9. The Board accepted the Applicant’s witnesses as experts in the respective fields:
 - a. Calisto Bertin, Professional Engineer – site design
 - b. Gary Dean, Professional Engineer – traffic expert
 - c. Matthew Jarmel and Frederick Kincaid – Licensed Architects
 - d. Richard Reading – Planning and Fiscal Impact
10. The following exhibits were marked for identification:
 - a. January 29, 2020
 - i. A-1 – Wetlands Delineation Survey (SV-1 of the submitted site plan)
 - ii. A-2 – Colorized Landscape Rendering, dated January 6, 2020
 - iii. A-3 – Colorized Vehicular Circulation Plan (C2.6 of the submitted site plan)
 - iv. A-4a – Colorized Site Cross Section
 - v. A-4b – Colorized Ridge and Street View
 - b. February 3, 2020

- i. A-5 – Updated Colorized Landscape Rendering, dated February 3, 2020
 - ii. A-6 – Enlarged Landscape Plan, non-colorized
 - iii. A-7 – Basement Floor Plan (SD-100 of submitted architectural drawings), dated May 2, 2019
 - iv. A-8 – First Floor Plan (SD-101 of submitted architectural drawings), dated May 2, 2019
 - v. A-9 – Second and Third Floor Plan (SD-102 of submitted architectural drawings), dated May 2, 2019
 - vi. A-10 – Roof Plan (SD-103 of submitted architectural drawings), dated May 2, 2019
 - vii. A-11– Exterior Elevations (SD-104 of submitted architectural drawings), dated May 2, 2019
 - viii. A-12 – Samples of the Hardy Plank Residential Siding
 - ix. A-13 – Samples of Cultured Stone Veneer
 - x. A-14 – Samples of Timberline by GAF Roof Shingles
 - xi. A-15 – Color Rendering of Front Elevations
 - xii. A-16 – Color Rendering of Front View 2
 - xiii. A-17 – Aerial Rendering
 - xiv. A-18 – Colorized Rendering of the Sign
- c. March 2, 2020
- i. A-19 – Upright Sprinkler Design Hydrant Flow Test Report, dated May 22, 2019

11. Thomas Molica, Esq., appeared on behalf of Drew and Alyssa Van Ness, owners of 96 Hurd Street, the property abutting the easterly boundary of the subject lot. A private agreement was negotiated between the parties with regard to a sight triangle easement on 96 Hurd Street, revised lighting plan and enhanced landscaping on 106 Hurd Street to reduce the impact of the development on 96 Hurd Street.
12. Mr. Bertin provided the overview and details of the site design. The property is a 6.26 acre site, with an existing single family dwelling, driveway, and garages that will be removed. The surrounding area is comprised of single family homes and park land. There are wetlands on the property, but the development will not encroach on the 150' wetlands buffer. There is a 20' easement for the Jackson Brook Interceptor that runs through the property and a 10-20% grade change from Hurd Street to the rear of the site. The roof of the proposed structure is on grade with the street; the building height is 46.5 feet and conforming in the zone.
13. There will be a Right-of-Way dedication of 25' along the front of the property resulting in an approximate 9,000 square foot reduction in lot area.
14. The roof and parking lot runoff is directed to the rear of the property into a detention basin with sand filter proposed in the rear of the building. A 10' wide grass swale runs along the north side of the parking lot on the north side of the building. The stormwater management system reduces the rate at which water leaves the property in compliance with the State Stormwater

Management Standards. The Applicant will prepare and record an Operations and Maintenance Manual for the Stormwater Management System.

15. The sewer connection will be made to the Jackson Brook Interceptor via a new sewer main that runs across the parking lot and runs up to Hurd Street. There will be an easement dedicated to the Township for future maintenance of the new sewer main.
16. All utilities will be underground and connect to the existing facilities on Hurd Street.
17. The proposal includes a 24' wide driveway 350' in length. The Applicant is proposing 104 conforming parking stalls including 5 ADA compliant stalls throughout the site. All non-ADA compliant parking stalls are 9' x 18' in conformance with the ordinance. Site circulation is sufficient for emergency vehicle access and the driveway grades are conforming with the Residential Site Improvement Standards (RSIS).
18. The Applicant proposes to remove 28 specimen trees, which requires 179 replacement trees and only 73 trees will be planted, requiring a waiver from Section 509-6(c)(1) & (2) and a contribution to the Township's Tree Fund. Tree Contribution amount shall be calculated pursuant to Section 509-6(g).
19. There is a loading zone in the rear with access to the mailroom in the basement. Sidewalks surround the building, with a cross walk to a sidewalk that leads to Hurd Street. There is a 4-5 high foot retaining wall in the rear of the property adjacent to the parking lot, with a post and rail wood fence on top.

20. There will be three (3) back shielded, 12' high pole lights along the easterly side of the entrance driveway from Hurd Street. There will be a 15' landscape buffer on the easterly side of the driveway and additional landscaping along the westerly side of the driveway.
21. Matthew Jarmel presented drone footage of a similar development to present a visual to the Board. The proposed roof is sloped, providing a shield for mechanical equipment. The first floor has a center lobby, with 16 residential units. The second and third floors are similar in layout with 17 units on each floor. The center portion of the basement is a walkout from the rear lobby of the building. There is an elevator, stairs, fitness center, tenant storage, laundry, water meter room, and pet washroom and utilities room. Garbage and recycling will be stored in the building storage room and brought to the loading area on the east side of the building for pick-up on collection day. The elevator will be hydraulic, with a weight capacity of 3600 pounds and compliant with state requirements for emergency services.
22. In conformity with the Township's Court Approved Fair Share Housing Plan, there are 10 affordable housing units; 2 three-bedroom, 6 two-bedroom and 2 one-bedroom. These units are identical in layout and amenities as the market units, with the addition of a required 3-bedroom unit layout.
23. One-bedroom units range from 736 to 875 square feet; the two-bedroom units range for 1,188 to 1,213 square feet, and the three bedroom units are 1,580 square feet. All units have individual thermostats and a mechanical room, with hook ups for washers and dryers.

24. The exterior of the property will have a stone veneer and Hardie Plank residential siding with Timberline roof shingles. The 24 second and third story balconies will have an aluminum fence.
25. Access will be through double glass doors with key fobs and an intercom system. Security cameras will be installed both inside and outside the building. The unit separation walls, the floors, the stairwells and the corridor walls are all fire-rated. Sprinklers and fire alarms will also be installed throughout the building, as required by code.
26. A stone-based sign will be similar in design to the building. The proposed sign is 7'10" in height, the total square footage of the sign is 65.4, with the sign face being 14.6 square feet, requiring a design waiver from the requirements in Section 310.186.1.c(2)(b) of the Code. The sign will be externally illuminated.
27. At the request, of the Township Administration, Kenneth Fox, Fox Architectural Design, was retained to review the architectural drawings and provide recommendations as to the exterior design. Based on input from Mr. Fox, setbacks were added to the building façade, shake siding was added to the gables and side elevations. Additional windows were added to the side facades and all window designs were simplified. There were changes to the proposed exterior finish material and the color was changed to a slate blue.
28. A traffic study that was conducted by Gary Dean to determine the impact the development will have on the neighboring roads. Route 46 will be the main travel route, with a majority of traffic turning right onto Route 46.

29. The study was conducted from 7:00-9:00 am and 4:00 to 6:30 pm with a focus on the peak travel hours; 7:15-8:15 am and 4:30-5:30 pm. There are 50-60 cars per hour on Hurd Street and 1,100 to 1,700 cars per hour on Route 46.
30. Based on the data, collected by Mr. Dean and the Institute of Transportation Engineers, the access driveway intersection with Hurd Street will operate at an "A" Level of Service, which is the highest level. A right turn onto Route 46, at the traffic signal, currently operates at a Service Level of "C." The current Level of Service, when making a left., on Route 46 is "E." Per the Department of Transportation, a development must generate 100 vehicles per hour to have an impact on the surrounding roadways; the data indicates that the development will only generate 19 cars per hour. Based on the projections, the development of this site will not impact those Service Levels. Police Chief David Young confirmed that the traffic generated by the site would not have a significant impact on the surrounding area and the current police force would not be impacted by the development. A second traffic study was requested but could not be conducted due to the Covid-19 Pandemic.
31. Mr. Dean confirmed that the driveway width of 24' with full, two-way site circulation was adequate for residents and emergency vehicles. For safe ingress and egress, the vegetation on the sight triangle shall not grow above 30 inches.
32. The Fire Marshall reviewed the application and provided recommendations that were addressed by the Applicant. A modification was presented to add a

mountable curb at the intersection of the access driveway with Hurd Street, allowing larger fire trucks to have easier access to the site.

33. In accordance with the Environmental Impact Statement, a Fiscal Impact Statement was prepared utilizing a 2018 survey from Rutgers University, Center for Urban Policy Research. The study indicated that 40 market units and 10 affordable units would result in approximately 5 school age children. Based on the tax revenue and the educational cost for those students, this development is anticipated to result in a fiscal surplus of \$27,000 per year for the Township.

34. There was public participation throughout the hearings, with several residents opposed to the development. The neighboring property owners expressed concerns regarding the impact on traffic resulting from the proposed development and the safety of the access road and lack of sidewalks along Hurd Street. There were additional concerns about the visual impact of the development on what was previously a wooded area. Nearby neighbors were concerned about the impact on their enjoyment of their property, with new noises and smells emanating from the residential use. Some raised concerns about the layout of the site plan, the lack of recreational amenities, and its close proximity to Hedden Park. Finally, several opined that the proposed development did not belong in Mine Hill and will negatively impact the Township.

35. The Board openly deliberated about the merits of the application, which was approved by a unanimous vote of 7-0.

WHEREAS, the Board has determined that the approvals requested by the applicant can be granted as they enhance the public good without substantial detriment and they further the intent and purpose of the Zone Plan and Zoning Ordinance of the Township of Mine Hill for the following reasons:

1. The Board found the testimony of the Applicant's witnesses to be competent and credible and remarked that the Applicant gave a complete and thorough presentation. The property is zoned as Multi-Family Inclusionary Community Overlay Zone and the application complies with the requirements of the zoning ordinance. The property is part of the Township's Court Approved Affordable Housing Fair Share Plan. The building is in compliance with the Township's height requirements and the site is proposed without use or bulk variances and need only two (2) design waivers.
2. The Board explained that they are limited by the constraints of the Municipal Land Use Law and that there are limited grounds for denying an otherwise confirming application. Any basis for denial must be able to be supported in Court; Board decisions cannot be arbitrary or capricious.
3. The Applicant sufficiently addressed stormwater management on site.
4. The property had prior proposed developments and this proposal will have the least amount of impact on the surrounding area. Any inconvenience resulting from the development of the site and the construction of the structure will be temporary and in compliance with the Township's Ordinance.
5. It was noted by several Board members that there will be little to no detrimental impact on traffic in the area. The 50-unit structure will help local

businesses and it was noted by the Police Chief that law enforcement would not be burdened by this proposed development. The Fiscal Impact Statement revealed that there will be an anticipated tax surplus resulting from the proposed development, with only a minimal number of school children projected to enter the school system.

6. Board members were sympathetic to the nearby property owners but acknowledged that the owner has a right to develop the property.
7. The Applicant worked with the Township, the Board, and the Board's professionals to address all concerns and mitigate any impact on the surrounding area. Revisions were made to the exterior of the structure, based on input from the Township's Architectural Consultant. The Applicant increased landscape buffers and moved light fixtures to reduce impact to a residential neighbor. The concerns of the Fire Marshall, the Police Chief and the Board Engineer were addressed.
8. Several Board Members noted that this was a nice project that the Township needs.
9. Design waivers have been granted from the following Sections of the Township's Land Use Ordinance, as it was determined that the proposal was a better alternative.
 - a. Section 310-186.1.C(2)(b) – total sign area permitted for a monument sign, including sign face, is 32-square feet. The sign is approved with 14 square feet of sign face and overall sign area of 65.4-square feet.

- b. Section 509-6(c)(1) & (2) - 28 specimen trees are being removed, which requires 179 replacement trees and 73 trees will be planted.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Mine Hill on the 6th day of July 2020 that the approval of the within application be granted subject, however, to the following conditions:

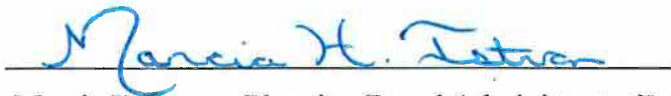
1. The payment of real estate taxes, sewer and water bills.
2. The payment of any outstanding fees and assessments.
3. The procurement of approvals or waivers thereof from outside agencies with jurisdiction including the Morris County Planning Board, Morris County Soil Conservation District, and the NJDEP (TWA Permit and Potable Water Permit).
4. The Applicant shall revise its site plan to address comments by the Board and its professionals, as follows:
 - a. The Zoning Table on Sheet C1.1 must be updated to indicate that the setback of the monument sign is 58 feet.
 - b. A note shall be added indicating that the visitor parking spaces shall be marked accordingly.
 - c. The sanitary sewer easement must be relocated to eliminate an overlap with the existing ingress/egress easement.
 - d. Sheet C2.4 of the site plan must be revised to remove the A4 fixtures from the lighting schedule.
 - e. Sheet C3.1 shall be revised to eliminate the trash enclosure detail.

- f. The mountable apron including all required details shall be added to the site plan per the Board Engineer's June 2, 2020 Memorandum.
5. The posting of performance guarantees and inspection fees pursuant to the requirements of the Municipal Land Use Law in amounts to be determined by the Municipal Engineer.
 6. The submission of deeds, for the Hurd Street right-of-way dedication, and the proposed 20-foot wide sanitary sewer easement, in forms satisfactory to the Board Attorney, Board Engineer, and Township Attorney. No deeds shall be recorded until approvals are granted by the Board, and Township professionals referenced above.
 7. The Applicant shall perform additional soil infiltration testing within the footprint of the bottom of the extended detention basin/sand filter in accordance with Appendix E of the NJDEP BMP Manual prior to any construction commencing to confirm that satisfactory permeability rates exist. A report summarizing the results of the additional field investigation and testing shall be provided to the Board Engineer for review and approval.
 8. The procurement of an off-tract easement for sight distance on Lot 2 in Block 2101.
 9. The submission of a legal instrument to ensure proper maintenance of the stormwater management facilities by the property owner, in a form satisfactory to the Board Attorney and Board Engineer. The instrument shall be recorded prior to a building permit being issued for the proposed building.

10. The submission and approval of a deed restriction, in a form satisfactory to the Board Attorney, Board Engineer, and Township Attorney relative to the establishment of low and moderate income units on the tract. The deed restriction shall be approved and recorded prior to any building permit being issued for the project.
11. The submission of a maintenance plan for site infrastructure to comply with Section 310-186.1C(9)(b) of the Land Use Ordinance, in a form, satisfactory to the Board Attorney and Board Engineer.
12. No construction will be permitted until taxes and fees are paid, a Developer's Agreement is entered into with the Township, all outside agency approvals or waivers thereof are obtained, the site plan and other documents are revised in a manner satisfactory to the Board Engineer, the performance guarantees and inspection fees are posted, a contribution to the Township's Tree Fund is made in an amount to be determined by the Board Engineer, the maintenance agreement for stormwater facilities is approved and recorded, the deeds for the right-of-way dedication and sanitary sewer easement are approved and recorded, the affordable housing restriction is approved and recorded, the maintenance plan for site infrastructure is submitted and approved, the off-tract sight triangle easement is procured and recorded, and the Applicant attends a preconstruction conference to be scheduled by the Municipal Engineer.
13. Applicant shall apply to the Township Council for Title 39 Enforcement on the property.

14. Sprinklers shall be installed throughout the building, including the attic, pursuant to the New Jersey Fire Code.
15. If any fill is imported to the site, the fill shall only be acceptable soil/fill per N.J.A.C. 7:26D.
16. Applicant shall comply with all architectural materials and design represented to the Board.

I hereby certify the above to be a true copy of a resolution adopted by the Mine Hill Township Planning Board at a duly convened meeting held on August 17, 2020.



Marcia H. Istvan, Planning Board Administrator/Recording Clerk

In the matter of 106 Hurd Street, LLC
Application No. 002-24

**RESOLUTION 010-24
MINE HILL TOWNSHIP PLANNING BOARD
RESOLUTION APPROVING PRELIMINARY AND FINAL SITE
PLAN APPROVAL, AS WELL AS D-VARIANCE APPROVALS
FOR 106 HURD STREET, LLC, BLOCK 204, LOT 1**

Application Approved: November 4, 2024
Memorialized: December 2, 2024

WHEREAS, 106 Hurd Street, LLC ("Applicant") has made application to the Planning Board of the Township of Mine Hill for a proposed redevelopment of a 74,040 square foot, 3-story residential building, presently containing 50 apartment units, which includes 10 units restricted for use by low-and-moderate-income households; and

WHEREAS, the Applicant is seeking to expand the facility from 50 units to 59 units; and

WHEREAS, the bedroom mix of the existing facility is 30 1-bedroom units; 18 2-bedroom units; and 2 3-bedroom units, for a total of 50 units and 72 bedrooms; and

WHEREAS, the Applicant is proposing to expand the facility to 37 1-bedroom units, with additional 6 1-bedroom units to be installed on the ground floor and 1 2-bedroom unit on the ground floor, and the 2 3-bedroom units would be converted to 4 units for special needs; and

WHEREAS, the proposed increase requires a D-3 variance for exceeding the overall density in the zone from 8 units per acre to 9.4 units per acre, and a D-5 variance for a condition of a conditional use in that there is a maximum of 50 units permitted, and Applicant is seeking an increase to 59 units; and

WHEREAS, the Applicant is proposing tandem parking, which is not permitted under the Ordinances of the Township, and for which the Applicant is seeking a C-type variance; and

WHEREAS, the Applicant is additionally proposing the installation of a concrete pad with a gazebo over it for outdoor cooking and entertaining of 750 square feet, which is an accessory structure and requires a variance from the permitted size of 600 square feet to 750 square feet; and

WHEREAS, Applicant is proposing 113 parking spaces with 17 EV spaces, when Applicant has determined that 114 spaces are required, and will require a variance from the RSIS standards for 1 less parking space if the total of 114 is correct; and

WHEREAS, Applicant is proposing an area for a dog-walk with artificial turf and a 3-foot-high fence; and

WHEREAS, the application had previously been deemed complete; and

WHEREAS, public hearings on the application were held on September 9, 2024, October, 7, 2024, and November 4, 2024; and

WHEREAS, the Applicant is represented by Michael J. Lipari, Esq.; and

WHEREAS, Mr. Lipari called as his only witness on September 9, 2024, Mr. San-Pei Fanchiang, who was qualified as a Professional Engineer with Bertin Engineering Company; and

WHEREAS, the Applicant is also seeking permission from the Board to change some of their 2-bedroom units to 1-bedroom units with an office/den; and

WHEREAS, the Applicant submitted the following exhibit:

- A1 Letter from Fair Share Housing, dated August 8, 2024, indicating that in the opinion of Fair Share Housing, the proposed changes sought by the Applicant would not violate a 2018 settlement the Township entered into with Fair Share Housing, and that the Township would remain in compliance with its affordable housing obligation for the site; and

WHEREAS, as a result of said exhibit and the testimony offered at the September 9, 2024, hearing, the Board does make the following findings of fact:

- 1. Applicant, as indicated, will need both a D-5 and a D-3 variance, as well as a C variance for the modification to the parking; and
- 2. Applicant is seeking to modify the 2-bedroom units to 1-bedroom with an office/den, because there is not a good rental market for 2-bedroom units; and
- 3. The detention basin is not changing as the size is appropriate for the expansion of the additional impervious coverage; and
- 4. There was a discrepancy between the Board Professionals and the Applicant's Professionals as to the amount of parking spaces needed, with the Applicant's Professionals indicating 114 and they were proposing 113; and

WHEREAS, the application was adjourned from the September 9, 2024 meeting to the October 7, 2024 meeting; and

WHEREAS, the application was continued at the meeting of October 7, 2024, at which time the Applicant introduced an additional exhibit as follows:

- A2 Photos and data with reference to the parking lot to demonstrate that the parking lot was under used, and

WHEREAS, the Applicant has amended its plans to not have any changes to the second and third floors, and add 7 units to the ground floor of the exposed basement, all of which would be 1-bedroom units, including 2 units for special needs individuals, resulting in a total of 57 units, as well as remove the tandem parking eliminating that variance; and

WHEREAS, the revisions are shown on amended plans prepared by Bertin Engineering, dated September 20, 2024; and

WHEREAS, at the meeting of October 7, 2024, Mr. Lipari called as witnesses Calisto J. Bertin, a Professional Engineer, Brian Trematore, a principal of the owner, Karolina Podkanowicz, a Professional Architect, and Justin Auciello, a Professional Planner; and

WHEREAS, all of the Professionals were accepted as experts; and

WHEREAS, as a result of the additional exhibits and the testimony of the aforementioned witnesses, at the meeting of October 7, 2024, the Planning Board does hereby make the following findings of fact:

5. The parking count has been revised to 104 parking spaces required, including 18 EV spaces which number is agreed upon by the Board's Professionals. Applicant is proposing 103 spaces and seeks a variance from RSIS standards of 1 space; and
6. Applicant is proposing 7 new 1-bedroom units on the ground floor, 2 of which will be for special needs individuals; and
7. Applicant is proposing the 750 square foot concrete pad with a gazebo and cooking area, which will require a variance; and
8. Applicant is proposing a fenced-in dog-run and dog-washing station in the building; and
9. 12 out of the 57 units will be for affordable housing, including the 2 units for special needs; and
10. 18 of the units in the building pursuant to the original approval are deed restricted for senior housing;
11. The gazebo will have utilities, including water, electricity and gas; there will be 2 areas for cooking and entertainment; and
12. The size of the 7 units in the ground floor vary from 707 square feet per unit to 1,180 square feet per unit; and
13. The gazebo will have a canopy 25 x 30 feet, with 750 square feet in area, the roof will be 15 feet high, with 2 cupolas 3½ above the 15-foot roof, which would require a C variance for height; and
14. The gazebo would be limited in hours from 8AM to 10PM; and
15. Pursuant to the planning testimony provided by the Applicant, the positive criteria for granting the 2 D variances is that it would provide better housing and meets the affordable housing requirements; and
16. The granting of the variance would meet 3 principles of zoning set forth in N.J.S.A. 40:55D-2, specifically: (a) to encourage municipal action to guide the appropriate use of development of all lands; (g) to provide sufficient space in appropriate locations for a variety of agricultural residential recreation, commercial and industrial uses; and to encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the costs of such developments, and the more efficient use of land; and (3) there would be no negative impact as a result of the granting of these variances since the structure, parking and amenities, except those parking spaces being added, are existing; and
17. As to the granting of the parking variance for 1 space, purpose (h) would be advanced to encourage the location and design of transportation routes which will

promote the free flow of traffic, and that the Applicant has demonstrated that the existing parking lot is under used; and

18. The granting of the C variances for the square footage of the gazebo from 600 permissible to 750 square feet, and the height of the 2 cupolas 3½ above the height requirement would promote purpose (i) of the Land Use Act because it promotes a desirable visual environment through creative development techniques; the benefits of granting the variance would outweigh any detriment; and

WHEREAS, the application was carried to the meeting of November 4, 2024; and

WHEREAS, at the meeting of November 4, 2024, the Applicant recalled Mr. Bertin, who reviewed the amended plans dated October 17, 2024; and

WHEREAS, as a result of that testimony, the Board does make the following findings of fact:

19. In addition to all the changes previously discussed, notes on the plan show that the use of the outdoor gazebo is limited to between the hours of 8AM to 10PM; and
20. The dog-run is limited to dogs under 25 lbs.; and
21. The new proposed unit count is 57 with 35 1-bedroom units, 7 of which are on the ground floor; including 2 1-bedroom units for special needs; and
22. That there are no other changes, except that the total amount of bedrooms in the building increases from 72 to 79; and
23. The Applicant has, not as of that time, supplied the estimated gallons per day expected due to the modified bedroom conditions, as well as the proposed gazebo, to determine whether or not there is sufficient gallonage capacity in the original gallonage allotment for sewer; and
24. That by applying EV parking credits, 104 parking spaces are required and 103 are proposed; and
25. One protective bollard has been provided in front of the gazebo; and
26. The Applicant has withdrawn its request to change 2-bedroom units to 1-bedroom units with an office/den.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Mine Hill that, based upon the planning testimony and testimony of the Professional Engineer, as well as the reports of the Township Professionals, including planning reports from the Township Planner, the Board hereby grants a variance pursuant to 40:55D-70 (D)(3), that increases the overall density of the project from 8 units per acre to 9.45 units per acre; and

BE IT FURTHER RESOLVED by the Planning Board of the Township of Mine Hill that, based upon the planning testimony and testimony of the Professional Engineer, as well as the reports of the Township Professionals, including planning reports from the Township Planner, the Board hereby grants a variance pursuant to 40:55D-70 (D)(5), that allows a deviation from the requirement of the condition allowing only 50 units to 57 units; and

BE IT FURTHER RESOLVED that the Board does grant C variances for the gazebo, one for the size of the gazebo as an accessory building, wherein 600 square feet is permitted and 750 square feet is proposed, and the other for the height of the gazebo from 15 feet which is allowable to 18.5 feet to allow for the erection of the 2 cupulas on the roof of the gazebo; and


BE IT FURTHER RESOLVED that the Board does grant relief from the RSIS standards, which require 104 spaces, allowing 103 parking spaces; and

BE IT FURTHER RESOLVED that preliminary and final site plan approvals are granted to the Applicant pursuant to the civil engineering plans, dated October 17, 2024, prepared by Bertin Engineering; and

BE IT FURTHER RESOLVED that the variances and site plans are approved subject to the following terms and conditions which have been agreed upon by the Applicant:

1. The Applicant's Engineer shall supply the Township Engineer the calculation for the sewage gallonage to demonstrate that the proposed increase in units can be accommodated by the gallons per day allocated for this development; and
2. Applicant shall obtain all necessary permits prior to any construction; and
3. Applicant will pay all outstanding fees for the application to the Township, as well as bring any escrow up to date; and
4. Applicant will comply with all representations made during the public hearings on this matter, as well as the representations made by the attorney for the Applicant on the record.

I hereby certify the foregoing to be a true copy of a Resolution passed by the Mine Hill Township Planning Board at a duly convened meeting held on December 2, 2024.

 12/2/24
Stephen Sauchelli, Planning Board Chairman


Marcia H. Istvan, PB Administrator/Recording Clerk