

## ORDINANCE 21-1

### AN ORDINANCE OF THE BOROUGH OF SOUTH TOMS RIVER, COUNTY OF OCEAN, NEW JERSEY ADOPTING THE AFFORDABLE HOUSING AMENDMENT -LANDFILL REDEVELOPMENT PLAN

**WHEREAS**, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the “**Redevelopment Law**”), authorizes municipalities to determine whether certain parcels of land in the municipality constitute areas in need of redevelopment or areas in need of rehabilitation, as such terms are defined in the Act; and

**WHEREAS**, in accordance with the requirements of the Redevelopment Law, the municipal council (“**Borough Council**”) of the Borough of South Toms River (the “**Borough**”) previously determined that the properties identified as Block 20, Lots 1.01, 1.02, 1.03, 1.04 and 1.05 on the official tax maps of the Borough constituted an area in need of redevelopment (the “**Landfill Redevelopment Area**”) in accordance with the requirements of the Redevelopment Law; and

**WHEREAS**, in order to effectuate the redevelopment of the Landfill Redevelopment Area, the Borough has previously adopted a redevelopment plan entitled the “Municipal Landfill Redevelopment Plan” dated on December 12, 2016 by Ordinance 7-16 (the “**Landfill Redevelopment Plan**”) pursuant to the authority granted under the Redevelopment Law; and

**WHEREAS**, M&T at STR Urban Renewal LLC (the “**Developer**”) was previously designated by the Borough as the Redeveloper for that certain Dover Road Redevelopment Plan, and entered into a Redevelopment Agreement for the development of up to (i) three hundred sixty (360) market-rate residential rental units, (ii) a 100 room hotel, (iii) retail buildings, associated parking, supporting infrastructure and improvements on property identified on the tax maps of the Borough as Block 20, Lots 11.02 and 12 (the “**Market-Rate Project**”); and

**WHEREAS**, on February 5, 2019, Fair Share Housing Center (“FSHC”) filed a complaint against the Borough and the Developer in the Superior Court, Fair Share Housing Center, Inc. v. The Borough of South Toms River; the Land Use Board of the Borough of South Toms River; and M&T at STR Urban Renewal, Docket Number OCN-L-327-19, on the basis that the Borough has unmet affordable housing obligations, and that the Dover Road Redevelopment Plan does not adequately require the provision of affordable housing in violation of the Mount Laurel Doctrine;

**WHEREAS**, Southern Burlington County N.A.A.C.P. v. Mount Laurel Township, 92 N.J. 15 (193), the Fair Housing Act, N.J.S.A. 52:27d-301, et seq. and other applicable law require the Borough to create a realistic zoning opportunity for the construction of the Borough’s fair share of affordable housing; and

**WHEREAS**, the Borough and the Developer seek to satisfy a portion of the Borough’s Mount Laurel obligation arising out of the Market-Rate Project through the construction of a 30-unit all-affordable rental housing development (the “**Affordable Housing Project**”); and

**WHEREAS**, the Borough is in the process of entering into a Settlement Agreement with FSHC (the “**FSHC Settlement Agreement**”), which stipulates agreed upon terms regarding the Borough’s affordable housing obligations as related to the litigation brought by FSHC and includes certain inclusionary projects, including a redevelopment project on a portion of certain property currently owned by the Borough, identified on the official tax maps of the Borough as a portion of Block 20, Lot 1.03, which portion will be subdivided and conveyed to the Developer (the “**Affordable Housing Site**”); and

**WHEREAS**, the Borough wishes to amend the Landfill Redevelopment Plan to describe the Mount Laurel obligation, permit the Affordable Housing Project at the Affordable Housing Site, and allow the related amendments to accommodate the aforementioned purposes as specifically set forth in the attached **EXHIBIT A** (the “**Affordable Housing Amendment – Landfill Redevelopment Plan**”); and

**WHEREAS**, the Borough has referred the Affordable Housing Amendment – Landfill Redevelopment Plan to the Borough Land Use Board (the “**Land Use Board**”) for its review, report and recommendation in accordance with N.J.S.A. 40A:12A-7(e); and

**WHEREAS**, the Land Use Board, at a duly noticed and constituted public meeting, has reviewed the Affordable Housing Amendment – Landfill Redevelopment Plan; and

**WHEREAS**, following such review the Land Use Board has rendered its report and recommendations to the Borough and recommended the adoption of the Affordable Housing Amendment – Landfill Redevelopment Plan pursuant to N.J.S.A. 40A:12A-7(e); and

**WHEREAS**, the Borough wishes to adopt the Affordable Housing Amendment – Landfill Redevelopment Plan as recommended by the Land Use Board Resolution, attached hereto as **EXHIBIT B** (the “**Board Resolution**”).

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOROUGH COUNCIL OF SOUTH TOMS RIVER, IN THE COUNTY OF OCEAN, AS FOLLOWS:**

1. The aforementioned recitals are incorporated herein as though fully set forth at length.
2. The Affordable Housing Amendment – Landfill Redevelopment Plan is hereby adopted pursuant to the terms of the Redevelopment Law.
3. The zoning district map included in the zoning ordinance of the Borough is hereby amended to reference and delineate the Affordable Housing Amendment – Landfill Redevelopment Plan. The Affordable Housing Amendment – Landfill Redevelopment Plan shall supersede the applicable development regulations of the Borough’s municipal code, as and where indicated.
4. If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Ordinance.

5. A copy of this Ordinance and the Affordable Housing Amendment – Landfill Redevelopment Plan shall be available for public inspection at the office of the Borough Clerk during regular business hours.

6. This Ordinance shall take effect in accordance with all applicable laws.

I, Joseph A. Kostecki, Borough Clerk of the Borough of South Toms River, in the County of Ocean and the State of New Jersey, do hereby certify the foregoing to be a true and correct copy of the Ordinance which was introduced by the Borough Council at a meeting held on the 8<sup>th</sup> day of February, 2021 and finally adopted on February 22, 2021.

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JOSEPH A. KOSTECKI, MPA, RMC  
Borough Clerk

EXHIBIT A

**AFFORDABLE HOUSING AMENDMENT -LANDFILL REDEVELOPMENT PLAN**

EXHIBIT B

LAND USE BOARD RESOLUTION

**RESOLUTION 2021-03**  
**RESOLUTION OF THE LAND USE BOARD OF THE**  
**BOROUGH OF SOUTH TOMS RIVER, COUNTY OF**  
**OCEAN, NEW JERSEY RECOMMENDING THE**  
**PROPOSED AFFORDABLE HOUSING AMENDMENT -**  
**LANDFILL REDEVELOPMENT PLAN PURSUANT TO**  
**THE LOCAL REDEVELOPMENT AND HOUSING LAW,**  
**N.J.S.A. 40A:12A-1 ET SEQ.**

**WHEREAS**, the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1, et seq.*, as amended (the “**Redevelopment Law**”), authorizes municipalities to determine whether certain parcels of land in the municipality constitute areas in need of rehabilitation or redevelopment; and

**WHEREAS**, in accordance with the requirements of the Redevelopment Law, the municipal council (“**Borough Council**”) of the Borough of South Toms River (the “**Borough**”) previously determined that the properties identified as Block 20, Lots 1.01, 1.02, 1.03, 1.04 and 1.05 on the official tax maps of the Borough constituted an area in need of redevelopment (the “**Landfill Redevelopment Area**”) in accordance with the requirements of the Redevelopment Law; and

**WHEREAS**, in order to effectuate the redevelopment of the Landfill Redevelopment Area, the Borough has previously adopted a redevelopment plan entitled the “Municipal Landfill Redevelopment Plan” dated on December 12, 2016 by Ordinance 7-16 (the “**Landfill Redevelopment Plan**”) pursuant to the authority granted under the Redevelopment Law; and

**WHEREAS**, M&T at STR Urban Renewal LLC (the “**Developer**”) was previously designated by the Borough as the Redeveloper for that certain Dover Road Redevelopment Plan, and entered into a Redevelopment Agreement for the development of up to (i) three hundred sixty (360) market-rate residential rental units, (ii) a 100 room hotel, (iii) retail buildings, associated parking, supporting infrastructure and improvements on property identified on the tax maps of the Borough as Block 20, Lots 11.02 and 12 (the “**Market-Rate Project**”); and

**WHEREAS**, on February 5, 2019, Fair Share Housing Center (“FSHC”) filed a complaint against the Borough and the Developer in the Superior Court, Fair Share Housing Center, Inc. v. The Borough of South Toms River; the Land Use Board of the Borough of South Toms River; and M&T at STR Urban Renewal, Docket Number OCN-L-327-19, on the basis that the Borough has unmet affordable housing obligations, and that the Dover Road Redevelopment Plan does not adequately require the provision of affordable housing in violation of the Mount Laurel Doctrine;

**WHEREAS**, Southern Burlington County N.A.A.C.P. v. Mount Laurel Township, 92 N.J. 15 (193), the Fair Housing Act, N.J.S.A. 52:27d-301, et seq. and other applicable law require the Borough to create a realistic zoning opportunity for the construction of the Borough’s fair share of affordable housing; and

**WHEREAS**, the Borough and the Developer seek to satisfy a portion of the Borough’s Mount Laurel obligation arising out of the Market-Rate Project through the construction of a 30-unit all-affordable rental housing development (the “**Affordable Housing Project**”); and

**WHEREAS**, the Borough is in the process of entering into a Settlement Agreement with FSHC (the “**FSHC Settlement Agreement**”), which stipulates agreed upon terms regarding the Borough’s affordable housing obligations as related to the litigation brought by FSHC and includes certain inclusionary projects, including a redevelopment project on a portion of certain property currently owned by the Borough, identified on the official tax maps of the Borough as a portion of Block 20, Lot 1.03, which portion will be subdivided and conveyed to the Developer (the “**Affordable Housing Site**”); and

**WHEREAS**, the Borough Council now wishes to amend the Landfill Redevelopment Plan to describe the Mount Laurel obligation and permit the Affordable Housing Project at the Affordable Housing Site, all as specifically set forth in the proposed Affordable Housing

Amendment – Landfill Redevelopment Plan, attached hereto (the “**Affordable Housing Amendment – Landfill Redevelopment Plan**”); and

**WHEREAS**, pursuant to the Redevelopment Law, the Borough Council referred the Affordable Housing Amendment – Landfill Redevelopment Plan to the Land Use Board for its review and comment; and

**WHEREAS**, pursuant to the Redevelopment Law, specifically *N.J.S.A. 40A:12A-7(e)*, the Land Use Board must review the Affordable Housing Amendment – Landfill Redevelopment Plan and transmit its recommendations in the time and manner provided for therein; and

**WHEREAS**, at a duly noticed public hearing on February 16, 2021, the Planning Board presented the Affordable Housing Amendment – Landfill Redevelopment Plan and allowed all those present who wished to comment to be heard; and

**WHEREAS**, in the opinion of the Land Use Board, adoption of the Affordable Housing Amendment – Landfill Redevelopment Plan is necessary and desirable in order to accomplish the effective redevelopment of the Landfill Redevelopment Area, and such redevelopment is in the best interests of the Borough and its residents.

**NOW, THEREFORE, BE IT RESOLVED** by the Land Use Board of the Borough of South Tom River, in the County of Ocean, New Jersey, as follows:

**Section 1.** The foregoing recitals are incorporated herein as if set forth in full.

**Section 2.** The Land Use Board hereby affirms that the Affordable Housing Amendment – Landfill Redevelopment Plan is consistent with the Borough’s Master Plan and recommends to the Mayor and Borough Council that the Affordable Housing Amendment – Landfill Redevelopment Plan attached hereto as Exhibit A be adopted by the Borough Council in order to accomplish the effective redevelopment of the Landfill Redevelopment Area.

**Section 3.** If any part of this Resolution shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Resolution.

**Section 4.** The Land Use Board Clerk is hereby directed to transmit a copy of this Resolution to the Mayor and Borough Council.

**Section 5.** This Resolution shall take effect immediately.

#### **CERTIFICATION**

I, Kayla M. Rolzhausen, Land Use Board Secretary of the Borough of South Toms River, Ocean County, New Jersey, do hereby certify the foregoing to be a true and exact copy of the resolution which was adopted by the Land Use Board at a meeting held on the February 16, 2021.



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Kayla M. Rolzhausen  
Land Use Board Secretary

**BOROUGH OF SOUTH TOMS RIVER  
AFFORDABLE HOUSING AMENDMENT –  
LANDFILL REDEVELOPMENT PLAN (AH-LRP)**

**ADOPTED BY THE BOROUGH COUNCIL: NOVEMBER 6, 2016**

**AMENDED BY THE BOROUGH COUNCIL: FEBRUARY 8, 2021**



## **Purpose for Amended Redevelopment Plan**

The purpose of this plan amendment is to propose an affordable housing component to the overall redevelopment plan that will address the Borough's unmet affordable housing obligations. On February 5, 2019, Fair Share Housing Center ("FSHC") filed a complaint in the Superior Court of New Jersey, Ocean County Law Division, captioned: *Fair Share Housing Center, Inc. v. Borough of South Toms River, Land Use Board of the Borough of South Toms River and M&T at STR Urban Renewal LLC*, Docket Number OCN-L-327-19, alleging that the Borough has unmet affordable housing obligations.

This amended Affordable Housing Redevelopment Plan to the Landfill Redevelopment Plan is being effectuated to further the Borough's affordable housing commitment by providing for a 100% inclusionary affordable housing project within the Landfill Redevelopment Area.

The New Jersey Supreme Court, through its rulings in *South Burlington County NAACP v. Mount Laurel*, 67 N.J. 151 (1975) and *South Burlington County NAACP v. Mount Laurel*, 92 N.J. 158 (1983) and *In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing*, 221 N.J. 1 2015, the Fair Housing Act, N.J.S.A. 52:27d-301 et seq. and other applicable law require the Borough to create a realistic zoning opportunity for the construction of the Borough's fair share of affordable housing.

The Borough is at the time of adoption of this plan amendment concurrently in the process of entering into a Settlement Agreement with FSHC (the "FSHC Settlement Agreement"), which stipulates agreed upon terms regarding the Borough's affordable housing obligations as related to the litigation brought by FSHC. The Borough and FSHC will present the Settlement Agreement for Court review after a properly noticed Fairness Hearing. The FSHC Settlement Agreement includes certain inclusionary projects, including a redevelopment project on a portion of certain property currently owned by the Borough, identified on the official tax maps of the Borough as a portion of Block 20, Lot 1.03 (the "Affordable Housing Site"). This Amended Plan provides for the redevelopment of the Affordable Housing site consistent with Borough's FSHC Settlement Agreement, the Order, the Uniform Housing Affordability Controls ("UHAC") and to the extent they are applicable, the Council on Affordable Housing ("COAH") regulations.

It is for these reasons, this additional Affordable Housing Amendment – Landfill Redevelopment Plan (AH-LRP) has been prepared to effectuate the redevelopment of the Landfill Redevelopment Area, on December 12, 2016 by Ordinance 7-16 the Borough previously adopted a redevelopment plan entitled "Municipal Landfill Redevelopment Plan (MLF-RPA)" (the "Landfill Redevelopment Plan").

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## I. INTRODUCTION

The following Redevelopment Plan Amendment addresses the land situated on Block 20, Lot 1.03 located at Drew Lane and Drake Lane, where a proposed affordable housing development is to be situated. It was previously proposed on Lot 1.04 of Block 20. This affordable housing development is proposed to be located on a yet-to-be subdivided lot located among the five existing lots that are the subject of the Borough's Municipal Landfill Redevelopment Plan to include other uses and amenities. Lot 1.03 and the proposed subdivided lot is the subject of this redevelopment plan.

This Plan, the Affordable Housing Amendment – Landfill Redevelopment Plan (herein referred to as “the AH-LRP” or “the Plan”) addresses the redevelopment of this one lot to include a 100% affordable residential project that will help to satisfy the Borough's fair share obligation of affordable housing units. This Plan establishes regulations for permitted uses and other land development standards for the proposed residential use and addresses the objectives and strategies identified in the 2016 Municipal Access Plan to redevelop these Borough-owned properties for residential and other uses.

The property in question is located in the northwestern corner of the Borough of South Toms River, within the Pinelands Area. The property shares a border Lot 1.04 to the north (a Borough-owned property) and a series of residential lots to the south (Block 20.27 Lots 1-6 and Block 20.28 Lots 1-3). The subject lot is approximately 3.58 acres in size with a 25-ft. wide access easement from Drew Lane. It is currently occupied by the Borough's Department of Public Works (DPW) facility, to the east of the proposed location of the affordable housing units. The Borough proposes to subdivide Lot 1.03 into two lots. The

new lot (approx. 1.4 acres) would consist of the affordable housing development. The remaining lot (approx. 2.1 acres) would consist of the existing DPW facility. This however creates a development challenge whereby the subdivided lot then becomes land-locked without direct access to Drew Lane or the access easement. The existing easement would have to be extended to the rear of the property to create access to the affordable housing units.

The purpose of this Plan and the proposed subdivision is two-fold: to help the Borough address their affordable housing obligation and to avoid the use of the former landfill site for the affordable housing project. Because the Borough and this site are within a Pinelands Preservation Area, the project will require Pinelands Commission review. The affordable housing project will be exempt from any requirement for Pinelands Development Credits (PDC's), subject to final review and approval of the Pinelands Commission.

On April 27, 2015, the municipal council of the Borough adopted Resolution 2015-121 which designated the entire Borough as an “Area In Need of Rehabilitation” pursuant to the Local Housing and Redevelopment Law (NJSA 40A:12A-14). This designation permits the Borough to proceed with Redevelopment Plans for any property within the Borough.

On June 22, 2015, the South Toms River Borough Municipal Council authorized by Resolution 2015-175 the preparation of an Area in Need of Redevelopment Study for Tax Block 20, Lots 1.04 and 1.05.

On September 21, 2015, the Municipal Council determined that, by recommendation of the Planning Board, the Study Area (Lots 1.04 and 1.05) should be designated as an Area in Need of Redevelopment under the Local Redevelopment and

Housing Law (LRHL), authorizing the Borough and Municipal Council to use all those powers provided by the Redevelopment Law for use in a redevelopment area, other than the power of eminent domain. Resolution 2015-212 was approved on September 28, 2015.

Lots 1.01, 1.02 and 1.03 were added to the designated Area in Need of Redevelopment by the Borough Council on May 9, 2016, after a review, public hearing and recommendation by the Land Use Board on April 18, 2016. Therefore, these lots are also included in the Redevelopment Plan Area.

Again, this Plan refers only to Lot 1.03 and the Borough's proposed 100% affordable housing project on a yet-to-be subdivided portion of the lot.

## REQUIRED PLAN COMPONENTS

This document has been prepared in accordance with Section 40A:12A-7a of the LRHL, which requires redevelopment plans to include for the planning, development, redevelopment or rehabilitation of the designated area. Specifically:

1. The Plan's relationship to definite local objectives as to appropriate land uses, density of population and improved traffic and public transportation, public utilities, recreational and community facilities and other public improvements. (See Chapter II.)
2. Proposed land uses and building requirements in the project area. (See Chapter IV.)
3. Adequate provisions for the temporary and permanent relocation, as necessary, of residents in the project area, including an estimate of the extent to which decent, safe

and sanitary dwelling units affordable to displaced residents will be available to them in the existing local housing market. (See Chapter IV.)

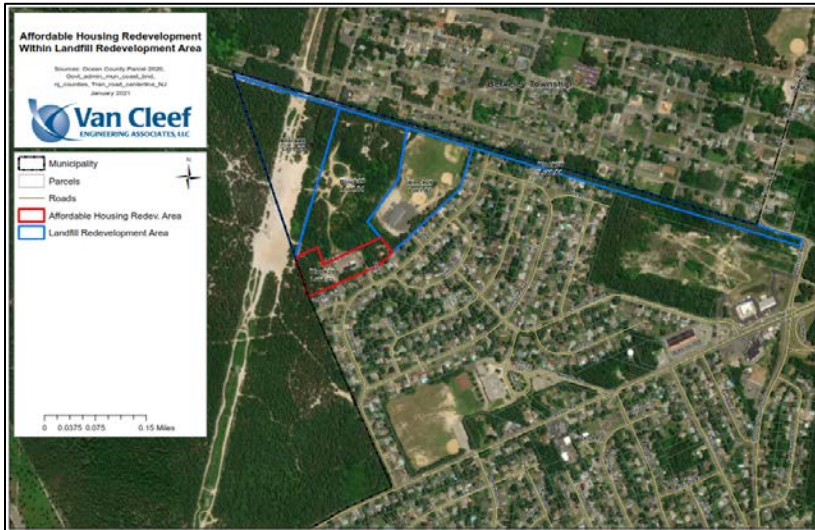
4. An identification of any property within the area, which is proposed to be acquired in accordance with the redevelopment plan. (See Chapter IV.)
5. Any significant relationship of the redevelopment plan to the master plans of contiguous municipalities; the master plan of the county in which the municipality is located; the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act", P.L. 1985, c.398 (C.52:18A-196 et al.).
6. Description of the plan relationship to pertinent municipal development regulations as defined in the Municipal Land Use Law (MLUL). The plan shall supersede applicable provisions of the development regulations of the municipality or constitute an overlay zoning district within the study area. (See Chapter II.)
7. All provisions of the redevelopment plan shall be either substantially consistent with the municipal master plan or designed to effectuate the master plan. (See Chapter III, VI.)

## II. REDEVELOPMENT AREA

The Redevelopment Area covered by this Redevelopment Plan consists solely of Block 20 Lot 1.03, which currently hosts the Borough's DPW facility. The lot is approximately 3.58 acres in size.

Map 1 below illustrates the Redevelopment Area on an aerial map of a portion of South Toms River highlighted in blue and the subject parcel in red.

**Map 1: Aerial Map of Redevelopment Plan Area (Affordable Housing) parcels within South Toms River Borough**



The purpose of subdividing the lot with the DPW facility affords the Borough to maintain the public works activities at their current location but separate from the residential component. It does present an issue with direct access to a major road, but that could be remedied with the extension of the access easement from the neighborhood road. A project of this size would normally require a traffic impact study, and should an alternative access route not be available, this Redevelopment Plan will require such a study to determine the additional trips and propose improvements to distribute the trips to minimize the impact on the existing neighborhood.

## REDEVELOPMENT AREA (AFFORDABLE HOUSING COMPONENT) BOUNDARY DESCRIPTION

Beginning at the southerly corner of the west side of Block 20, Lot 1.03, where it joins with the northerly corner of the west side of Block 20.27, Lot 1, thence:

Northwesterly 345 feet along the western border of Block 20 to the intersection of Lot 1.04, thence;

Easterly 200.41 feet along the northern border of Block 20, Lot 1.03, thence;

Southerly 152 feet along a western border of Block 20, Lot 1.04, thence;

Easterly 504.7 feet along the northern border of Block 20, Lot 1.03 to the intersection with Block 20 Lot 1.02, thence;

Southeasterly 144 feet along the westerly border of Lot 1.02, thence;

Westerly 941 feet along the southeastern border of Block 20 to the point of beginning.

## EXISTING CONDITIONS

The character of neighborhood development in the immediate vicinity of the AH-LRP Area is notable because of the former landfill, overgrown vegetation and underutilized space on the subject parcel and adjacent lots. The Redevelopment Plan encourages new public infrastructure within the Redevelopment Area including new residential uses.

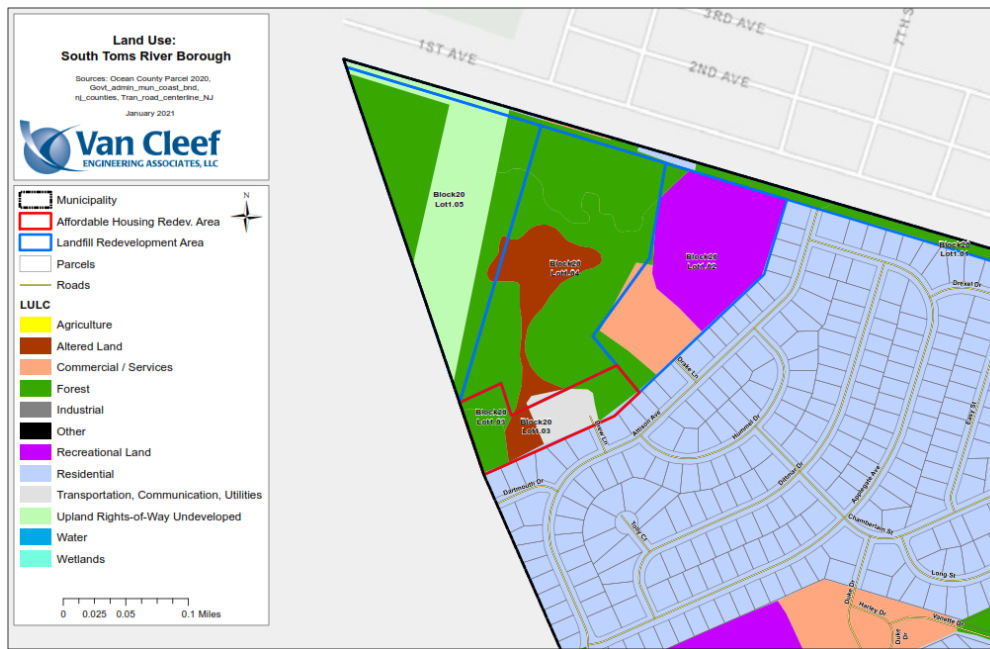
Additionally, access to the lot in question is very limited, except through a 25' easement from Drew Lane that accesses the adjacent public works building and yard. There is an existing utility easement which runs through Lot 1.05 adjacent to Lot 1.04, owned by JCP&L; as well as a South Toms River municipal access easement along the northern boundary with Berkeley Township.

## LAND USE PLAN

For the purpose of this Plan, the Land Use Plan shall supersede the existing ML (Municipal Lands) zoning, as shown on Map 2 and the standards outline herein will control.

The requirements of this Plan shall be implemented under a Redevelopment Agreement(s) with the Borough Council, acting as the Redevelopment Entity for the development of the property for uses permitted in this Redevelopment Plan that are not provided for in the underlying zoning districts.

Map 2: Borough Land Use Map with Redevelopment Plan Area



## PLAN RELATIONSHIP TO ZONING

The Zoning Map, as shown on Map 3, identifies the municipal zoning districts. The larger Redevelopment Area, highlighted in yellow (with the Affordable Housing component outlined in red), provides for a Superseding Plan, allowing the Redevelopment Entity and Planning Board to approve the uses outlined in Section IV of this Plan for the property.

According to Ordinance #8-13, Section 3.0, 26-20.1:

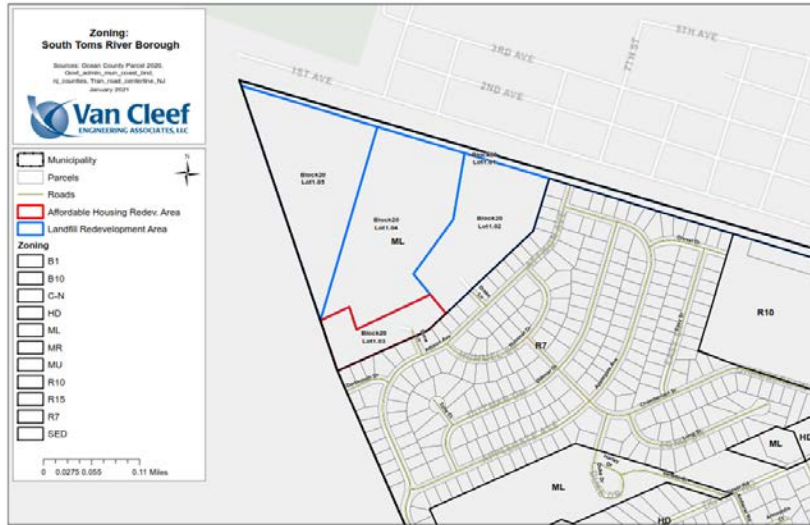
*The Borough of South Toms River is an established suburban residential community. It is the desire of the community to preserve and protect the established character of neighborhoods in the Borough and to*

*encourage a compatible relationship between new or expanded houses and traditional neighboring structures that reflects the best of the local character, particularly in terms of scale, siting, design features, and orientation on the site.*

Lot 1.03 abuts the R-7 zone in South Toms River along the southern edge of the property, which permits single-family detached homes on 7,000 square-foot lots having a minimum width of 70 feet. This characterizing language and the existing conditions were the basis for the regulations created for this plan.



Map 3: South Toms River Zoning Map



### III. PLAN VISION, GOALS & OBJECTIVES

#### PLAN VISION

The vision of the entire Landfill Redevelopment Plan is to encourage the environmental remediation, rehabilitation, and development of the designated properties, which include the former South Toms River Borough municipal landfill, athletic fields, and municipal buildings. In doing so, the Borough intends to subdivide Lot 1.03 so that the municipal public works building can remain on one lot and the other subdivided lot can be designated for the Borough’s 100% affordable housing development, the subject of this Redevelopment Plan Amendment. This development will help the Borough increase the variety of housing in the Borough, as well as the affordability.

The rehabilitation of this municipal property will rectify a blight condition of the adjacent landfill, while also assisting the Borough in satisfying its required affordable housing obligation.

#### PLAN GOALS

South Toms River establishes the following goals for the Municipal Landfill Redevelopment Plan Area:

#### LAND USE

- A. To provide for new uses of the Redevelopment Area by redevelopment portions of the former landfill property.
- B. To rehabilitate municipal properties that have fallen into disrepair or are underutilized.
- C. To provide a variety of housing options in the Borough.
- D. To provide affordable family rental units, in accordance with UHAC regulations, applicable COAH regulations, the FSHC Settlement Agreement and the Order.
- E. To promote residential design that fits within the context of the existing community, but that is dense and reduces sprawl.
- F. To promote residential development that contributes to the public sphere physically, socially, and financially.

#### TRAFFIC CIRCULATION

- A. To minimize the impact of traffic on existing residential streets.

#### PARKING



- A. To provide adequate parking standards that take the existing site constraints into account, while aiming for an overall decrease in vehicle dependency.

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## PUBLIC RECREATION & OPEN SPACE

- A. To provide new and improved recreational and open space that is accessible to the public.

## PLAN OBJECTIVES

In order to achieve these goals set forth above, the objectives for the Redevelopment Plan Area are:

- A. To allow for higher density residential standards within the Redevelopment Area;
- B. To concentrate residential development near community amenities in order to increase density, to create neighborhood character, and to improve walkability;
- C. To provide adequate parking spaces for residential uses (per RSIS) and public uses, including handicap-accessible spaces (per ADA);
- D. To the extent possible, to encourage shared parking for uses located within the Redevelopment Area;
- E. To integrate existing roadways with new roads to encourage pedestrian and vehicular movement between new and existing developments;
- F. To create design standards that will improve the quality of the public environment;
- G. To promote, preserve and enhance recreational and open spaces as an attractive Borough asset;
- H. To strengthen the existing neighborhoods and recreational opportunities through increased

community access, participation, strategic funding, and better connectivity.

## IV. REDEVELOPMENT PLAN

This chapter of the AH-LRP provides the general provisions, including the review process, as well as land use and design requirements for this Redevelopment Plan, Affordable Housing component.

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## GENERAL PROVISIONS

### RELOCATION

No temporary or permanent relocation of residents is contemplated, as there are no occupied residential units currently located in this Redevelopment Plan Area.

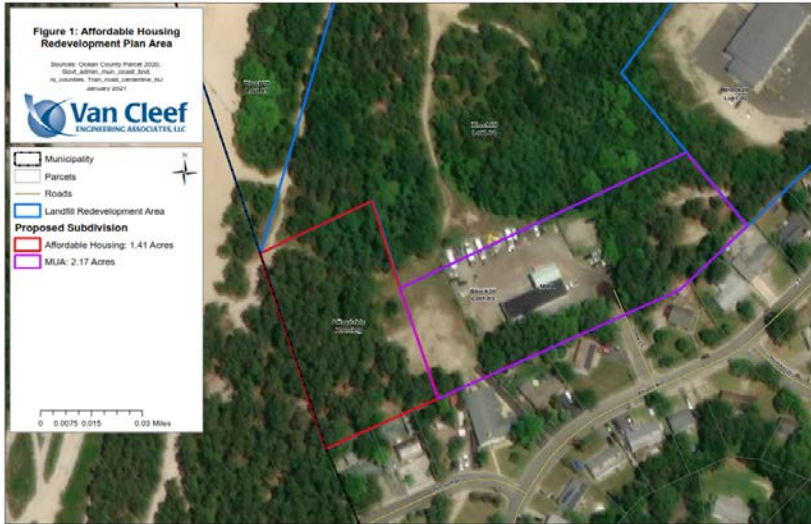
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### REDEVELOPMENT ACTIONS

New, 100% affordable residential apartments, parking lot and related landscaping, lighting, etc. uses will be restricted to the subdivided portion of Lot 1.03 (in red on Map 4). The Recreation Center and athletic fields will remain on Lot 1.02 and the Department of Public Works building will remain on the remainder Lot 1.03 (in purple).

Lot 1.05 is proposed to have the above-ground stormwater basin to service the residential on Lot 1.03.

Map 4: Proposed Subdivision of Lot 1.03 for Affordable Housing



### PROPERTIES TO BE ACQUIRED

As this Redevelopment Plan addresses an Area In Need of Redevelopment without Condemnation, the Local Redevelopment and Housing Law provides that the redevelopment powers, except for acquisition of private property through the use of eminent domain, are available in the Redevelopment Plan Area with the adoption of this redevelopment plan.

This Redevelopment Plan only pertains to Lots 1.03 and 1.05 of Block 20 which is currently owned by the municipality and is located in the ML (Municipal Land) land use zone. Therefore, no private property is identified for acquisition within this Redevelopment Area.

### WAIVERS FROM REDEVELOPMENT PLAN REQUIREMENTS

Variation from one or more of the specific development requirements set forth in this Redevelopment Plan may be necessary in certain circumstances for the effective redevelopment of the Redevelopment Area, or to meet state or federal permit requirements. In such an instance, the South Toms River Planning Board may allow deviations from specific bulk, parking or design requirements, if specifically authorized to do so by the Redevelopment Entity (Borough Council) or any committee that it may designate, provided the designated redeveloper demonstrates that such deviation is necessary for the feasibility of the project, will not substantially impair the intent of the Redevelopment Plan and will not present any detriment to the public health, safety and welfare.

### REVIEW PROCEDURES

The review procedures for this Plan are as follows:

- The Borough Council, acting as the Redevelopment Entity, shall review the proposed redevelopment project within the Redevelopment Plan Area governed by this Redevelopment Plan to ensure that such project is consistent with the Redevelopment Plan and relevant redeveloper agreement. Such review shall occur prior to the submission of the redevelopment project(s) to the Planning Board for site plan approval.
- As part of its review, the Redevelopment Entity may require the redeveloper to submit a proposed site plan application to a subcommittee of the Redevelopment Entity prior to the submission of such applications to the

Planning Board. Such Committee may include members of the Redevelopment Entity and any other members and/or professionals as determined necessary and appropriate. Such Committee shall make its recommendations to the full Redevelopment Entity for formal authorization to proceed to the Planning Board for development approval.

- In undertaking its review, the Redevelopment Entity shall determine whether the proposal is consistent with this Redevelopment Plan and relevant redeveloper agreement. In addition, the review may address the site and building design elements of the project to ensure that the project adequately addresses the goals and objectives of the plan.
- Following this determination, all development applications shall be submitted to the Pinelands Commission pursuant to N.J.A.C. 7:50-4. Upon the Commission's issuance of a Certificate of Filing. The development application shall be submitted to the Borough of South Toms River Planning Board through the normal site plan and subdivision procedures as outlined in N.J.S.A. 40:55-1 et seq.
- The Planning Board shall deem any application for redevelopment subject to this Redevelopment Plan incomplete if the applicant has not executed a redevelopment agreement and the applicant has not been designated as the redeveloper by the Redevelopment Entity. Additionally, the Planning Board shall deem any application for redevelopment subject to this Redevelopment Plan incomplete if the applicant has not received approval from the Redevelopment Entity or any committee that it may designate for such purpose,

stating that the application is consistent with the Redevelopment Plan and Redevelopment Agreement.

- Neither the Planning Board nor the Board of Adjustment shall grant any deviations from the use provisions of this Redevelopment Plan. Any proposed changes to the Redevelopment Plan involving specific permitted or conditionally permitted land uses shall be in the form of an amendment to the Redevelopment Plan adopted by the Mayor and Council, in accordance with the procedures set forth in the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. Any such amendment shall be submitted to the Pinelands Commission for review and certification pursuant to N.J.A.C. 7:50-3.

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## LAND USE & DEVELOPMENT REQUIREMENTS

This Redevelopment Plan has been designed to create a new zoning designation for affordable housing within the larger Redevelopment Area. Block 20, Lot 1.03 is currently located within the ML (Municipal Land) zoning district. The superseding regulations for this lot will permit 100% affordable housing and new residential zoning uses and standards, and will apply with the following options as they best pertain to the site.

A developer will have the option to choose to develop all or a portion of the lot in accordance with the uses and standards for the underlying zoning, or to develop all or part of the lot / redevelopment area in accordance with the standards outlined herein.

## AFFORDABLE HOUSING REDEVELOPMENT PLAN (AHRP) USE AND BULK REQUIREMENTS

The specific land uses and standards that are applicable to the entire Redevelopment Area are outlined in Section II of this Plan. Where any controls pose a conflict with the below regulations, the provisions of this Plan shall control.

1. Permitted Principal Uses:
  - a. Apartment House
  - b. Affordable units
2. Permitted Accessory Uses:
  - a. Off-street parking and loading spaces as required by Section 26-14 of the Municipal Zoning Code, except that parking spaces may be 9'x18'.
  - b. Outside storage uses normally associated with a permitted use, provided that the storage area shall be screened from adjacent uses by a buffer strip consisting of a dense planting at least five (5) feet in width and otherwise complies with the provisions of this chapter. No storage shall be permitted in any required front yard.
  - c. Uses which are customarily associated with and incidental to permitted principal uses, such as walking paths, outdoor seating areas, and other residential amenities
  - d. Fences and railings
  - e. Signs

The following bulk standards are also required:

### A. Bulk Requirements

Bulk Regulations	Apartment houses
Min./Max. Units per Structure	30 units
Max. Building Height (ft./story)	45 ft. and 3 stories
Min. Unit Width (feet)	-
Max. Building Width (feet)	250 ft.
Max. Building Depth (feet)	85 ft.
Minimum Perimeter Buffer	25 ft. planted

- B. Additional Area, Yard, and Building Requirements
  - (1) Residential development shall constitute a 30-unit housing development. In no case shall the number of units permitted in the Redevelopment Plan Area exceed 30.
  - (2) No more than one principal structure shall be permitted on a single lot, provided the principal structure has direct public or private street access.
  - (3) The principal structure shall have ingress from the front and rear to either common hallways or to each dwelling unit.
  - (4) No outside area or equipment shall be provided for the hanging of laundry or the outside airing of laundry in any manner. Laundry facilities shall be provided in the form of in-unit washer/dryers for each individual residence, or where there are multiple residential units within the same building, a communal laundry room may be provided.
- C. Streets
  - (1) All public and private streets, both external and internal (including street grading and paving), driveways, parking areas, sidewalks, curbs,

gutters, street lighting, shade trees, water mains and water systems, culverts, storm sewers, and such other improvements as may be found necessary in the public interest shall be installed in accordance with the standards adopted for subdivisions of land, and the building permit therein shall not be issued unless and until an adequate performance guarantee for the purpose of insuring proper installation of the improvements is posted with the Borough Clerk in a form approved by the Borough Attorney and in an amount determined by the Borough Engineer to be sufficient to insure the completion of all required improvements.

- (2) A traffic impact study inclusive of a computer simulation of projected traffic impacts is required at the time that the redevelopment agreement is negotiated. The scope of the traffic impact study shall be based on the data of existing traffic at key intersections leading to the redevelopment area and how new traffic from the redevelopment projects would be distributed so that any necessary improvements to the street network and traffic control measures can be assessed and addressed in the agreement.

D. Off-street parking

- (1) RSIS shall be followed for residential uses. Shared parking is encouraged between uses and between parcels, subject to approval of the Redevelopment Entity in the redevelopment agreement and the Land Use Board at the time of site plan approval.

- (2) All parking lots shall be adequately lighted; either with wall mounted or post-mounted ornamental fixtures. Lights shall be adequately shielded from adjacent properties.

E. Pedestrian accessibility

- (1) Sidewalks shall be provided along all street frontages
- (2) All sidewalks shall be a minimum of five feet wide
- (3) All sidewalks shall be designated to provide access for the physically disabled
- (4) Access ramps shall be conveniently placed and sloped to provide easy connection to streets and sidewalks, in conformance with the Americans with Disabilities Act

F. Signage

- (1) The redevelopment project shall include a comprehensive signage plan for review and approval of the Redevelopment Entity and Land Use Board.

G. Open Space and Recreational Facilities

- (1) An area dedicated to recreation shall be developed with facilities suitable to serve the residents of the development.
  - i. Such a facility must include a combination of active and passive recreational uses and may be provided indoors (may include, but is not limited to swimming pools, gym, etc.) or outdoors (may include, but is not limited to swimming pools, tennis courts, basketball courts, playgrounds, etc.).
  - ii. It shall be located in an area which will not be detrimental to adjacent property

owners by virtue of noise, light, glare and any other objectionable feature emanating from such facility.

- iii. Such a facility intended for private use of residents and their guests shall not compete in nature with public facilities provided within the MLF-RPA, in order to encourage the use of public recreational space by all Borough citizens.
- iv. No recreation area shall be located in front of a building. A recreation area may be provided to the side or rear of the buildings provided it is not located within twenty-five (25) feet of any building.
- v. Recreational facilities paid for by the residents of the development are for the use of occupants of the development and their guests. No public use or offering of use shall be permitted except as otherwise provided herein.

#### H. Sewage Disposal

- (1) No development shall be approved until approval of plans for disposal of sewerage, in accordance with the standards set forth by the County Sewerage Authority, are met. The performance guarantee outlined in this section is also applicable to sewerage disposal.

#### I. Screening

- (1) Where the development abuts a residential district or use, or a commercial use, an evergreen planting screen having a minimum width of five (5) feet shall be provided. The

screen shall consist primarily of evergreen trees so as to provide visual obstruction. The planting material shall be at least six (6) feet high at the time of planting. It shall be the responsibility of the owner or developer to carry out this planting and to promote such maintenance and care as is required to obtain the effect intended by the original plan.

#### J. Affordable Housing

- (1) The developer of subdivided Lot 1.03 shall construct 100% of the affordable units as affordable (i.e. 30 units) pursuant to the UHAC regulations, applicable COAH regulations, the FSHC Settlement Agreement and the Order. The 30 affordable units shall consist of four (4) very low, 11 low, and 15 moderate income units consistent with UHAC, including the applicable bedroom distribution with very low and low income units distributed proportionally among the bedroom types, provided that with regards to very-low-income units in lieu of 10 percent of affordable units being required to be at 35 percent of median income, 13 percent of affordable units shall be required to be at 30 percent of median income.

#### K. Pinelands Development Credits

- (1) There are no Pinelands Developments Credits anticipated to be required for the affordable housing units subject to the review and approval of the Pinelands Commission.

## ARCHITECTURAL DESIGN STANDARDS

Any new building proposed for the Redevelopment Plan Area will have to be carefully designed, and shall abide by the following standards in addition to the zoning standards stated above.

### A. Style

- (1) The structures or buildings shall incorporate architectural details such as a well-defined entrance, proportionally sized windows, shutters, cornices, columns, chimneys and porches. All buildings shall be constructed with an exterior of brick or stone or concrete.
- (2) Within apartment house developments and enclosures of any sort, must conform in general type, building construction, quality, and materials to the architecture of the primary structure.

### B. Materials

- (1) The first floor exterior of a building shall consist of durable, long-lasting materials, such as masonry and fiber-cement siding, and shall be consistent throughout the entirety of that building, but may vary from building to building in a sequential manner in order to provide some architectural continuity.
- (2) The exterior of upper floors of a building may consist of modern materials, such as fiber-cement siding, and may vary throughout an individual or different buildings, but shall be done in a sequential manner in order to provide some architectural continuity.

### C. Articulation

- (1) All street-facing building walls shall have a clearly defined base, body and cap.

- (2) The body section of a façade may be horizontally divided at the floor, lintel or sill levels with belt courses.
- (3) The architectural treatment of a façade shall be completely continued around all street-facing facades of a building. All sides of a building shall be architecturally designed so as to be consistent with regard to style, materials, colors and details.
- (4) Building exteriors shall have vertical and/or horizontal offsets to create visual breaks on the exterior. These offsets may consist of pilasters, projecting bays, changes in façade materials, balconies, etc.
- (5) Long, blank, windowless, monotonous or uninterrupted walls are not permitted on the front or side of a building.

### D. Entrances

- (1) All entrances to a building shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, overhangs, porticos or awnings. These elements shall be compatible with the style and materials of the building.
- (2) Entrances may also be defined by planters or other landscape features.
- (3) All buildings shall provide not less than two (2) exterior exposures for each dwelling unit, properly placed by windows or other openings so as to provide through ventilation or cross-ventilation for the unit.

### E. Fenestration

- (1) Windows shall be vertically proportioned (taller than wider) where possible.



## V. REDEVELOPER INCENTIVES / PILOT PROGRAM

With the designation of the properties regulated by this Redevelopment Plan as an Area In Need of Redevelopment, this redevelopment project will be eligible for tax exemptions for 30 years from the completion of the entire project, or unit of the project if the project is undertaken in units, or not more than 35 years from the execution of the financial agreement between the municipality and the urban renewal entity under the Long Term Tax Exemption Law (N.J.S.A. 40A:20-1 et seq.).

Any tax exemption(s) for the redevelopment of the five properties (Block 20, Lots 1.01, 1.02, 1.03, 1.04, and 1.05) would need to be addressed as part of the Redevelopment Agreement. Such tax exemptions will be based on a Payment In Lieu of Taxes (PILOT) that would be set forth in a Financial Agreement between the redeveloper and the Borough.

## VI. RELATIONSHIP TO ZONING

### ZONING PROVISIONS

#### EFFECT OF PLAN

The Redevelopment Plan constitutes a superseding plan to permit the redevelopment of the Redevelopment Plan Area as stated in Section II of this Redevelopment Plan.

#### TERMS AND DEFINITIONS

Any terms or definitions not addressed within this Redevelopment Plan shall rely on the applicable terms and

conditions set forth in Chapter 26 of the Zoning Ordinance of the Borough of South Toms River:

APARTMENT HOUSE: Shall mean every building or portion thereof, which contains three or more dwelling units.

#### OTHER APPLICABLE DESIGN & PERFORMANCE STANDARDS

Any design or performance standards not addressed within this Redevelopment Plan shall rely on the applicable design and performance standards set forth in the Zoning Ordinance of the Borough of South Toms River. In addition, all development in the MLF-RPA shall comply with the minimum environmental standards of the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50).

#### CONFLICT

Any word, phrase, clause, section or provision of this plan, found by a court and other jurisdiction to be invalid, illegal or unconstitutional, such word, phrase, section or provision shall be deemed servable and the remainder of the Redevelopment Plan shall remain in full force and effect.

#### ZONING MAP REVISION

Because this Redevelopment Plan constitutes a superseding plan the proposed subdivided portion of Block 20 Lot 1.03 and the underlying zoning Districts, the Official Zoning Map of the Borough of South Toms River is hereby amended to designate



the proposed subdivided lot as the "Affordable Housing – Landfill Redevelopment Plan" District (AH-LRP)".

## VII. AMENDMENTS & DURATION

### AMENDMENTS TO THE REDEVELOPMENT PLAN

This plan may be amended from time to time in accordance with the procedures of the LRHL. To the extent that any such amendment materially affects the terms and conditions of duly executed redevelopment agreements between one or more redevelopers and the Borough of South Toms River, the provisions of the redevelopment plan amendment will be contingent upon the amendment of the redevelopment agreement to provide for the Plan amendment.

### RECOMMENDATIONS FOR REDEVELOPMENT AGREEMENT PROVISIONS

While this Affordable Housing Redevelopment Plan provides an outline for the redevelopment of a newly subdivided lot from Block 20 Lot 1.03, the details of how the redevelopment will be implemented will need to be specified in the Redevelopment Agreement that is negotiated between the Borough and the redeveloper(s). No development shall proceed to the South Toms River Planning Board for subdivision or site plan approval until after a Redevelopment Agreement is executed by the Borough of South Toms River in accordance with Section 9 of the Local Redevelopment and Housing Law. The Redevelopment Agreement shall conform to the provisions of this Redevelopment Plan.

## CERTIFICATES OF COMPLETION & COMPLIANCE

Upon the inspection and verification by the Mayor and Council that the redevelopment of a parcel subject to a redeveloper agreement has been completed, a Certificate of Completion and Compliance will be issued to the redeveloper and such parcel will be deemed no longer in need of redevelopment nor rehabilitation.

This Redevelopment Plan will remain in effect until Certificates of Completion have been issued for the designated Area, or until the Redevelopment Plan is deemed no longer necessary for the public interest and repealed by Ordinance of the Mayor and Council. At such time the provisions of the Redevelopment Plan, as amended, shall be codified into the Zoning Ordinance of the Borough of South Toms River.

## SEVERABILITY

The provisions of this Redevelopment Plan are subject to approval by Ordinance. If a Court of competent jurisdiction finds any word, phrase, clause, section or provision of this Redevelopment Plan to be invalid, illegal or unconstitutional, the word, phrase, clause, section or provision shall be deemed severable and the remainder of the Redevelopment Plan and implementing Ordinance shall remain in full force and effect.

## SELECTION OF REDEVELOPER(S)

In order to assure that the vision of the Redevelopment Plan will be successfully implemented in an effective and timely way in order to promptly achieve the public purpose goals of the Plan, the Mayor and Council, acting as the Redevelopment Entity, will designate the redeveloper(s) for

any redevelopment project in the area governed by this Redevelopment Plan. All redeveloper(s) will be required to execute a redevelopment agreement satisfactory to the Redevelopment Entity as one of the requirements to be designated as the redeveloper(s).

It is anticipated that the implementation of this Redevelopment Plan may designate a pre-selected redeveloper, or utilize a process for the competitive selection of one or more redeveloper(s). The intent of this section of the Plan is to set forth the procedural standards to guide redeveloper selection. The Mayor and Council, acting as the Redevelopment Entity may, at any time, proactively solicit potential redevelopers by utilizing appropriate methods of advertisement and other forms of communication, or may, in its discretion, entertain an unsolicited proposal from a prospective redeveloper(s) for redevelopment of the Redevelopment Plan Area.

The following provisions regarding redevelopment are hereby included in connection with the implementation of this Redevelopment Plan and the selection of a redeveloper(s) for any property included in the Redevelopment Plan and shall apply notwithstanding the provisions of any zoning or building ordinance or other regulations to the contrary:

1. The redeveloper, its successor or assigns shall develop the property in accordance with the uses and building requirements specified in the Redevelopment Plan.
2. Until the required improvements are completed and a Certificate of Completion is issued by the Redevelopment Entity, the redeveloper covenants provided for in N.J.S.A. 40A:12A-9 and imposed in any

redeveloper agreement, lease, deed or other instrument shall remain in full force and effect.

3. The redevelopment agreement(s) shall contain provisions to assure the timely construction of the redevelopment project, the qualifications, financial capability and financial guarantees of the redeveloper(s) and any other provisions to assure the successful completion of the project.
4. The designated redeveloper(s) shall be responsible for any installation or upgrade of infrastructure related to their project whether on-site or off-site. Infrastructure items include, but are not limited to gas, electric, water, sanitary and storm sewers, telecommunications, recreation or open space, streets, curbs, sidewalks, street lighting and street trees or other improvements. The extent of the designated redeveloper's responsibility will be outlined in the redeveloper's agreements with the Borough. All utilities shall be placed underground.
5. All infrastructure improvements shall comply with applicable local, state and federal law and regulations, including the Americans with Disabilities Act and the Prevailing Wage Law, where applicable.
6. In addition to the provision of the infrastructure items set forth herein, the Redevelopment Agreement may provide that the redeveloper(s) will agree to provide amenities, benefits, fees and payments in addition to those authorized under the Municipal Land Use Law.