

**Holland Township Planning Board**

**Minutes of the Regular Meeting**

**October 8, 2018**

The meeting was called to order by the Chairman Rader:

“I call to order the October, 2018 Regular Meeting of the Holland Township Planning Board. Adequate notice of this meeting was given pursuant to the Open Public Meeting Act Law by the Planning Board Secretary on December 21, 2017 by:

- 1. Posting such notice on the bulletin board at the Municipal Building.
- 2. Published in the December 21, 2017 issue of the Hunterdon County Democrat
- 3. Faxed to the Express Times for informational purposes only.

**Flag Salute**

Chairman Rader asked all to stand for the Pledge of Allegiance

**Identification of those at the podium**

Present: Casey Bickhardt, Dan Bush, Ken Grisewood, Dave Grossmueller , Michael Keady, Carl Molter, Mike Miller, Dan Rader, Tom Scheibener, Duane Young, John Gallina, Esq., Rick Roseberry, Engineer, Darlene Green, Planner, and Court Reporter Lucille Grozinski, CSR and Maria Elena Jennette Kozak, Secretary.

Excused Absent: Elizabeth McKenzie, Alternate Planner (professional excused per the Chairman).

Let the record show there is a quorum.

**Minutes**

A motion was made by Ton Scheibener and seconded by Mike Miller to dispense with the reading of the minutes of the September 10, 2018 meeting and to approve the minutes as recorded. All present were in favor of the motion. Motion carried.

**Discussion**

There were no Discussion items scheduled to discuss.

**Old Business:**

There was no Old Business scheduled to discuss.

**New Business:**

Master Plan Consistency Review -- Board Action Required -

- o Ordinance 2018-10: An Ordinance Amending and Modifying Chapter 41 “ Accessory Apartments” to address the requirements of the Fair Housing Act and the Uniform Housing Affordability Controls (UHAC),

**TOWNSHIP OF HOLLAND  
HUNTERDON COUNTY**

**ORDINANCE \_\_\_\_\_**

**AN ORDINANCE AMENDING AND MODIFYING CHAPTER 41 “ACCESSORY APARTMENTS” TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACTION AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC)**

**WHEREAS**, the Township of Holland has a constitutional obligation to create a realistic opportunity for the construction of its fair share of the region's need for affordable housing; and

**WHEREAS**, the Township Committee of the Township of Holland desires to create a realistic opportunity for the creation of affordable housing within the Township; and

WHEREAS, this Ordinance is intended to provide assurances that low and moderate income units ("affordable units") are created with controls on affordability over time and that low and moderate income households shall occupy those units.

NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Holland, as follows:

**Section 1.** Chapter 41, "Accessory Apartments", is hereby amended and supplement with new text underlined and text for deletion in ~~strikeout~~ as follows:

**§ 41-1. Applicability and purpose.**

It is the purpose of this program to help meet Holland Township's fair-share housing obligation through the subsidization of up to 10 voluntary conversions of existing single-family dwellings or accessory buildings in the Township to accommodate accessory apartments for occupancy by low or moderate income households.

This chapter applies to the creation of subsidized accessory apartments in the R-5 Residential District of the Township of Holland. Additional regulations governing the creation of accessory apartments in this zone are contained in this Chapter 100, Land Use.

**§ 41-2. General requirements.**

- A. At the time of initial occupancy of the unit and for at least ten years thereafter, the accessory apartment shall be rented only to a household which is a very-low, low, or moderate income household meeting the income eligibility standards established by COAH as set forth in any agreement or deed restriction.
- B. Rents of accessory apartments, including an allowance for utilities, shall be affordable to very-low, low, or moderate income households as per COAH and UHAC regulations.
- C. There shall be a recorded deed or declaration of covenants and restrictions applied to the property upon which the accessory apartment is located running with the land and limiting its subsequent rental or sale of the unit and the accessory apartment.
- D. The appropriate utility authority must certify that there is water and sewer infrastructure with sufficient capacity to serve the proposed accessory apartment. Where the proposed location is served by an individual well and/or septic system, the additional capacity necessitated by the new unit must meet the appropriate NJDEP standards.
- E. The Township accessory apartment program shall not restrict the number of bedrooms in any accessory apartment.
- F. No accessory apartment created as a result of this Chapter or these regulations shall exceed the gross floor area of the existing principal dwelling on the lot.
- G. Municipal building permit fees shall be waived in all cases involving affordable accessory apartment development under this section. An annual license and inspection fee, if required, shall be paid by unit owners.
- H. The maximum number of creditable accessory apartments shall be equal to no more than 10 or an amount equal to 10 percent of the Township's fair share obligation, whichever is greater (additional units may be approved by COAH or a court of competent jurisdiction if the municipality has demonstrated successful completion of its accessory apartment program.).
- I. Accessory apartments are permitted in existing principal or accessory buildings on lots in all zones and according to the applicable area, yard and bulk requirements.
- J. Accessory apartments shall comply with all applicable statues and regulations of the State of New Jersey, in addition to all building codes.

- K. The accessory apartment shall have living and sleeping space, cooking facilities, a kitchen sink and complete sanitary facilities for the exclusive use of its occupants.
- L. The accessory apartments shall consist of not less than two rooms, one of which shall be a bathroom containing a flush toilet, wash basin and bathroom tub or shower.
- M. All rooms shall be accessible from within the apartment.
- N. The accessory apartment shall be separate from the primary residence and private and secure from all attached units.
- O. The apartment shall have direct access to the outdoors or directly to a hall from which there is direct access to the outdoors without passing through any other units, and the accessory apartment shall comply with all requirements of the applicable building codes.
- P. If the apartment is located on the second or third floor, there shall be at least two means of access to the outdoors, available at all times, as approved by the Construction Official. Exterior stairways for the accessory apartment shall be located at the rear or side of the structure.
- Q. No apartment shall be located above the third floor.
- R. At least one off-street parking space per bedroom shall be provided for each apartment, situated in the side yard or rear yard only.
- S. An accessory building in which a supplementary apartment is built may not be used for any other purpose, except for the storage of vehicles and equipment normally used on residential or agricultural lots or the operation of a residential or agricultural workshop, provided that large quantities of toxic or hazardous materials are not stored in the building.
- T. If the accessory apartment will be served by a sanitary disposal system such shall be approved by the Board of Health.

**§ 41-3. Definitions.**

Definitions pertaining to affordable housing not found below are the same as those definitions defined in Chapter 42, Affordable Housing Regulations:

**APPLICANT** — The person or persons applying for funds to create an accessory apartment in accordance with the provisions of this chapter.

**INSPECTION OFFICER** — A qualified inspector hired, appointed or contracted by the Administrative Agent to perform the duties described in this chapter.

**SUBSIDIZED ACCESSORY APARTMENT** — A portion of a single-family dwelling or an existing accessory building which has been converted through the use of public funds to create an additional dwelling unit which shall be deed restricted for occupancy by and affordability to a qualified affordable household for a period of at least 10 years as part of the Township's affordable housing program.

**UTILITY ALLOWANCE** — An allowance for utilities that is consistent with the personal benefit expense allowance for utilities as defined by HUD (or a similar allowance approved by COAH).

**§ 41-4. Eligibility.**

Only owners of existing dwelling units within the Township of Holland are eligible to apply for the accessory apartments program. Eligibility is further determined by the following criteria:

- A. The owner must agree to rent the accessory apartment unit only to an affordable household. Proof of each prospective tenant's income qualifications shall be required by the Administrative Agent.
- B. Any existing code deficiencies in the portion of the building to be devoted to the accessory apartment unit shall be corrected, and the unit shall be brought up to code standard. The standard for evaluating any rehabilitation activity on an existing dwelling unit shall be N.J.A.C. 5:23-2.4 and

5:23-2.5. The evaluation shall be undertaken and certified by the Inspection Officer.

- C. The owner of the accessory apartment shall agree, by written contract, to comply with all of the requirements of Chapter 42, Affordable Housing Regulations, of the Code of the Township of Holland.

**§ 41-5. Administration.**

A. Affirmative marketing plan.

- (1) The accessory apartments created shall be affirmatively marketed in accordance with the Township's affirmative marketing plan.
- (2) Notification of the availability of funds for the creation of accessory apartments shall be accomplished through the circulation of flyers describing the accessory apartments program, to be enclosed with the annual property tax bills; periodic press releases issued to the official newspaper to promote interest in the program; and making information and application packets available to interested owners upon request and free of charge.

- B. Housing Administrative Agent. The Township Committee shall designate an Administrative Agent whose duties with respect to the accessory apartments program may include all or some of the following:

- (1) Preparing an accessory apartments program manual consisting of the following:
  - (a) Procedures for program marketing;
  - (b) Criteria for determining eligibility of properties;
  - (c) The amount of money currently available for accessory apartment conversions or additions;
  - (d) Procedures for application intake;
  - (e) Procedures for review and approval of work, including interim inspections of work; and
  - (f) The length and terms of affordability controls.
- (2) Preparing information packets to be distributed to interested owners.
- (3) Developing the necessary application forms to be used by owners interested in applying for participation in the accessory apartments program. The application form shall clearly state that any owner who utilizes the provisions of this program shall agree to place a deed restriction and a lien on his or her property. In addition, the application form shall require proof of ownership, insurance and other general information on the property in question. The content of the forms shall be approved by the Township Committee prior to their distribution to potential applicants.
- (4) Determining the eligibility of each property based on the requirements of the program.
- (5) Providing assistance to each applicant in completing application forms, submitting required documentation, and obtaining contractors' estimates.
- (6) Monitoring the progress of each accessory apartment project and coordinating contractor proposals, inspections and payments under the terms of the program.
- (7) Monitoring and oversight of the deed restrictions placed on properties that are participating in the accessory apartments program.
- (8) Preparing and presenting annual monitoring reports to the Township Committee to assist in the Township's submission of annual monitoring reports.

- (9) Maintaining confidential files on each program applicant. The files shall be used in responding to monitoring requirements and to protect the municipality against charges of irregularity. The files shall include:
  - (a) The name of each applicant;
  - (b) If the applicant is not approved, the reasons for the disapproval; and
  - (c) If the applicant is approved:
    - [1] The initial inspection report of the Inspection Officer;
    - [2] Bids submitted by contractors;
    - [3] The final owner/contractor agreement;
    - [4] The owner/Township contract;
    - [5] Progress reports and interim inspection reports;
    - [6] A copy of the final inspection report; and
    - [7] A copy of the lien.

C. Inspection Officer. The Administrative Agent shall designate a qualified Inspection Officer who will report to the Administrative Agent. The duties of the Inspection Officer include:

- (1) The initial inspection of the property to determine the condition of the existing dwelling.
- (2) A determination of whether or not the proposed improvements and the estimated cost of the improvements needed to create the accessory apartment will meet the parameters of the accessory apartments program. The Inspection Officer's report on the nature and cost of the improvements shall be made in writing to the Administrative Agent.
- (3) Interim and final inspections of work in progress and the issuance of a certificate of occupancy for the new dwelling unit. The certification shall bear the date of the inspection and shall be submitted in a written report to the Administrative Agent.

D. Funding.

- (1) The Township shall include in its annual budget sufficient funds to cover the costs of the accessory apartments program. The money expended on the accessory apartments program shall be exempt from the limitations on final appropriations imposed pursuant to P.L. 1976, c. 68 (N.J.S.A. 40A:4-45.1 et seq.).
- (2) Committee shall appropriate money in its annual budget to provide ten-year forgivable loans to fund the creation of up to 10 accessory apartments in the amount of \$20,000 per moderate income unit and \$25,000 per low income unit.
- (3) 20,000 shall be provided for each moderate income unit and \$25,000 for each low income accessory apartment unit to be created.

General procedures for application, review, and approval.

- (4) Interested owners will be able to secure information and application packets from the Administrative Agent and from the Township Clerk.
- (5) Interested owners will submit a completed application form to the Administrative Agent. The Administrative Agent will be available to assist the owner in the completion of the application form.

- (6) Interested owners who submit applications for the accessory apartments program shall not be required to pay application fees.
- (7) Property owners wishing to apply to create an accessory apartment shall submit to the administrative entity:
  - (a) A sketch of floor plan(s) showing the location, size and relationship of both the accessory apartment and the primary dwelling within the building or in another structure;
  - (b) Rough elevations showing the modifications of any exterior building façade to which changes are proposed; and
  - (c) A site development sketch showing the location of the existing dwelling and other existing buildings; all property lines; proposed addition, if any, along with the minimum building setback lines; the required parking spaces for both dwelling units; and any man-made conditions which might affect construction.
- (8) The Administrative Agent will review the application for completeness and, if the application is complete, determine that the applicant has signed a binding contract stating his or her willingness to rent the accessory apartment unit to a qualified affordable household.
- (9) . The Inspection Officer's determination will be submitted in writing to the Administrative Agent.
- (10) If the Inspection Officer issues a satisfactory report, the Administrative Agent will forward a copy of the application to the Township Committee for its approval. The Administrative Agent shall be available to discuss the application with the Township Committee at the time of its consideration.

**§ 41-6. Approvals and payments.**

- A. Committee approves the application, it shall simultaneously authorize the transfer of the required amount of the forgivable loan to a trust account to be administered by the Township Clerk.
- B. The project may begin as soon as the applicant and the Administrative Agent have, in the presence of the Township Attorney, signed all of the necessary agreements. The Township Attorney shall arrange for the filing of the lien and deed restriction with the property deed.
- C. The Township Committee shall only deny an application for an accessory apartment subsidy if the project will not be in conformance with COAH's requirements, the Township's Land Use Ordinance<sup>1</sup>, or this chapter. All denials shall be in writing with the reasons therefor clearly stated.
- D. After construction is completed If any construction is required, the Inspection Officer will inspect the unit after the work is completed and determine that the work has been completed in accordance with the approved work plan. If the work is incomplete, the payment to the homeowner shall be withheld until the work is completed to the satisfaction of the Inspection Officer and in accordance with the owner/contractor agreement.

**§ 41-7. Affordability controls.**

- A. Liens on property. An owner who receives financial assistance under the provisions of the subsidized accessory apartments program shall be required to place a lien on his or her property.
 

The following requirements shall apply to such liens:

  - (1) The Township shall be specified as the lienholder.
  - (2) The lien shall specify that the value of the lien equals the amount of the monetary benefits received by the applicant under the accessory apartments program.

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<sup>1</sup> Editor's Note: See Ch. 100, Land Use

- (3) A record of the lien will be kept on the property tax record, in the County Clerk's files, in the Administrative Agent's records, with the deed and with the insurance policy, as required by this program.
  - (4) The owner shall notify the Administrative Agent, in writing, of the intent to sell a property that has benefitted from the accessory apartments program, if the accessory apartment is still under the restrictions required by this program.
  - (5) Each time the unit is rerented, the owner must contact the Administrative Agent and verify that the unit will continue to be occupied by a qualified affordable household and that the rent charged meets the affordability guidelines of the program.
  - (6) All properties shall be checked for liens, and any suspected violations of the program shall be reported to the Administrative Agent for further investigation.
  - (7) At the termination of the affordability controls, the loan shall be forgiven.
- B. An affordable household, as determined by the Administrative Agent, shall occupy the accessory apartment unit. The deed restriction shall be recorded, and a copy of the recorded deed shall be forwarded to the Administrative Agent. The deed restriction shall go into effect as soon as a certificate of occupancy has been issued and shall apply for 10 years. Sale of the property shall not affect the length or terms of the deed restriction.
- C. Pricing. The Administrative Agent and owner(s) of a deed-restricted accessory apartment unit must follow the rental guidelines set forth below:
- (1) Gross rents, including a utility allowance consistent with the utility allowance approved by HUD for use in New Jersey, shall be set so as not to exceed 30% of the gross monthly income for the appropriate household size and income level. Maximum rents for each household size and income level shall be calculated based on the regional weighted average of the current uncapped Section 8 income limits published by HUD.
  - (2) The following criteria shall be used to calculate applicable rents for the accessory apartment units:
    - (a) Efficiency units shall be affordable to one-person households;
    - (b) One-bedroom units shall be affordable to one-and-one-half- person households;
    - (c) Two-bedroom units shall be affordable to three-person households.
  - (3) Administrative Agent shall establish the maximum rent level for each subsidized accessory apartment based upon these criteria.
- D. Annual indexed increases. The rents of the accessory apartment units may be increased annually in accordance with N.J.A.C. 5:93-9.15.

**§ 41-8. Program compliance.**

The provisions of this chapter notwithstanding, the accessory apartments program will comply with all of the regulations of the Council on Affordable Housing and with the requirements of the Chapter 42, Affordable Housing. When references to the New Jersey Administrative Code (N.J.A.C.) made herein are superseded, the successor correlative regulations are intended to be referred to.

**Section 2. Severability.**

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

**Section 3. Repealer.**

Any Ordinances or parts thereof in conflict with the provisions of these Ordinance are hereby repealed as to their inconsistencies only.

**Section 4.** Effective date.

This Ordinance shall take effect immediately upon (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; and (3) filing of the final form of adopted ordinance by the Clerk with the Hunterdon County Planning Board pursuant to N.J.S.A. 40:55D-16.

Attest:

\_\_\_\_\_  
Catherine M. Miller, RMC, Municipal Clerk

\_\_\_\_\_  
Dan Bush, Mayor

Date of Introduction and First Reading:

Date of Second Reading and Final Adoption:

I Catherine M. Miller, Municipal Clerk, hereby certify that the foregoing Ordinance is a true and accurate copy of an Ordinance adopted on final reading by the Township Committee of the Township of Holland at a regular and duly convened meeting held on \_\_\_\_\_, 2018.

In witness thereof, I have set my hand and affixed the seal of the Township of Holland this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Catherine M. Miller, RMC  
Municipal Clerk, Holland Township

**NOTICE**

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Committee of the Township of Holland held on \_\_\_\_\_, 2018, and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Committee to be held on \_\_\_\_\_, 2018 at 7:30 p.m. or as soon thereafter as the Township Committee may hear this Ordinance at the \_\_\_\_\_, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

Catherine M. Miller  
Township Clerk

Adopted: \_\_\_\_\_

Dan Bush, Mayor  
Township Committee

Attest:

\_\_\_\_\_  
Catherine M. Miller  
Township Clerk

- o Ordinance 2018-11: An Ordinance Renaming Chapter 42 of the Code of the Township of Holland, "Affordable Housing Regulations," and replacing the entire contents thereof to address the requirements of the Fair Housing Act and the Uniform Housing Affordability Controls (UHAC),

**TOWNSHIP OF HOLLAND  
HUNTERDON COUNTY**

**ORDINANCE \_\_\_\_\_**

**AN ORDINANCE RENAMING CHAPTER 42 OF THE CODE OF THE TOWNSHIP OF HOLLAND, “AFFORDABLE HOUSING REGULATIONS,” AND REPLACING THE ENTIRE CONTENTS THEREOF TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC)**

**WHEREAS**, the Township of Holland has a constitutional obligation to create a realistic opportunity for the construction of its fair share of the region's need for affordable housing; and

**WHEREAS**, the Township Committee of the Township of Holland desires to create a realistic opportunity for the creation of affordable housing within the Township; and

**WHEREAS**, the Township is desirous of amending and supplementing the Township Code to include provisions addressing Holland’s constitutional obligation to provide for its fair share of low and moderate income housing consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

**WHEREAS**, this Ordinance is intended to provide assurances that low and moderate income units ("affordable units") are created with controls on affordability over time and that low and moderate income households shall occupy those units.

**NOW, THEREFORE, BE IT ORDAINED**, by the Township Committee of the Township of Holland, as follows:

**Section 1.** Chapter 42 “Affordable Housing”, is hereby renamed “Affordable Housing Regulations”, deleted in its entirety and replaced as follows:

**Chapter 42: Affordable Housing Regulations.**

**ARTICLE I AFFORDABLE HOUSING REQUIREMENTS**

**§42-1 Purpose.**

- A. The purpose of this Chapter is to provide for and regulate affordable housing in the Township of Holland. This Ordinance is intended to assure that low and moderate income units ("affordable units") are created with controls on affordability over time and that low and moderate income individuals and households shall occupy these units.
- B. The Township of Holland Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Housing Element and Fair Share Plan has been endorsed by the Township Committee. The Fair Share Plan describes the ways the Township of Holland addresses its fair share for low and moderate income housing.
- C. This Ordinance implements the Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:97, as it may be amended and supplemented.

**§42-2 Monitoring requirements.**

- A. The Township shall provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs (DCA), Council on Affordable Housing (COAH), Local Government Services (LGS) or other entity designated by the State of New Jersey.
- B. The Township shall provide annual reporting of the status of all affordable housing activity within the Township through posting activity on the CTM system and/or file a copy of its report with COAH or its successor agency at the State level.

**§42-3 Definitions.**

All definitions contained in N.J.A.C. 5:96-1.1 et seq., as may be amended by the decision in In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (“Mount Laurel IV”) or a court of competent jurisdiction, Procedural Rules of the New Jersey Council on Affordable Housing, and

N.J.A.C. 5:97-1.1. et seq., as may be amended by the decision in Mount Laurel IV or a court of competent jurisdiction, Substantive Rules of the New Jersey Council on Affordable Housing, are hereby incorporated and adopted as if set forth in full herein. For convenience, the following definitions are provided for reference purposes. In the event of any conflict or amendment to the New Jersey Administrative Code (N.J.A.C.), the definitions and rules duly promulgated pursuant to the Administrative Procedures Act shall govern this chapter. The following terms when used in this Chapter shall have the meanings given herein:

**ACT**

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

**ADAPTABLE**

Constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

**ADMINISTRATIVE AGENT**

The entity designated by the Township to administer affordable units in accordance with this Ordinance, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26).

**AFFIRMATIVE MARKETING**

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

**AFFORDABILITY AVERAGE**

The average percentage of median income at which new restricted units in an affordable housing development are affordable to low and moderate income households.

**AFFORDABLE**

A sales price or rent level that is within the means of a low or moderate income household as defined within N.J.A.C. 5:93-7.4, and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as it may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as it may be amended and supplemented.

**AFFORDABLE HOUSING DEVELOPMENT**

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

**AFFORDABLE HOUSING PROGRAM(S)**

Any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

**AFFORDABLE UNIT**

A housing unit proposed or created pursuant to the Act and approved for crediting and/or funded through an affordable housing trust fund.

**AGENCY**

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

**AGE-RESTRICTED UNIT**

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

**ALTERNATIVE LIVING ARRANGEMENTS**

A structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D and E boarding homes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health;

group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

**ASSISTED LIVING RESIDENCE**

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

**CERTIFIED HOUSEHOLD**

A household that has been certified by an Administrative Agent as a low income household or moderate income household.

**COAH**

The Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.), or any successor agency charged with the administration of the Act.

**DCA**

The State of New Jersey Department of Community Affairs.

**DEFICIENT HOUSING UNIT**

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

**DEVELOPER**

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

**DEVELOPMENT**

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

**INCLUSIONARY DEVELOPMENT**

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

**LOW INCOME HOUSEHOLD**

A household with a total gross annual household income equal to 50% or less of the regional median household income by household size.

**LOW INCOME UNIT**

A restricted unit that is affordable to a low income household.

**MAJOR SYSTEM**

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

**MARKET-RATE UNITS**

Housing not restricted to low and moderate income households that may sell or rent at any price.

**MEDIAN INCOME**

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

**MODERATE INCOME HOUSEHOLD**

A household with a total gross annual household income in excess of 50% but less than 80% of the regional median household income by household size.

**MODERATE INCOME UNIT**

A restricted unit that is affordable to a moderate income household.

**MULTIFAMILY UNIT**

A structure containing five or more dwelling units.

**NON-EXEMPT SALE**

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

**RANDOM SELECTION PROCESS**

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

**REGIONAL ASSET LIMIT**

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

**REHABILITATION**

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

**RENT**

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

**RESTRICTED UNIT**

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

**UHAC**

The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, et seq.

**VERY-LOW INCOME HOUSEHOLD**

A household with a total gross annual household income equal to 30% or less of the regional median household income by household size.

**VERY-LOW INCOME UNIT**

A restricted unit that is affordable to a very-low income household.

**WEATHERIZATION**

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

**§42-4 Applicability.**

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

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

**§42-5 Rehabilitation Program.**

- A. Holland's rehabilitation program shall be designed to renovate deficient housing units occupied by low and moderate income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28. The assistance provided under this Section shall be available until the number of units set forth in the Township's Fair Share Plan have been satisfactorily rehabilitated within the Township's period of substantive certification.
- B. Both owner-occupied and renter-occupied units shall be eligible for rehabilitation funds.
- C. All rehabilitated units shall remain affordable to low and moderate income households for a period of 10 years (the control period). For owner-occupied units the control period will be enforced with a lien and for renter occupied units the control period will be enforced with a deed restriction.
- D. The Township of Holland shall dedicate a minimum of \$10,000 for each unit to be rehabilitated through this program for hard costs.
- E. The Township of Holland shall designate one or more Administrative Agents to administer the rehabilitation program in accordance with N.J.A.C. 5:96 and N.J.A.C. 5:97. The Administrative Agent(s) shall provide a rehabilitation manual for the owner-occupancy rehabilitation program and a rehabilitation manual for the rental-occupancy rehabilitation program to be adopted by resolution of the governing body and subject to approval of the Court. Both rehabilitation manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).
- F. Eligibility.
  - (1) Household eligibility.
    - (a) Only owners of houses or structures within the Township are eligible for the rehabilitation assistance provided under this chapter. For owner-occupied units, the owner shall be determined to be income eligible as a low or moderate income household as herein defined, in accordance with this chapter. For renter-occupied units, the tenant household shall be determined to be income eligible as low or moderate income, in accordance with this chapter.
    - (b) Owners of vacant units which are found to be eligible for assistance under this chapter shall enter into an agreement or deed restriction, that the unit will either be rented or sold to a low- or moderate-income eligible household as provided in this chapter and the rent or sales price of the unit shall be restricted for a term of years as outlined herein.
  - (2) Unit eligibility.
    - (a) A dwelling unit which is proposed to be rehabilitated under this chapter must be found to be a substandard housing unit in accordance with N.J.A.C. 5:97-1.1 et seq., as may be amended by the decision in Mount Laurel IV or a court of competent jurisdiction. A "substandard housing unit" is defined as a unit that was built prior to 1950 and is overcrowded or one with health and safety code violations that require the repair or replacement of a major system. A major system shall include a roof, plumbing (including wells), heating, electricity, weatherization, sanitary plumbing (including septic systems) and/or a load bearing structural system. Upon rehabilitation, housing deficiencies shall be corrected, and the house shall be brought up to code standard. The standard for evaluating rehabilitation activity shall be the local property maintenance code or, if none is available, the BOCA National Existing Structures Code. The rehabilitation activity shall not include luxury improvements, the purchase of appliances (with the exception of stoves) or improvements that are strictly cosmetic.
    - (b) All rehabilitated units shall remain affordable to low and moderate income households for a period of 10 years (the control period). Owners of units rehabilitated under this chapter shall be bound by a recorded deed or declaration of covenants and restrictions applied to the

property upon which the accessory apartment is located running with the land and limiting its subsequent rental or sale of the unit and the accessory apartment the form of which shall be prepared by the Township Attorney in conformance with the Act.

G. Units in a rehabilitation program shall be exempt from N.J.A.C. 5:97-9 and Uniform Housing Affordability Controls (UHAC), but shall be administered in accordance with the following:

- (1) If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low or moderate income household at an affordable rent and affirmatively marketed pursuant to N.J.A.C. 5:97-9 and UHAC.
- (2) If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to N.J.A.C. 5:97-9 and UHAC.
- (3) Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:97-9.
- (4) Applicant and/or tenant households shall be certified as income-eligible in accordance with N.J.A.C. 5:97-9 and UHAC, except that households in owner occupied units shall be exempt from the regional asset limit.

**§42-6 Alternative living arrangements.**

A. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:

- (1) Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by COAH or its successor agency.
- (2) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).

B. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30 year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by COAH or its successor agency.

- (1) The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

**§42-7 Accessory apartment program**

Accessory apartments created under this program shall abide by the regulations in this Chapter and those outlined in Chapter 41 “Accessory Apartments”.

**§42-8 Inclusionary zoning.**

The Township has zoned Block 24, Lots 3 and 13 as the Planned Commercial Development/Planned Senior Village Development (PCD/PSV) District. This zone permits multi-family housing at four units per acre. An approval was granted for this site that permits 106 market-rate units and 26 affordable units.

**§42-9 Phasing schedule for inclusionary zoning.**

In inclusionary developments the following schedule shall be followed:

Maximum Percentage of Market-Rate Units Completed	Minimum Percentage of Low and Moderate income Units Completed
25	0
25+1	10
50	50

**§42-10 Fractional units.**

- A. Inclusionary developments that result in an affordable housing obligation that is fractional shall either round up and provide the additional affordable unit or in the alternative the developer may pay a payment-in-lieu for the fraction.
- B. The payment-in-lieu for Holland shall be \$150,000 for 2018. The payment-in-lieu shall increase by 3% each year. To calculate the payment-in-lieu the developer shall multiply the fraction by the payment. For example, a fraction of 0.4 triggered in 2018 would require a payment of \$60,000.

**§42-11 New construction.**

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

- (1) The fair share obligation shall be divided equally between low and moderate income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit. At least 13% of all restricted rental units shall be very-low income units (affordable to a household earning 30% or less of median income). The very-low income units shall be counted as part of the required number of low income units within the development.
- (2) At least 25% of the obligation shall be met through rental units, including at least half in rental units available to families.
- (3) A maximum of 25% of the Township's obligation may be met with age restricted units. At least half of all affordable units in the Township's Plan shall be non-restricted.
- (4) In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low income units.
- (5) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
  - (a) The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low and moderate income units;
  - (b) At least 30% of all low and moderate income units shall be two-bedroom units;
  - (c) At least 20% of all low and moderate income units shall be three-bedroom units; and
  - (d) The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer.
- (6) Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low and moderate income units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

B. Accessibility Requirements

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

- (b) An adaptable kitchen on the first floor; and
- (c) An interior accessible route of travel on the first floor; and
- (d) An adaptable room that can be used as a bedroom, with a door or casing for the installation of a door, on the first floor; and
- (e) If not all of the foregoing requirements in (2)(a) through (2)(d) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs (2)(a) through (2)(d) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
- (f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that Holland has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:

[1] Where a unit has been constructed with an adaptable entrance, upon the request of a person with disabilities who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.

[2] To this end, the builder of restricted units shall deposit funds within the Township of Holland's Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.

[3] The funds deposited under paragraph (f)[2] above shall be used by the Township of Holland for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.

[4] The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Township of Holland for the conversion of adaptable to accessible entrances.

[5] Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township's Affordable Housing Trust Fund in care of the Township Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

[6] Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

#### C. Design.

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

#### D. Maximum Rents and Sales Prices.

- (1) In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established by COAH or a successor entity.
- (2) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52% of median

income.

- (3) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low income and moderate income units, provided that at least 13% of all low and moderate income rental units shall be affordable to very-low income households, earning 30% or less of the regional median household income, with such very-low income units counted the low income housing requirement.
- (4) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for restricted ownership units; in achieving this affordability average, moderate income ownership units must be available for at least three different sales prices for each bedroom type, and low income ownership units must be available for at least two different sales prices for each bedroom type.
- (5) In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
  - (a) A studio shall be affordable to a one-person household;
  - (b) A one-bedroom unit shall be affordable to a one and one-half person household;
  - (c) A two-bedroom unit shall be affordable to a three-person household;
  - (d) A three-bedroom unit shall be affordable to a four and one-half person household; and
  - (e) A four-bedroom unit shall be affordable to a six-person household.
- (6) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
  - (a) A studio shall be affordable to a one-person household;
  - (b) A one-bedroom unit shall be affordable to a one and one-half person household; and
  - (c) A two-bedroom unit shall be affordable to a two-person household or two one-person households.
- (7) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95% of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28% of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as it may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as it may be amended and supplemented.
- (8) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as it may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as it may be amended and supplemented.
- (9) The price of owner-occupied low and moderate income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.
- (10) The rent of low and moderate income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the United States. This increase shall

not exceed nine percent in any one year. Rents for units constructed pursuant to low income housing tax credit regulations shall be indexed pursuant to the regulations governing low income housing tax credits.

**§42-12 Utilities.**

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

**§42-13 Occupancy standards.**

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

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

**§42-14 Control periods for restricted ownership units and enforcement measures.**

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

**§42-15 Price restrictions for restricted ownership units, homeowner association fees and resale prices.**

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

- A. The initial purchase price for a restricted ownership unit shall be approved by the Administrative

Agent.

- B. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- C. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low and moderate income purchasers and those paid by market purchasers.
- D. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See §42-18.

**§42-16 Buyer income eligibility.**

- A. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as it may be amended and supplemented, such that low income ownership units shall be reserved for households with a gross household income less than or equal to 50% of median income, and moderate income ownership units shall be reserved for households with a gross household income less than 80% of median income.
- B. Notwithstanding the foregoing, however, the Administrative Agent may, upon approval by the Township Committee, and subject to the Court's approval, permit moderate income purchasers to buy low income units in housing markets if the Administrative Agent determines that there is an insufficient number of eligible low income purchasers to permit prompt occupancy of the units. All such low income units to be sold to moderate income households shall retain the required pricing and pricing restrictions for low income units.
- C. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit.
- D. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low income household or a moderate income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33% of the household's eligible monthly income.

**§42-17 Limitations on indebtedness secured by ownership unit; subordination.**

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

**§42-18 Capital improvements to ownership units.**

- A. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that adds an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
- B. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the

Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

**§42-19 Control periods for restricted units.**

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as it may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 30 years, until Holland takes action to release the unit from such requirements. Prior to such action, a restricted rental unit shall remain subject to the requirements of N.J.A.C. 5:80-26.1, as it may be amended and supplemented.
- B. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Hunterdon. The deed shall also identify each affordable unit by apartment number and/or address and whether that unit is designated as a very-low, low or moderate income unit. Neither the unit nor its affordability designation shall change throughout the term of the deed restriction. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- C. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
  - (1) Sublease or assignment of the lease of the unit;
  - (2) Sale of other voluntary transfer of the ownership of the unit; or
  - (3) The entry and enforcement of any judgement of foreclosure on the property containing the unit.

**§42-20 Rent restrictions for rental units; leases.**

- A. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
- B. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
- C. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

**§42-21 Tenant income eligibility.**

- A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as it may be amended and supplemented, and shall be determined as follows:
  - (1) Very-low income rental units shall be reserved for households with a gross household income less than or equal to 30% of median income.
  - (2) Low income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income.
  - (3) Moderate income rental units shall be reserved for households with a gross household income less than 80% of median income.

- B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very-low income household, low income household or a moderate income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as it may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
- (1) The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
  - (2) The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
  - (3) The household is currently in substandard or overcrowded living conditions;
  - (4) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
  - (5) The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in A(1) through B(5) above with the Administrative Agent, who shall counsel the household on budgeting.

## **ARTICLE II                    MUNICIPAL HOUSING LIAISON**

### **§42-22 Municipal Housing Liaison.**

- A. The Township of Holland shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the Affirmative Marketing Plan, monitoring and reporting, and, where applicable, supervising any contracted Administrative Agent. The Municipal Housing Liaison shall be appointed by the governing body and may be a full- or part-time municipal employee.
- B. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Holland, including the following responsibilities which may not be contracted out to the Administrative Agent:
- (1) Serving as Holland's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
  - (2) Monitoring the status of all restricted units in Holland's Fair Share Plan;
  - (3) Compiling, verifying and submitting annual monitoring reports as may be required by the Court;
  - (4) Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and
  - (5) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.
- C. The Township of Holland shall designate one or more Administrative Agent(s) to administer newly constructed affordable units in accordance with UHAC. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body. The Operating Manual(s) shall be available for public inspection in the office of the Township Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the contracting Administrative Agent(s).

- D. Compensation. Compensation shall be fixed by the governing body at the time of the appointment of the Municipal Housing Liaison.

### ARTICLE III ADMINISTRATIVE AGENT

#### §42-23 Administrative Agent.

The Administrative Agent shall be an independent entity serving under contract to and reporting to the Township. For new sale and rental developments, all of the fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required. For resales, single family homeowners and condominium homeowners shall be required to pay 3% of the sales price for services provided by the Administrative Agent related to the resale of their homes. That fee shall be collected at closing and paid directly to the Administrative Agent. The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, .16 and .18 thereof, which include:

- A. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Township of Holland and the provisions of N.J.A.C. 5:80-26.15; and
- B. Providing counseling or contracting to provide counseling services to low and moderate income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- C. Household Certification:
  - (1) Soliciting, scheduling, conducting and following up on interviews with interested households;
  - (2) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low or moderate income unit;
  - (3) Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
  - (4) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
  - (5) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
  - (6) Employing a random selection process as provided in the Affirmative Marketing Plan of the Township of Holland when referring households for certification to affordable units.
- D. Affordability Controls:
  - (1) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
  - (2) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
  - (3) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Hunterdon County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit;
  - (4) Communicating with lenders regarding foreclosures; and
  - (5) Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

E. Sales and Re-rentals:

- (1) Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or re-rental; and
- (2) Instituting and maintaining an effective means of communicating information to low and moderate income households regarding the availability of restricted units for resale or re-rental.

F. Processing Requests from Unit Owners:

- (1) Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Chapter;
- (2) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;
- (3) Notifying the Township of an owner's intent to sell a restricted unit; and
- (4) Making determinations on requests by owners of restricted units for hardship waivers.

G. Enforcement:

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

H. Additional Responsibilities:

- (1) The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
- (2) The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet any monitoring requirements and deadlines.
- (3) The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

**ARTICLE IV            AFFIRMATIVE MARKETING REQUIREMENTS**

#### **§42-24 Affirmative Marketing Requirements.**

- A. The Township of Holland shall adopt by resolution an Affirmative Marketing Plan that is compliant with N.J.A.C. 5:80-25.15, as it may be amended and supplemented.
- B. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 3 and is required to be followed throughout the period of restriction.
- C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 3, comprised of Hunterdon, Middlesex and Somerset Counties.
- D. The Township has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the Township of Holland shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
- E. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low and moderate income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- F. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.
- G. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
- H. Applications for affordable housing shall be available in several locations, including, at a minimum, the Holland Municipal Building, Holland Library, Middlesex County Administration Building, Somerset County Administration Building, Somerset County Library Headquarters, Hunterdon County Library Headquarters and the developer's rental office. Pre-applications may be emailed to prospective applicants upon request. Otherwise, hard copies are available from the Township's Municipal Housing Liaison.
- I. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

#### **ARTICLE V            ENFORCEMENT**

#### **§42-25 Enforcement of Affordable Housing Regulations.**

- A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant, the Township shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- B. After providing written notice of a violation to an Owner, Developer or Tenant of a low or moderate income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the Township may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
  - (1) The Township may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or

violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:

- (a) A fine of not more than \$500.00 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense. In the case of an Owner who has rented a low or moderate income unit in violation of the regulations governing affordable housing units, payment into the Township of Holland Affordable Housing Trust Fund of the gross amount of rent illegally collected;
  - (b) In the case of an Owner who has rented a low or moderate income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
- (2) The Township may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low or moderate income unit:
- (a) The judgment shall be enforceable, at the option of the Township, by means of an execution sale by the Sheriff, at which time the low and moderate income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the Township, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.
  - (b) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low and moderate income unit. The excess, if any, shall be applied to reimburse the Township for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the Township in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the Township in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the Township for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the Township for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the Township. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the Township, whether such balance shall be paid to the Owner or forfeited to the Township.
  - (c) Foreclosure by the Township due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low and moderate income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
  - (d) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the affordable unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low and moderate income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized

from an actual sale as previously described.

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

**ARTICLE VI APPEALS**

**§42-26 Appeals.**

Appeals from all decisions of an Administrative Agent appointed pursuant to this Chapter shall be filed in writing with the Executive Director of COAH.

**Section 2. Severability.**

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder off this Ordinance shall not be affected thereby.

**Section 3. Repealer.**

Any Ordinances or parts thereof in conflict with the provisions of these Ordinance are hereby repealed as to their inconsistencies only.

**Section 4. Effective date.**

This Ordinance shall take effect immediately upon (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; and (3) filing of the final form of adopted ordinance by the Clerk with the Hunterdon County Planning Board pursuant to N.J.S.A. 40:55D-16.

Attest:

\_\_\_\_\_  
Catherine M. Miller, RMC, Municipal Clerk

\_\_\_\_\_  
Dan Bush, Mayor

Date of Introduction and First Reading:

Date of Second Reading and Final Adoption:

I Catherine M. Miller, Municipal Clerk, hereby certify that the foregoing Ordinance is a true and accurate copy of an Ordinance adopted on final reading by the Township Committee of the Township of Holland at a regular and duly convened meeting held on \_\_\_\_\_, 2018.

In witness thereof, I have set my hand and affixed the seal of the Township of Holland this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Catherine M. Miller, RMC  
Municipal Clerk, Holland Township

NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Committee of the Township of Holland held on \_\_\_\_\_, 2018, and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Committee to be held on \_\_\_\_\_, 2018 at 7:30 p.m. or as soon thereafter as the Township Committee may hear this Ordinance at the \_\_\_\_\_, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

Catherine M. Miller  
Township Clerk

Adopted:

\_\_\_\_\_  
Dan Bush, Mayor  
Township Committee

Attest:

\_\_\_\_\_  
Catherine M. Miller  
Township Clerk

- Ordinance 2018-12: An Ordinance Amending Chapter 66 “Development Fees” to Provide for the collection of Development Fees as permitted by the Fair Housing Act.-

### **TOWNSHIP OF HOLLAND**

### **HUNTERDON COUNTY**

### **ORDINANCE \_\_\_\_\_**

### **AN ORDINANCE AMENDING CHAPTER 66 “DEVELOPMENT FEES” TO PROVIDE FOR THE COLLECTION OF DEVELOPMENT FEES AS PERMITTED BY THE FAIR HOUSING ACT**

**WHEREAS**, In Holmdel Builder’s Association v. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27d-301, *et seq.*, and the State Constitution, subject to the adoption of Rules by the Council on Affordable Housing (COAH); and

**WHEREAS**, pursuant to P.L. 2008, c. 46, Section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH was authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans; and

**WHEREAS**, by the Committee of the Township of Holland, Hunterdon County, New Jersey, that Chapter 66 is hereby amended to include the following provisions regulating the collection and disposition of mandatory development fees to be used in connection with the Township’s affordable housing programs, consistent with N.J.A.C. 5:93-1, *et seq.*, as amended and supplemented, N.J.A.C. 5:80-26.1, *et seq.*, as amended and supplemented, and the New Jersey Fair Housing Act of 1985.

**NOW, THEREFORE, BE IT ORDAINED**, by the Township Committee of the Township of Holland, as follows:

**Section 1.** Chapter 66 “Development Fees” is hereby deleted in its entirety and replaced as follows:

#### **Chapter 66: Development Fees.**

§66-1. Purpose.

This Ordinance establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with COAH's regulations developed in response to P.L. 2008, c. 46, Sections 8 and 32-38 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7). Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing very-low, low and moderate income housing.

#### §66-2. Definitions.

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

#### **AFFORDABLE HOUSING DEVELOPMENT**

Development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a one hundred percent (100%) affordable housing development.

#### **COAH or the COUNCIL**

The New Jersey Council on Affordable Housing established under the Fair Housing Act.

#### **DEVELOPMENT FEE**

Money paid by a developer for the improvement of property as authorized by Holmdel Builder's Association v. Holmdel Township, 121 N.J. 550 (1990) and the Fair Housing Act of 1985, N.J.S.A. 52:27d-301, *et seq.*, and regulated by applicable COAH Rules.

#### **DEVELOPER**

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

#### **EQUALIZED ASSESSED VALUE**

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

#### **GREEN BUILDING STRATEGIES**

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

#### §66-3. Residential development fees.

##### A. Imposition of fees.

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

B. Eligible exactions, ineligible exactions and exemptions for residential developments.

- (1) Eligible construction, as referred to in this chapter, shall be new construction for which a construction permit is required pursuant to the New Jersey State Uniform Construction Code Act.
- (2) Affordable housing developments and/or developments where the developer has made a payment in lieu of on-site construction of affordable units, if permitted by Ordinance or by Agreement with the Township of Holland, shall be exempt from the payment of development fees.
- (3) Developments that have received preliminary or final site plan approval prior to the adoption of this Ordinance shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where site plan approval is not applicable, the issuance of a Zoning Permit and/or Construction Permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the Development Fee Ordinance in effect on the date that the Construction Permit is issued.
- (4) Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- (5) Owner-occupied homes replaced as a result of a natural disaster (such as a fire or flood) shall be exempt from the payment of a development fee.

§66-4. Non-residential development fees.

A. Imposition of fees.

- (1) Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
- (2) Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
- (3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvements and the equalized assessed value of the newly improved structure, i.e. land and improvements, and such calculation shall be made at the time a final Certificate of Occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

B. Eligible exactions, ineligible exactions and exemptions for non-residential development.

- (1) The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to a 2.5% development fee, unless otherwise exempted below.
- (2) The 2.5% development fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within the existing footprint, reconstruction, renovations and repairs.
- (3) Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption". Any exemption claimed by a developer shall be substantiated by that developer.

- (4) A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final Certificate of Occupancy for the non-residential development, whichever is later.
- (5) If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this Section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Township of Holland as a lien against the real property of the owner.

§66-5. Collection procedures.

- A. Upon the granting of a preliminary, final or other applicable approval for a development, the approving authority or entity shall notify or direct its staff to notify the Construction Official responsible for the issuance of a Construction Permit and the Township Development Regulations officer.
- B. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/ Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- C. The Construction Official responsible for the issuance of a Construction Permit shall notify the Township Tax Assessor of the issuance of the first Construction Permit for a development which is subject to a development fee.
- D. Within 90 days of receipt of such notification, the Township Tax Assessor shall prepare an estimate of the equalized assessed value of the development based on the plans filed.
- E. The Construction Official responsible for the issuance of a final Certificate of Occupancy shall notify the Township Tax Assessor of any and all requests for the scheduling of a final inspection on a property which is subject to a development fee.
- F. Within 10 business days of a request for the scheduling of a final inspection, the Township Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- G. Should the Township of Holland fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of Section 37 of P.L. 2008, c.46 (C.40:55D-8.6).
- H. Except as provided in 66-4 A(3) hereinabove, 50% of the initially calculated development fee shall be collected at the time of issuance of the Construction Permit. The remaining portion shall be collected at the time of issuance of the Certificate of Occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the Construction Permit and that determined at the time of issuance of the Certificate of Occupancy.
- I. Appeal of development fees.
  - (1) A developer may challenge residential development fees imposed by filing a challenge with the Hunterdon County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Township of Holland. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1, *et seq.*, within 90 days after the

date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

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

§66-6. Affordable Housing Trust Fund.

- A. There is hereby created a separate, interest-bearing Affordable Housing Trust Fund to be maintained by the Chief Financial Officer of the Township of Holland for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
  - (1) Payments in lieu of on-site construction of a fraction of an affordable unit, where permitted by Ordinance or by Agreement with the Township of Holland;
  - (2) Funds contributed by developers to make 10% of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
  - (3) Rental income from municipally operated units;
  - (4) Repayments from affordable housing program loans;
  - (5) Recapture funds;
  - (6) Proceeds from the sale of affordable units; and
  - (7) Any other funds collected in connection with Holland's affordable housing program.
- C. Interest accrued in the Affordable Housing Trust Fund shall only be used to fund eligible affordable housing activities.

§66-7. Use of funds.

- A. The expenditure of all funds shall conform to a Spending Plan. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved to address the Township of Holland's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market to affordable program; Regional Housing Partnership programs; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost saving and in accordance with accepted national or State standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by the rules and specified in the approved Spending Plan.
- B. Funds shall not be expended to reimburse the Township of Holland for past housing activities.
- C. At least 30% of all development fees collected and interest earned on such fees shall be used to provide affordability assistance to low and moderate income households in affordable units included in the municipal Fair Share Plan. One-third (1/3) of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of the median income for Housing Region 3, in which Holland is located.

- (1) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
  - (2) Affordability assistance to households earning 30% or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income. The specific programs to be used for very-low income affordability assistance shall be identified and described within the Spending Plan.
  - (3) Payments in lieu of constructing affordable housing units on site, if permitted by Ordinance or by Agreement with the Township of Holland, and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- D. The Township of Holland may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including its programs for affordability assistance.
- E. No more than 20% of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare a Housing Element and Fair Share Plan, and/or administer an affirmative marketing program or a rehabilitation program.
- (1) In the case of a rehabilitation program, the administrative costs of the rehabilitation program shall be included as part of the 20% of collected development fees that may be expended on administration.
  - (2) Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with annual monitoring requirements.

§66-8. Monitoring.

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

**Section 2.** Severability.

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

**Section 3.** Repealer.

Any Ordinances or parts thereof in conflict with the provisions of these Ordinance are hereby repealed as to their inconsistencies only.

**Section 4.** Effective date.

This Ordinance shall take effect immediately upon (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; and (3) filing of the final form of adopted ordinance by the Clerk with the Hunterdon County Planning Board pursuant to N.J.S.A. 40:55D-16.

Attest:

\_\_\_\_\_  
Catherine M. Miller, RMC, Municipal Clerk  
Date of Introduction and First Reading:

\_\_\_\_\_  
Dan Bush, Mayor

Date of Second Reading and Final Adoption:

I Catherine M. Miller, Municipal Clerk, hereby certify that the foregoing Ordinance is a true and accurate copy of an Ordinance adopted on final reading by the Township Committee of the Township of Holland at a regular and duly convened meeting held on \_\_\_\_\_, 2018.

In witness thereof, I have set my hand and affixed the seal of the Township of Holland this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Catherine M. Miller, RMC

Municipal Clerk, Holland Township

NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Committee of the Township of Holland held on \_\_\_\_\_, 2018, and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Committee to be held on \_\_\_\_\_, 2018 at 7:30 p.m. or as soon thereafter as the Township Committee may hear this Ordinance at the \_\_\_\_\_, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

Catherine M. Miller  
Township Clerk

Adopted:

\_\_\_\_\_  
Dan Bush, Mayor  
Township Committee

Attest:

\_\_\_\_\_  
Catherine M. Miller  
Township Clerk

The Planning Board received the above proposed ordinances for discussion. All three pertaining to affordable housing and received the endorsement of Planner McKenzie in prior conversations. Planner Green and Attorney St. Angelo worked on the revisions needed for Holland Township. Some of the updates were housekeeping items. Planner Green was present and reminded everyone that the Planning Board is reviewing the proposed Ordinances for consistency with the Holland Township Master Plan. A motion was made by Mike Keady and seconded by Mike Miller to recommend to the Township Committee to adopt the proposed Ordinances as they are consistent with our Master Plan and they are advancing the the purpose of a housing plan. At a roll call vote, all present were in favor of the motion except for Ken Grisewood who abstained. Motion carried. Secretary Kozak will send this information to the Township Clerk for the Township Committee.

**Completeness Review:**

There was no Completeness Reviews scheduled to discuss.

**Resolution**

Block 4 Lot 1 – Milford Solar Farm LLC - Cyphers Rd – Minor Subdivision (Mill Road Solar Project) – farm house - Received into the office on April 26, 2018. The 45-day completeness deadline is June 10, 2018 . Deemed complete June 11, 2018. Revised Plans received July 30, 2018. Carried from July 9, 2018, August 13, 2018 and September 10, 2018. Approved with conditions at the September 10, 2018 PB meeting. Resolution distributed – to be memorialized October 8, 2018.

Attorney Gallina prepared the resolution and it was distributed as:

Block 4 Lot 1

**HOLLAND TOWNSHIP PLANNING BOARD  
RESOLUTION  
GRANTING MINOR SUBDIVISION APPROVAL**

**WHEREAS**, the Applicant, Milford Solar Farm, LLC has applied to the Holland Township Planning Board seeking minor subdivision and bulk variance approval, together with design waiver approval and modification of conditions in a prior Resolution of approval; and

**WHEREAS**, the application concerns property located at Block 4 Lot 1, which is located along Cyphers Road; and

**WHEREAS**, the Applicant has paid the proper application fees, and filed the appropriate application forms, and the application was deemed complete; and

**WHEREAS**, the Applicant has published the proper Notice of Hearing in the newspaper and made service upon the property owners within 200 feet regarding the requested relief; and

**WHEREAS**, the Planning Board considered the application at its meeting of September 10, 2018 ; and

**WHEREAS**, the Applicant was represented by Mark Bellin, Esq. Testimony was also given by Christopher Rosati, PE, PP; appeared and gave testimony; and

**WHEREAS**, the following Exhibits were marked and identified and permitted into evidence at the public hearing:

- A-1 - Affidavit of Service;
- A-2 - Notice of Hearing;
- A-3 - List of owners and utilities requiring notification, Holland Township;
- A-4 - List of owners and utilities requiring notification, Pohatcong Township;
- A-5 - Certified mailing slips;
- A-6- Proof of newspaper publication;
- A-7 - Memorandum of Understanding;

**WHEREAS**, the Board members having carefully considered and reviewed the application, made the following findings of fact and conclusions of law:

1. All the information shown on the application filed with the Planning Board is adopted by reference as though the complete application were set forth herein and made a part hereof.
2. The property is 92.498 acres, and is located along Cyphers Road, in the Limited Industrial District (IND). The property is owned by Fiberville Estates, LLC.
3. By Resolution dated June 12, 2017, Milford Solar Farm, LLC was granted site plan approval, with conditions, to develop portions of the property into a photovoltaic solar farm facility. Condition 52 of the Resolution provided as follows:
  52. The structure known as the “Jonathan Fine Farmhouse” and all related accessory structures are to be the subject of a subdivision

application to be filed by the Applicant not later than 12 months from the date of this herein Resolution

4. Since the adoption of the June 12, 2017 Resolution, the development rights to the site plan and subdivision have been acquired by Milford Solar Farm, LLC.

5. The proposed minor subdivision application seeks to create a new lot of six (6) acres, which exceeds the minimum lot area of 5 acres for the Zone under Ordinance 100-21L. In connection with the application, the Applicant has submitted a Minor Subdivision Plan prepared by William P. Schmel, PLS, dated 3/13/18, most recently revised 8/17/18. According to the subdivision plan, the proposed 6 acres lot will contain a 2 story dwelling and barn and silo and accessory structure.

6. The subdivision application will require bulk variance relief under N.J.S.A. 40:55D-70c. Under Ordinance 100-45D, barns and silos associated with a permitted agricultural use require a 75 foot side and rear yard setback. Here the existing barn will be 15.9 feet from the proposed side lot line, and 25.8 feet from the proposed rear property line. The existing silo will be located 10 feet from the proposed rear lot line.

7. The Subdivision Plan also notes that there are prior existing nonconformities. Under Ordinance 100-10B, accessory buildings must be at least 5 feet from any other building, and here the existing barn is closer than 5 feet to another accessory structure. Also, under Ordinance 100-45B(1), the floor area of an accessory structure is limited to 1,000 square feet, and here the existing barn and accessory structure will total over 1,000 square feet.

8. In addition to the requested variance relief, a design waiver is also requested from the requirements of Ordinance 100-175B, which requires that all arterial, collection, minor and marginal access streets to be at least 50 feet wide. The Applicant proposes to dedicate a right of way to the Township that will vary in width from approximately 65 feet at the widest part to about 15 feet at the narrowest section.

9. The Applicant seeks to modify Conditions 52 of the June 12, 2017, Resolution, regarding responsibility for restoring and maintaining the farmhouse on the proposed new lot. According to Attorney Bellin, an Agreement was entered into between Fiberville Estates, LLC, the Pohatcong History and Heritage Society, (the Society) and Milford Solar Farm, LLC, dated July 25, 2018. Among the terms of that agreement, Fiberville Estates, LLC, the owner of the property, will deed the subdivided lot to the Society, and the Society would agree to repair and restore the house and barn within 12 months. The Society has also entered into a

Memorandum of Understanding with the Township (Exhibit A-7), concerning restoration and maintenance of the historic structures on the lot, including the farmhouse. Therefore, the Applicant requests that condition 52 in the June 12, 2017 Resolution be modified in order that the Society will be responsible for maintain/restoring the farmstead.

10. Testimony on behalf of the Applicant was given at the hearing by Christopher Rosati, PE, PP. Engineer Rosati testified that the proposed lot to be subdivided is known as the “farmstead lot” which contains the farmhouse and other accessory structures, as noted in the June 2017 Resolution granting site plan approval. The lot is located on the westerly portion of Cyphers Road. The entire tract is over 92 acres. The proposed new lot will be 6 acres, and designated as “Lot 1” while the lands remaining will be known as “Lot 1.01. The new lot will meet the requirements for lot size, frontage, width and depth for the Zone.<sup>2</sup> The 6 acre lot size will require that the solar panel array be slightly changed, but the landscaping will remain unchanged, and will be landscaped to the property line of the propose new lot.

11. Engineer Rosati testified that 2 bulk variances are required. Zoning ordinance 100-45D, requires a 75 foot setback for the barn and silo. Here it is proposed that the existing barn be located 27.8 feet from the side lot line and 15.9 feet from the rear lot line. The existing silo will have a rear yard setback of 10 feet.

12. With regard to the requested variance relief, Engineer Rosati, testifying as a professional planner, stated that variance relief is appropriate in this matter under N.J.S.A. 40:55D-70c(2). He testified that pursuant to the requirements of N.J.S.A. 40:55D-70c(2), the application relates to a specific piece of property, and the purposes of the Municipal Land Use Law will be advanced by the grant of variance relief. He testified that the grant of variance relief will further the purposes of the MLUL under N.J.S.A. 40:55D-2j and n. Under N.J.S.A. 40:55D-2J, the variance will promote the conservation of a historic site, which is the Jonathan Fine Farmstead. Under N.J.S.A. 40:55D-2n, the grant of variance relief will promote the utilization of renewable energy resources, in that the proposed subdivision is to be perfected as part of the solar farm facility application. He further testified that there will be no substantial detriment to the public good or to the zone plan or zoning ordinance, and the subdivision would have no impact on neighboring residences, noting that the barn and silo would not even be observed from Cyphers Road.

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<sup>2</sup> Under Ordinance 100-21L, single family residential uses in the IND Limited Industrial Zone are subject to the requirements of the R-5 Zone.

13. Engineer Rosati further testified that the subdivision would be perfected by recording the plat rather than the Deed. Engineer Roseberry noted that the form for the right of way dedication would need to be submitted with a metes and bounds description, which the Applicant acknowledged would be done.

14. In considering the application and exhibits and hearing the testimony, the Board finds that minor subdivision approval may be granted, together with the requested variance relief, design waiver, and modification of condition 52 in the June 12, 2017, Resolution.

15. Under N.J.S.A. 40:55D-70(c)(2) where in a variance application relating to a specific piece of property, where the purposes of the Municipal Land Use Law would be advanced, and the benefits of the deviation would substantially outweigh any detriment, and where the variance can be granted without substantial detriment to the public good or to the zone plan and zoning ordinance, variance relief may be granted. Here the testimony has shown that the variance relief requested will further the objectives of the MLUL, under N.J.S.A. 40:55D-2j and n, and that the benefits from the grant of variance relief will substantially outweigh any detriment. The 6 acre lot to be subdivided is located on a 92 acre parcel, and will serve to preserve a historic farmstead. The subdivision will not create any detriment or nuisance to any surrounding properties. The barn and silo are existing structures and will not have any negative impact on neighboring properties. The proposed new lot is a 6 acre lot, and other than the boundary line adjustment for the newly subdivided lot, the impact will be minimal. The Board finds that there will be no substantial detriment to the public good or to the zone plan and zoning ordinance.

16. With regard to the requested design waiver concerning the right of way dedication, the Board finds that the waiver request is reasonable under the circumstances and may be granted.

17. The Applicant has also requested that Condition 53 of the prior Resolution of June 12, 2017 be modified to provide that the Pohatcong History and Heritage Society will agree to assume the obligation to undertake in good faith to ensure the Fine Farmhouse is both maintained and/or restored. A written Agreement has been entered into which provides that the owner, Fiberville Estates, LLC will deed the subdivided lot to the Society. The agreement also provides that Fiberville will donate funds to the Society for purposes of maintaining and/or restoring the Farmstead lot. The Society has also entered into a Memorandum of Understanding with Holland Township which provides for a timeline for restoration and maintenance of the Farmstead, and also makes provision for enforcement of the rights of the Township in the event the Society fails to meet any timeline requirements.

**NOW, THEREFORE, BE IT RESOLVED BY THE HOLLAND TOWNSHIP**

**PLANNING BOARD** , on this tenth day of September, 2018, that the Applicant is granted the following approvals:

- a) minor subdivision approval to create a proposed 6 acre lot;
- b) bulk variance relief under N.J.S.A. 40:55D-70-2(c), regarding setbacks for the barn and silo on the subdivided lot, and for exceeding the square footages of an accessory structure;
- c) design waiver for the required right of way width dedication for Cyphers Road;
- d) modification of Condition 53 of the Resolution of June 12, 2017.

The approvals as noted above are subject to the following conditions:

- 1. The Applicant shall obtain all other approvals from any outside agencies as applicable.
- 2. The Applicant shall pay all fees and escrows in connection with the application.
- 3. The Applicant shall submit a conforming subdivision plat for signature which shall contain all required revisions and?? indicated by the Board Engineer.
- 4. The Applicant shall submit a proposed Right of Way dedication, which shall contain a metes and bounds description, for review and approval by the Board Engineer and the Board Attorney.

A motion for adoption of the within Resolution was made by

and seconded by

### Planning Board Roll Call Vote

Board Member	Motion	Second	Ayes	Nays	Abstain	Absent/Ineligible
Dan Bush						
Ken Grisewood						
David Grossmueller						
Michael Keady						
Michael Miller						
Carl Molter						
Dan Rader						
Thomas J. Scheibener						
Duane Young						
Casey Bickhardt (Alt.)						

**Motion carried.**

The foregoing Resolution was duly adopted by the Holland Township Planning Board at a regular meeting held on \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
 Maria Elena Jennette Kozak, Secretary  
 Holland Township Planning Board

\_\_\_\_\_  
 Dan Rader, Chairperson  
 Holland Township Planning Board

A motion was made by Dan Bush and seconded by Tom Scheibener to approve the resolution as presented. At a roll call vote, all present were in favor of the motion. Motion carried.

**Public Hearings**

- Block 24 Lots 3 and 13 – Huntington Knolls LLC – Minor Subdivision & Final Site Plan – Phases 2, 3, 4 – Received into the office on July 24, 2018 and July 27, 2018 – The 45-day-completeness deadline is September 7, 2018. Deemed complete August 13, 2018 for Minor Subdivision & Final Site Plan – Phases 2 and 3 only. Board Action Needed.

For the record, Board Members Mike Keady and Ken Grisewood recused themselves and left the building at 7:45 pm.

Applicant's Attorney William Caldwell is present.

Exhibits:

A1 - Affidavit

A2 – Owners List

A3 – Copy of the Notice of Hearing

A4 – Affidavit from the Hunterdon Democrat

A5 - Certifications

Attorney Gallina stated that the board has jurisdiction to proceed with the Public Hearing. Attorney Gallina indicated that the Applicant assumes the risk of any jurisdictional challenge regarding a defective notice, and neither Holland Township nor the Planning Board will defend any suit involving either deficient notice or the Board's lack of jurisdiction.

Attorney Caldwell stated that the Mr. and Mrs. Jiovino are present along with Engineer Chandler and Andrew Holt.

Witness #1 – Andrew Holt. Engineer Roseberry recognized Mr. Holt as an expert witness.

Andrew Holt discussed the proposed water supply for the project and how he has worked on this for one year with emphasis on working with Aqua Water who is the Franchise Water system. Aqua owns and operates a tank at Fox Hill Condominiums which is a project located north of the property and applicant wants to extend the water to the proposed Huntington Knolls project from Fox Hill to the project for Phase 3 and 4. Phase 4 cannot be committed at this time. On August 9<sup>th</sup> the applicant received a commitment of Aqua to serve Phase 3 of the development which means the potable water for Phase 3 will come from Aqua. If a sufficient water supply cannot be used then the applicant will have to explore alternatives. A booster pump station for fire suppression was discussed for Phase 3 and Phase 4 which would need to be built on higher ground. For this project, Andrew Holt believes the 750 gallons per minute is what will be supplied.

Exhibit A6 – Letter dated October 8, 2018 with Fire Suppression Calculations

Andrew Holt expressed his opinion that the calculations are acceptable for Phase 3 and 4. Using the map, Andrew Holt showed the project from Clairmont to the end of the COAH building which is 44 units for Phase 3 and where Phase 4 will consist of another COAH building and town homes. The water will come from Fox Hill. RSIS standards of distribution mains being in loops was explained. The proposed will be a singular route thru a pump station with elevated pump pressure. It really is a pressure issue. There is a loop in the distribution and it supplies in 2 directions to the actual project but not back to Fox Hill. Phase 3 would dead end. RSIS allows for a dead end with a flush hydrant at the end for its units if they are less than 50 units. The proposed is a single un-looped system.

Exhibit A7 – Letter dated October 8, 2018 – 2 page letter water system engineering services.

Looping was discussed and questions asked such as single line and fire protection. Andrew Holt stated that the regulated association owning the line maintains it and you cannot guarantee it because a break is a break. It happens. 4 Hydrants are proposed. For this project the single line works.

Engineer Roseberry stated that RSIS is a jurisdiction of the state. A de minimus exception is permitted and Mr. Roseberry read what is allowed into record. There are four points needed to granting an exception. The Holland Township Planning Board can do a resolution and then send to the state. The applicant can do a waiver to RSIS without our endorsement. Engineer Roseberry asked about opinions if Phase 4 is never developed. Attorney Caldwell stated that is a future discussion and not for now. Engineer Roseberry suggested that it becomes part of the Developers Agreement. Dan Bush expressed concerns about Fire safety and how Holland Township has volunteer firemen for protection. Additional questions were expressed about a wait time to save a life. Andrew Holt stated that he feels that it is not much different than what you use to

for a single family large home. He believes the proposed is less time. Tom Scheibener asked about the relief for over 50 and Engineer Roseberry suggested that the applicant reach out to the state for their own waiver as the Planning Board in his opinion does not have enough information to make an educated decision. There were no other questions.

The public portion of the hearing was open.

Ted Harwick – Bellis Road ask questions about contours.

Mike Perrott- Spring Garden Road – asked about diesel power being needed for the generator at the pumping station.

Another resident-questions/comments/etc. that included the Fox Hill system, gallons per month, gallons per year, if the DEP established the allocation on the yield, if the application is proposing to extend the service, if more water is available than being used, if there is a problem with the aquifer does Aqua have the means to address the issue, ~~Parallel or looping explanation request, a pumping station, why not looping back to Fox Hill, and what is the timeline of Phase 3.~~

No additional comments were made from the public so that portion of the public hearing was closed.

Witness #2 – Peter Chandler – sworn in by our court reporter. He is a licensed engineer in NJ since 2001. He has appeared before boards in New Jersey and appeared before the Holland Township Planning Board at the completeness hearing. Pete Chandler was qualified as an expert witness.

Engineer Chandler explained that the applicant is seeking final site plan for Phase 2 and Phase 3 of the Huntington Knolls LLC project. The project was a 5 phase project. The first Phase was a subdivision with a lot being created and perfected. Phase 2 is a farmette with an access road that is shared with Phase 1. Phase 3 is the improvements of Clairmont Drive and 44 townhouses and a building that will consist of 12 COAH (affordable housing) apartments (units). Phase 4 will consist of 62 townhouses and a building consisting of 14 COAH (affordable housing) apartments (units). Phase 4 is NOT on the table for discussion at this meeting.

The project is a planned commercial and planned development which previously had senior housing as a component. The senior housing component was converted to market value when the applicant appeared before the Holland Township Planning Board requesting the change under the Sarlo Bill.

Exhibit A8 – a color rendering of the Site Plan prepared by Suburban Consulting dated October 8, 2018.

Pete Chandler explained that the existing bar and barn are included in Phase 3. There are no changes. A conversation took place addressing the Stormwater and the bio retention unit, the overflow to the wetlands and the NJDEP permit that is approved. There was conversation about the Advisory memo prepared by Rick Roseberry of Maser Consulting dated October 4, 2018. (secretary note: memo altered to fit into the minutes)

#### **MEMORANDUM**

**To: Members of the Holland Township Planning Board**

**From: C. Richard Roseberry PE, PP, AICP**

**Date: October 4, 2018**

**Re: Huntington Knolls  
Block 24, Lots 3, 13 & 13.01  
Holland Township, Hunterdon County, NJ MC  
Project No. HLP-002**

Dear Members of the Planning Board:

Our office has received a revised application for Minor Subdivision approval and Final Site Plan approval for Phases 2, 3, and 4 of the Huntington Knolls Development. The following items have been submitted for our review:

- A letter dated September 19, 2018 from Suburban Consulting Engineers addressing the outstanding conditions of prior resolutions;

- A set of plans titled “Minor Subdivision and Final Site Plan for Phases 2, 3 and 4 of Huntington Knolls LLC; Block 24 Lots 3 & 13” prepared by Suburban Consulting Engineers, dated July 19, 2018, revised to September 17, 2018;
- A set of plans titled “Playground Layout Compliance”, consisting of two (2) sheets, dated September 18, 2018;

In an effort to reduce the length of this letter, all items of prior resolutions that have been satisfied have not been included.

**Minor Subdivision Description:**

The minor subdivision is intended to adjust the boundary lines between Lots 3 and 13 to create a minimum 12-acre commercial property that is a requirement of the PCD/PSV zoning district. No development is proposed on the 12-acre property at this time and is considered to be Phase 5 of the overall project.

**Final Site Plan Phases 2, 3, and 4:**

Phase 2 consists of the construction of the “farmette”; which has been completed except for satisfying the conditions of approval and constructing the bio retention basin. Obtaining final approval for Phase 2 will bring the farmette closer to satisfying the conditions of the prior approval.

Phase 3 consists of the construction of 44 townhouses and 12 affordable housing units. This phase has all regulatory agency approvals except for the water main extension; which has been submitted to the DEP for approval.

**The plans have been revised to include Phase 4 in the title, but no additional information has been submitted. Phase 4 had previously been deemed incomplete as it is not included in the water system design plans or permitting. Phase 4 consists of the construction of 62 townhouses and 14 affordable housing units. This phase does not have sufficient water allocation by the NJDEP. Construction of Phase 4 cannot proceed until the applicant provides proof of sufficient water. The plan title should be revised back to Phase 2 and 3 only.**

Phase 5 is not proposed for Final Site Plan at this time and consists of the commercial portion of the development fronting on County Route 519. Phase 5 does not have sewer or water allocation from the DEP.

**Recommended Conditions of Approval (*Italicized* comments are from prior resolutions; Underlined comments are new)**

1) The phasing plan has been revised to show the COAH buildings to be built in Phase III. The plans still show a portion of the trail crossing into Phase IV. This should be amended so that the entire trail is constructed in Phase III.

2) Pursuant to the 2011 Conversion Plan approval (and as required by law), 20 percent, or 26.6 units out of the total of 133 units approved for this development by the Planning Board, are required to be affordable to low and moderate-income households in full compliance with all of COAH's requirements and the UHAC. The Applicant proposes to address the affordable housing set-aside requirement with 26 rental apartments available to the general public, to be constructed in Phases III and IV of the development, unless the Applicant can demonstrate that the six (6) bedrooms in the group home on Lot 13.01, created as Phase I of the development, satisfy all of the applicable requirements for crediting against Holland Township's fair share obligation as set forth at N.J.A.C. 5:97-1, et seq. (or any subsequent rules and regulations in effect at the time the creditworthiness of the group home is demonstrated), N.J.A.C. 5:80-26.1, et seq., and the Fair Housing Act, as amended. If this is the case, the Applicant need only construct 20 low and moderate-income rental units, with no change in the number of market units permitted to be constructed. The 0.6 fraction of an affordable unit that is required based on a 20% set-aside within a 133-unit development may either be satisfied with one additional affordable unit (and one fewer market unit) being provided within the development or with a pro-rated in lieu payment into the Township's affordable housing trust fund.

*The plan for providing the affordable units shall include an identification of the locations of the units, sizes (number of bedrooms), utility systems, provisions for accessibility and compliance with all other applicable COAH and UHAC requirements, including COAH's phasing requirements for the construction of the affordable units. The COAH phasing requirements shall be separately and independently met within each of Phases III and IV of the development, and the*

*Developer's Agreement(s) with Holland Township shall include a schedule for the construction and occupancy of the affordable units versus the market units within each phase that is both fair to the applicant considering the specifics of the project and also reflects COAH's intentions with respect to the timing of the completion of the affordable units.*

*All of the affordable units shall comply with all requirements set forth at N.J.A.C. 5:97-1, et seq., N.J.A.C. 5:80-26.1, et seq., and the Fair Housing Act, as may be amended or superseded through the date of the issuance of Construction Permits for the affordable units.*

**The Applicant is proposing to construct twenty-six (26) affordable units per Township requirements. Twelve (12) of these will be constructed in Phase 3 and the remaining fourteen (14) units in Phase 4. Architectural building plans have been submitted as part of this Application per Township request. The applicant shall address the comments from the Township Planner regarding unit mix, bedroom distribution, and compliance with all UHAC requirements.**

3) *Prior to final site plan approval for each phase, the improvements required for that phase shall either be installed, inspected and approved by the Township Engineer or a performance bond shall be issued to cover the cost of such improvements pursuant to N.J.S.A. 40:55D-53, and no Certificate of Occupancy shall be issued for any dwelling unit in any phase until all improvements associated with that phase have been substantially completed as defined and regulated at N.J.S.A. 40:55D-53 (which specifically excludes the top or surface course of street pavement), provided that the installation of landscaping, may, in the discretion of the Township Engineer, be deferred to an appropriate planting season, if all other required improvements have been substantially completed. Notwithstanding any other provision of this Resolution, upon the grant of preliminary site plan approval for Phase III of the development, the Applicant may obtain a Construction Permit for and may construct one townhouse building to be used and occupied as an office and model for sales or leasing promotions, but no part of such building shall be permitted to be sold or rented or otherwise occupied for residential purposes until all required improvements associated with Phase III have been substantially completed.*

4) *A maintenance easement and agreement for the existing driveway shall be submitted to the Board for review and approval and shall be recorded prior to the issuance of a Certificate of Occupancy for the farmette in Phase II of the development.*

5) *Open space areas shall be subject to such conservation easements or permanent deed restrictions as may be required to effectuate the preservation of such open space, and such conservation easements or deed restrictions shall reflect that no other use shall be permitted thereon except for those open space and recreational uses as may be expressly permitted pursuant to the preliminary and/or final site plan approval(s) granted by the Planning Board. The conservation easements or deed restrictions shall run in favor of and be enforceable by Holland Township as well as any open space organization established (or Homeowners' Association that may be established) to own and maintain such open space.*

*Certain areas of Lot 13.01 were required to be and shall remain permanently protected by a conservation/tree protection easement in favor of both the owner of (or any Homeowners' Association established for) the Huntington Knolls development and the Township of Holland.*

6) *Comment Satisfied.*

7) *A set of proposed Homeowners' Association documents shall be submitted for review and approval by the Planning Board and Township Committee prior to the grant of a Certificate of Occupancy for any unit to be occupied as a dwelling in Phase III of the development (i.e., not including the units in the model building) unless the applicant has previously declared his intention to rent the market units within the development instead of selling them.*

8) *The Applicant shall provide the Board with records of water usage for all completed and occupied units in Phase III within six (6) months of occupancy. Such records shall be obtained from Aqua New Jersey or its successor utility based upon monthly metering data. The Planning Board reserves the right to require the applicant to make any modifications needed and appropriate to reduce water usage in Phase IV, if water usage in Phase III is found to exceed the projections of water usage, in order to maintain consistency with NJDEP permits and requirements.*

9) *The proposed water system shall be looped in accordance with RSIS standards (N.J.A.C. 5:21- 1, et seq.) and to have adequate water storage for firefighting purposes. The looped portion of the water main shall be constructed in Phase III of the development.*

**Applicants Response: The proposed water distribution system has been shown on the plans and is in accordance with RSIS requirements. The 20,000-gallon water tank has been removed and a looped configuration is currently proposed. The system will connect to the existing water system in the adjacent Fox Hills community and feature a booster pump station as well as fire hydrants.**

The plans do not propose a looped system for Phase III. Only Phase IV will be looped. This item shall be discussed with the Board with testimony provided by the applicant. A waiver or exemption from RSIS may be required. As there is no water allocation for Phase IV, the Board should consider an alternate plan for a looped system in the event Phase IV is never built.

10) *The following outside agency approvals are required to be granted, if they have not already been received, as a condition of any subdivision or site plan approval granted by the Township of Holland for any phase of the development requiring subdivision or site plan approval, and prior to the issuance of any Construction Permit for the applicable phase except as specifically provided herein or in any subsequent resolution(s) approved by the Planning Board:*

a. *Hunterdon County Planning Board approval.*

b. *All applicable New Jersey Department of Environmental Protection permits and approvals, including, but not necessarily limited to:*

- *Water Extension. Unsatisfied.*

**Applicants Response: A Water Main Extension Permit to allow the construction of the proposed water main distribution system is being applied**

**for and will be provided under separate cover as a condition of approval. A copy of the water main design drawings is included with this application.**

c. *Approval of the proposed water supply, storage, and distribution system design and details by Aqua New Jersey, Inc., the NJDEP and the Holland Township Fire Chief.*

**Applicants Response: A Water Main Extension Permit to allow the construction of the proposed water main distribution system is being applied for and will be provided under separate cover as a condition of approval. A copy of the water main design drawings is included with this application.**

11) *No lot or dwelling unit in the development shall be conveyed unless and until all applicable deed restrictions, easements and covenants required by this Resolution have been duly recorded or, in the alternative, that the lot or dwelling unit in question has been suitably deed restricted in recognition of its being part of a planned development and thereby subject to any such deed restrictions, easements and covenants that might be required by the Planning Board to ensure compliance with N.J.S.A. 40:55D-45.*

12) *As a condition of final approval for any phase of the development, the Applicant shall enter into a Developer's Agreement with the Township of Holland addressing how all of the conditions of such final approval and of this Resolution will be met with respect to that phase.*

13) *The issuance of a Certificate of Occupancy for the farmette in Phase II of the development shall not require the construction of any portion of Claremont Drive. A maintenance easement and agreement for the existing driveway shall be submitted to the Board for review and approval and shall be recorded prior to the issuance of a Certificate of Occupancy for the farmette in Phase II of the development.*

14) *Fire truck turnaround areas shall be reviewed by the Fire Company for adequacy.*

15) *The Applicant shall obtain an easement for the proposed connection of the water main to the 8" water line on the Fox Hill property, since it appears that work will be required to be undertaken on private property.*

16) The applicant has submitted architectural plans in accordance with the prior resolution. The Board should review these plans for compliance.

17) *Prior to the issuance of the first Construction Permit for any building in Phase III, a legal instrument shall be recorded to ensure that the Applicant and its successors and assigns maintain(s) the stormwater collection and management facilities on the site in accordance with the Township's Stormwater Control Ordinance. The form of the legal instrument shall be subject to the review and approval by the Board Attorney and Township Attorney and Township Engineer prior to its recordation.*

19) *Pursuant to Condition 14 of the Master Resolution, prior to the issuance of a Certificate of Occupancy for any unit to be occupied as a dwelling in Phase III, the required Homeowners' Association documents shall have been reviewed and approved by the Planning Board and Township Committee*

20) *Prior to the grant of final approval for either Phases III or IV of the development, the applicant shall have complied with all of the conditions and requirements of the preliminary approval as set forth in this Resolution and with all of the conditions and requirements set forth in the Master Resolution, except as same may have been specifically modified by the terms and conditions of this Resolution.*

21) Comments on the Minor Subdivision Plan:

a. Satisfied

b. The applicant's response is not acceptable. The hatching for the access easement shall extend to Route 519.

c. Satisfied.

d. The applicant's response is not acceptable. The Conservation Easement on Lot 13.01 does not contain a map reference. Proof shall be submitted that the easement exists.

e. The applicant's response is not acceptable. The proposed easements shall indicated who the grantee will be. For example, the utility easement for water may be different than the utility easement for sewer and electrical as it extends to the north across Lot 3.

21) The applicant's response is not acceptable. The RBZ plans were to be revised to conform with the resolutions of approval. The resolution requires that "to the extent feasible, given the tracts topography, townhouse units shall be designed so that each dwelling has direct access from the living space within the unit to a private side or rear outdoor area". It is not discretionary for the developer to decide if a unit has a secondary access.

22) Comment Satisfied.

23) Comment Satisfied.

24) Comment Satisfied.

If you have any questions regarding this correspondence, please contact this office at your earliest convenience.

Engineer Roseberry reminded everyone that the comments in Italics are comments from prior resolutions that still need to be addressed. Aritectural comments will be addressed later.

Exhibit A9 – Fire Truck Circulation Plan  
Exhibit A10 – Garbage Truck Circulation Plan

The Plans need to be reviewed by the Fire Company for input. The applicant will send the information to them. Secretary Kozak will reach out to them to let them know the plans are being sent to them and that a response is needed.

A truck will enter Clairmont Drive. The exhibits demonstrate that adequate turning space exists for a truck to turn around. It was mentioned that standard truck lengths for a Fire Truck are approximately 24 feet long and for a Front Load Garbage Truck it is approximately 29 feet long.

Easement discussions took place and the applicant will comply.

A school bus conversation took place. There are concerns with cul-de-sacs and school buses as school buses cannot turn around due to safety constraints. There are concerns with children walking down to Route 519 to catch the bus. It was suggested that the applicant contact the school to engage in conversations. The county does not weigh on busing but the schools do. The issues are not proprietary to this application but

more of concerns for school busing in general. Again, the applicant is encouraged to engage on conversations directly with the schools. The applicant was asked to report back to the board with the suggestions offered by the school.

Additional discussions took place about paragraph 21 with Attorney Caldwell saying it is not applicable and Engineer Roseberry stating that the resolution is binding and that the applicant can revise the plans or request the board to modify the conditions.

#### Public comment

John Kirby – questioned waste water management treatment and Engineer Chandler stated that the sewer line will go down Clairmont to Route 519 which flows down to the Milford Treatment Plant.

Ruth Kinney – questioned the catch basin flow and Engineer Chandler stated that it will be south of Clairmont to meet reduction factors established by the NJDEP which creates less flow than today as the pipe will be east of the basin and flow down to the creek. Some additional conversations took place about the width of Clairmont and Route 519.

Ryan Hatch – Questioned the Landscaping plan and the berm. Engineer Chandler it was granted at the preliminary approval and what is being submitted for final is what was discussed. There are no plans for a berm. The landscaping is for all phases and will take place in each phase.

Mike Perrott – had buffer concerns. The residents asked that the applicant leave the old landscaping to insulate existing properties. Engineer Roseberry stated that was one of the reasons the board did not want a berm. The new landscaping is to fill in the gaps which will also help insulate the construction. What was previously agreed upon is what the applicant is proposing.

There being no further comments from the public, the public portion was closed.

Engineer Chandler addressed the advisory memo prepared by Planner Green of Maser Consulting dated October 4, 2018. (secretary note: memo altered to fit into the minutes)

October 4, 2018

### **PLANNING REPORT**

Planning Board  
Township of  
Holland 61 Church  
Road Milford, NJ  
08848

Re: Huntington Knolls, LLC  
Milford Warren Glen  
Road Block 24, Lot 3, 13  
& 13.01 Review Letter  
#2  
MC Project No. HLP-002B

Dear Board Members:

Huntington Knolls, LLC (hereinafter “the Applicant”) has filed an application for minor subdivision and final site plan approval to construct a multi-family residential development comprised of 106 townhouses and 26 affordable housing units. The Applicant has appeared before the Board multiple times since 2003. Below is a history of approvals associated with the proposed development since 2003:

- May 12, 2003 – The Board granted preliminary overall planned development approval, preliminary major subdivision approval and Phase I preliminary site plan approval to the Applicant for a comprehensive age-restricted planned development, subject to the conditions of the Resolution. The development was named Huntington Knolls.

- June 12, 2006 – The Board granted final site plan approval for the initial phase of the development and minor subdivision approval to create Lot 13.01 in the western area of the property.
- September 12, 2011 – The Board approved the Applicant’s request to convert the previously approved age-restricted housing development to a non-age-restricted housing development pursuant to P.L. 2009, c.82, which authorized the conversion of the development.
- May 12, 2014 – In order to simplify the previous resolutions, the Board amended the above resolutions by adopting a new resolution that contained a list of conditions from all previous approvals that are still applicable to the current development. The revised list of conditions supersedes the conditions in the three previous resolutions.
  - September 8, 2014 – Additional changes to the May 12, 2014 resolution were adopted by the Board in a new “Master Resolution” that supersedes all conditions listed in the previous resolutions. This resolution also granted preliminary site plan approval for Phase II of the project, which involved the construction of a “farmette” (farmhouse and associated outbuildings) and open space/agricultural land.
  - November 10, 2014 – The Board granted preliminary site plan approval for Phases III and IV of the development. The preliminary approval was subject to the conditions of the Master Resolution and additional conditions contained in this resolution.

Many modifications to the site plans and phases of the development have occurred since the initial application in 2003. According to the Master Resolution, dated September 8, 2014, the development consists of five phases which are described below:

- Phase I: Subdivision of Lot 13 into Lots 13 and 13.01. The 20-acre Lot 13.01 was subsequently developed with a single-family dwelling. The dwelling is reported to be owned and operated as a group home.
- Phase II: The development of the farmette. Subdivision approval for the farmette and associated building was not approved and therefore is located on Lot 13.
- Phase III: The construction of 44 townhouse units and at least 11 affordable units and all the recreational facilities. The required buffering and stormwater detention facilities are also part of this Phase.
- Phase IV: The construction of 62 townhouse units and up to 15 affordable units.
- Phase V: The development of the commercial portion of the project consisting of the restoration of the existing brick tavern and barn.

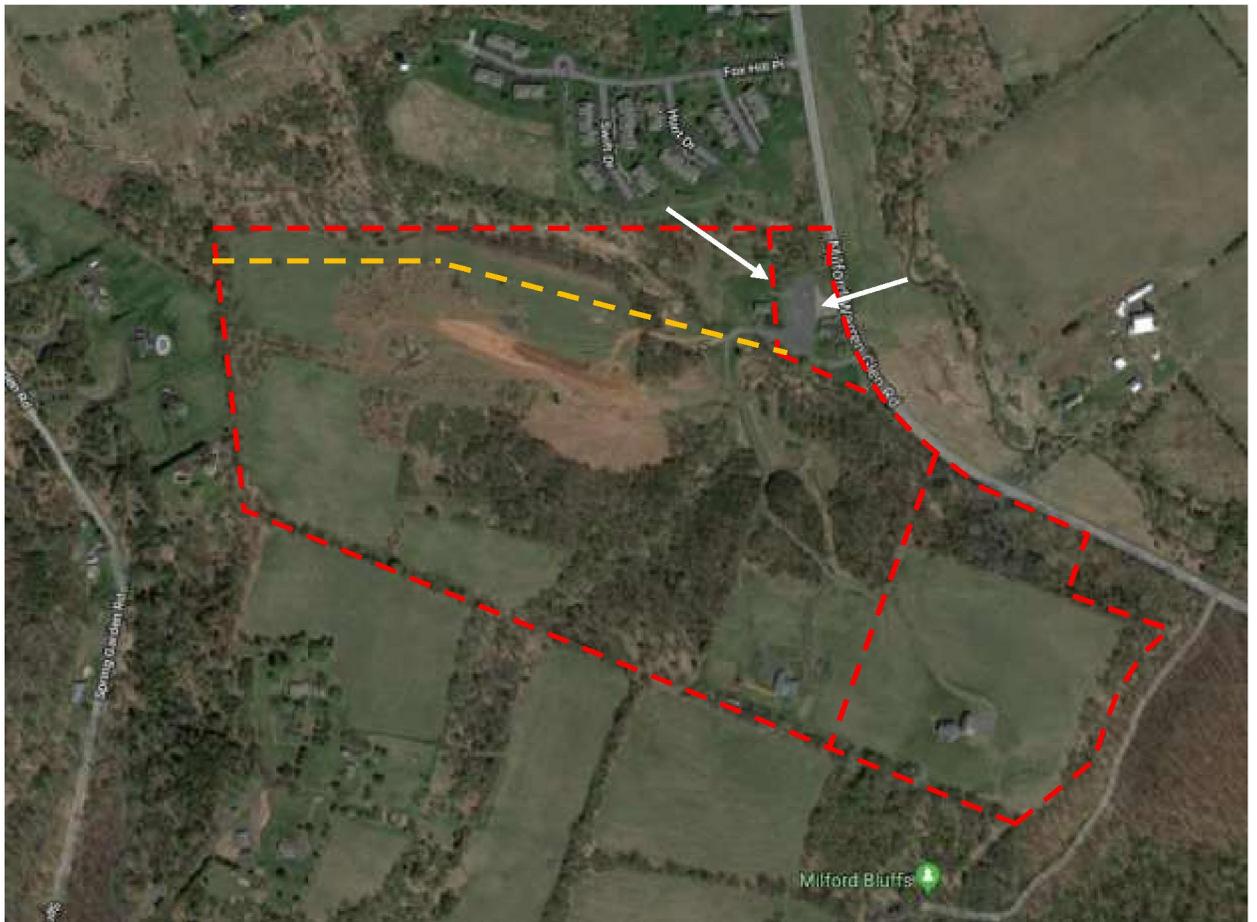
The following documents, which were submitted in support of the Application, have been reviewed:

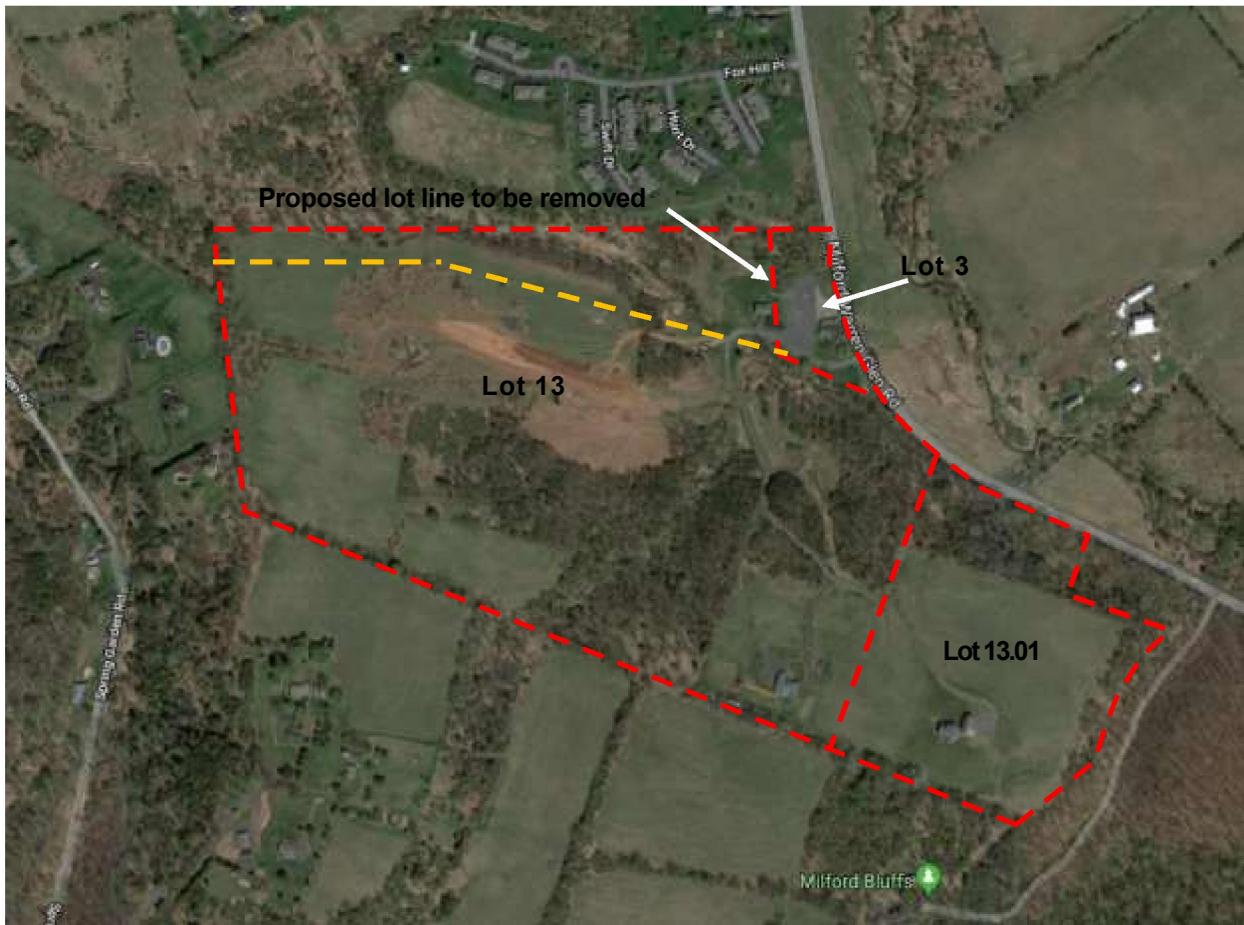
1. Plans entitled “Minor Subdivision and Final Site Plan for Phases 2 and 3 of Huntington Knolls LLC. Huntington Knolls Development Project”, prepared by Andrew S. Holt, P.E. of Suburban Consulting Engineers, Inc., dated July 19, 2018, revised through September 17, 2018, consisting of 51 sheets.
2. Plans entitled “New Townhouses: Huntington Knolls”, prepared by Unlimited House Design, LLC, dated March 8, 2018, consisting of 4 sheets.
3. Plans entitled “Proposed COAH Units at Huntington Knolls Holland Twp., NJ”, prepared by Ralph L. Finelli of Ralph L. Finelli Architect, LLC, and dated January 31, 2014, consisting of 1 sheet.
4. Plans entitled “Water System Design and Permitting for Huntington Knolls – Phase III (90% Draft)”, prepared by Andres S. Holt, P.E., of Suburban Consulting Engineers, Inc., and dated July 19, 2018, consisting of 6 sheets.

5. Plans entitled “Project: Structures”, prepared by Brian Sherry of Little Tikes Commercial, dated September 18, 2018, consisting of 2 sheets.
6. Planning Board Application and supporting documents, dated July 24, 2018.
7. Checklist for Determining Completeness of Application Minor Subdivision, no date.
8. Checklist for Determining Completeness of Application Final Major Site Plan, no date.
9. Letter entitled “Minor Subdivision & Final Site Plan for Huntington Knolls Development Project – Phases 2, 3, 4”, prepared by Andrew S. Holt, P.E., P.P., CME of Suburban Consulting Engineers, Inc., dated July 27, 2018, consisting of 37 pages.
10. Engineer Cost Estimate, prepared by Suburban Consulting Engineering, Inc., dated June 14, 2018.
11. Response Letter, prepared by Peter D. Chandler, P.E. of Suburban Consulting Engineers, Inc., dated September 19, 2018, consisting of 13 pages.

**A. Existing Zoning and Surrounding Land Use**

The property is located in the PCD/PSV Planned Commercial Development/ Planned Senior Village Development District on the south side of Milford Warren Glen Road. The property is surrounded by agricultural uses to the northeast, east and south. Single-family dwellings lie to the west of the property, while the Fox Hill townhouse development is situated to the north. See the image on the next page for the general location of the site.<sup>1</sup> It should be noted that the approximate location of the existing property lines is shown in red and the proposed subdivision is shown in orange





As per Article XIA, Sections 100-91.4 to 100-91.7, the bulk requirements for the PCD/PSV District, are as follows:

- Minimum Tract Area – 40 acres<sup>2</sup>
- Minimum Tract Frontage – 300 feet<sup>3</sup>
- Minimum Lot Depth – 500 feet<sup>4</sup>
- Minimum Building Setback from Pre-existing Street Center Line – 100 feet
- Minimum Building Setback from Public or Publicly Maintained Street within a PCD – 25 feet
- Minimum Setback to Tract Boundary – 75 feet
- Minimum Distance Between any Two Detached Buildings – 20 feet<sup>5</sup>

<sup>2</sup> A 12-acre tract is required for the mandatory PCD and a 5-acre tract is required for any individual lot not part of a PCD or PSV development that has received preliminary site plan approval.

<sup>3</sup> At least 200 feet of frontage is required for any individual lot within a PCD.

<sup>4</sup> At least 250 feet of depth is required for any individual lot within a PCD.

<sup>5</sup> If an accessway intervenes, the minimum distance shall be 30 feet.

#### **B. Design Waiver**

It should be noted that the Applicant's attorney appeared at the September 10, 2018 Planning Board meeting. During that meeting, the attorney indicated previously submitted Architectural plans were compliant. Board Engineer Roseberry instructed the Applicant to submit those plans (dated approximately 2006) prior to the next hearing. No Architectural plans were submitted. If those plans are submitted and they differ from the prior plans, it may trigger additional design waivers. The Application requires the following design waiver, which we do not believe was previously granted:

1. Section 100-91.14E(13)(d) – Waiver for sign. The Ordinance permits a 30 square foot sign identifying an assisted living facility along Route 519.

The Applicant proposes a 30 square foot sign for the residential development, which is not an assisted living facility.

### C. Comments

Based on our review of the above-referenced materials, we offer the following comments. It should be noted that text in italics reflects the current status of the comments, based on the submission of revised plans:

#### General

1. Pursuant to Richard Roseberry's Memorandum, dated August 10, 2018, the Board has only deemed Phases II and III complete. Therefore, this office has only reviewed the Plans associated with Phases II and III.
2. The Applicant's professionals must provide testimony to support the grant of the design waivers required. Testimony must address both the negative and positive criteria requirements of the MLUL.
3. The phase lines on Sheet 5 of the Site Plans do not correctly represent the Phases of the development as stated in the Master Resolution dated November 10, 2014. The Applicant shall revise the phase lines to illustrate the correct phases of development.

*The Phase Lines have been revised.*

#### Site Plans

4. The Site Plans consist of 51 sheets. However, the Index of Drawings lists Sheets 52 and 53 as "reserved". The Applicant shall provide testimony on this.
5. Sheet 5 of the Plans indicate the farmette is proposed. However, the Board should note the farmette associated with Phase II of the development has been constructed. The proposed bio-retention basin along this driveway has not been constructed. The Applicant shall revise the Plans to indicate the features of Phase II that have been constructed and the features that are proposed.  
*Sheet 5 has been revised and indicates the farmette is existing while the bio-retention basin is proposed. This comment has been satisfied.*
6. The Open Space plan illustrates dedicated open space areas that are closer than 20 feet to Claremont Drive. Pursuant to Section 100-91.9A., open spaces areas closer than 20 feet to any building, parking areas and roads shall be excluded from the open space calculation. Unless a previous variance was granted, the Applicant shall revise the open space to comply with the Ordinance.  
*The Applicant has revised Sheet 6 to illustrate compliance with the Ordinance. This comment has been satisfied.*
7. Sheet 7 of the Site Plans contains two zoning tables that reference the "PCD Zone". The Applicant shall clarify if this was a typo and the text should read "PCD/PSV Zone". Additionally, the tables contain proposed conditions that match the requirement. Many of these distances cannot be found on the Plan. The Applicant shall provide testimony on these discrepancies.  
*The Applicant has revised the zoning tables to reference the PCD/PSV Zone. However, the information within the tables has not been revised, excluding the proposed open space area.*
8. The trail leading to the recreation area is proposed to have a woodcarpet path surface. Will this be the same for the trail between the Phase III and Phase IV townhouse units? Testimony shall be provided.  
*Comment C.9 in the Response Letter indicates the trail between Phases III and IV will not be woodcarpet and will instead be stone aggregate. Sheet 43 contains a Trail Surface Detail illustrating the proposed stone aggregate surface.*
9. Is the Applicant proposing any signage for the development? If so, the standards in Section 100-91.14E.(13) shall apply.  
*Sheet 7 illustrates the location of a 30 square foot sign along Route 519. No details were provided. The Board should note that Section 100-91.14E.(13) only permits 30 square foot signs for assisted living facilities. This has triggered a new design waiver.*

10. Sheet 5 illustrates the Phasing Plan and the trail between Phase III and IV is partially in Phase IV. The Applicant should consider moving this small portion of the trail into Phase III.
11. There is a note on Sheet 5 that states that Building 2 and its amenities will be constructed in Phase IV. What “amenities” are being referred to?

#### **Parking and Circulation**

12. A note on Sheet 5 of the Site Plans States “COAH Improvements such as parking and grading, as well as Building No. 1 shall be constructed as part of Phase 3. Building No. 2 along with its amenities shall be conducted as part of Phase 4.” The Applicant shall clarify if the proposed dumpster area for the COAH units will be constructed during Phase III or Phase IV.

*Comment C.12 of the Response Letter indicates the dumpster will be constructed as part of Phase III. The phasing also shows the dumpster area as part of Phase IV.*

13. The Parking Calculation table on Sheet 7 indicates 105 parking spaces are proposed for Phase III. However, this number does not include the 58 affordable unit parking spaces. Therefore, the total Phase III parking is 163 parking spaces. Additionally, it should be noted that all affordable unit parking will be constructed during Phase III, but the construction of only 12 (or 14) affordable units will be completed.

*The Parking Calculation table has been revised to indicate 163 parking spaces are proposed for Phase III. This comment has been satisfied.*

#### **Landscaping and Recreation**

14. The Plant Schedule on Sheet 21 indicates 13 October Glory Maple trees are proposed, while only 12 are illustrated on the Plans. The Applicant shall eliminate this discrepancy.

*The Plant Schedule has been revised accordingly. This comment has been satisfied.*

15. The Plant Schedule on Sheet 21 indicates there are three Oakleaf Hydrangea shrubs proposed, while six are illustrated on the Plans. The Applicant shall eliminate this discrepancy.

*The Plant Schedule has been revised accordingly. This comment has been satisfied.*

16. Sheet 22 illustrates landscaping planted beyond the Phase III construction limit. It is unclear if those plantings are part of Phase III or Phase IV. Therefore, this office has not verified if the Plant Schedule quantities matches what is illustrated on the Plans.

*Comment C.20 of the Response Letter indicates the plans have been revised to indicate the Phase III versus Phase IV plantings. However, other than the perimeter plantings, no indication regarding the plantings over the Phase III construction limit was provided. It should be noted that regardless of phasing, the quantities in the Plant Schedule match the number of plantings illustrated.*

17. The proposed perimeter landscaping on Sheet 23 appears very congested. The Applicant should consider three rows of landscaping, rather than two rows.

*The perimeter landscaping has been revised to illustrate three staggered rows of landscaping. This comment has been satisfied.*

18. The Applicant shall provide the manufacture detail sheet for the large, medium and fitness facilities.

*The Applicant has provided two sheets of details from Little Tikes Commercial. This comment has been satisfied.*

19. Section 100-91.12B.(3)(g) requires evergreen trees to be planted at a height of at least four feet. On Sheet 23, the Applicant has provided the size of the proposed Colorado Blue Spruce and Eastern White Pine evergreen trees in caliper. The Applicant shall provide the height of the evergreen trees to confirm Ordinance compliance.

20. The size of the proposed Paper Birch trees has not been provided. The Applicant shall revise the Plant Lists on Sheets 21 and 22 to ensure Ordinance compliance.

## Architecture

21. The Ordinance requires garbage to be stored inside for the townhome units. The smallest garage shown is approximately 18 feet deep by 11 feet wide. Testimony should be provided on the sufficiency of space within the garage to store garbage, recycling and a vehicle if it was not previously provided.
22. The COAH Architecture Plans are not signed or sealed. The Applicant shall submit signed and sealed Plans.
23. We offer the following comments on the COAH Architecture Plans:
  - a. The Plans do not illustrate the proposed building height. The Plans shall be revised to include the building height.
  - b. The Plans only provide the front elevation. All four sides of the building shall be provided as the Applicant is seeking final approval for Phase III.
  - c. The floor plans shall be revised to show doors, windows, interior layouts and which units are handicapped accessible. Dimensions shall be provided.
  - d. The three-bedroom unit may ultimately house up to six persons as per the rules. This office strongly encourages the Applicant to add a powder room to the unit.
  - e. Under the UHAC rules, the number of one-bedroom units can not exceed 20% of the total affordable units. 26 units multiplied by 20% equals 5.2. Therefore, a maximum of 5 one-bedroom units is permitted. The rules also require a minimum of 20% of the units to be three-bedrooms. In this case, the rules typically round up. The Board will need to decide if they are going to require 5 or 6 three-bedroom units. The plans currently provide 2 three-bedroom units.

*The Response Letter indicates that the TWA has five three-bedroom units. This issue needs to be discussed and resolved at the hearing.*
  - f. The previous approvals indicate 12 affordable units will be constructed in Phase III. The Plans indicate 14 units per building. Testimony shall be provided.

## Affordable Housing

24. If the Board is inclined to approve the Application, the following should be conditions of approval:
  - a. The Applicant shall deed restrict the affordable housing units for a minimum of 30 years. The deed restriction shall indicate the unit or apartment number of the affordable units.
  - b. The Developer shall be responsible for retaining a certified Administrative Assistant, subject to the review and approval of the Township.
  - c. The below documentation shall be submitted to the Township's Municipal Housing Liaison at least 160 days prior to the issuance of any Certificate of Occupancy for Phase III:
    1. Deed restriction.
    2. An affirmative marketing plan.
  - d. The phasing of the affordable units shall comply with the affordable housing rules.
25. As per Mr. Roseberry's September 5, 2018 Memorandum, the Applicant has an obligation of 26.6 affordable units. The Applicant has the option of providing 27 affordable units or paying a pro-rated payment-in-lieu. We recommend a fee of \$150,000 for 2018. It should be noted the fee recommended by COAH in 2008 was \$145,903. \$150,000 multiplied by 0.6 equals \$90,000. Testimony shall be provided indicating which alternative the Applicant prefers and is willing to stipulate to.

## Details

26. A detail for the proposed trash enclosure has not been provided. The Applicant shall provide this information.

*A Trash Enclosure Detail has been provided on Sheet 42. However, the color of the vinyl fence has not been noted.*

27. A detail for the proposed split rail fence has not been provided. The Applicant shall provide a detail of the fence.

*A detail for the proposed split rail fence has been provided on Sheet 43. This comment has been satisfied.*

28. A six-foot-tall board on board fence has been provided on Sheet 42. However, the Plans do not show a board on board fence. The Applicant shall eliminate this discrepancy.

*The revised Site Plans contain a Trash Enclosure Detail illustrating a six-foot-tall board on board fence on three sides. Therefore, the detail for the board on board fence is necessary. This comment has been satisfied.*

29. No detail was provided for the proposed pump station with generator pad north of the proposed stormwater basin. The Applicant shall provide this information.

*Sheet 6 of the Water System Design and Permitting Plans (separate from the Site Plans), which was included in the previous submission, contains the details for the proposed pump station and generator pad. This comment has been satisfied.*

30. Details shall be provided for the optional paver patios as indicated on the Architecture Plans.

31. No detail has been provided for the crosswalks in Phase III. This shall be provided. A

*crosswalk detail has been provided on Sheet 43. This comment has been satisfied.*

Should you have any questions with regard to the above comments please do not hesitate to contact my office. We reserve the right to make additional comments based upon further review or submission of revised plans or new information.

Exhibit B1-Engineering memo dated October 4, 2018 as prepared by Richard Roseberry of Maser Consulting  
Exhibit B2-Planner memo dated October 4, 2018 as prepared by Darlene Green of Maser Consulting

A design waiver for the sign was discussed. This evolved from the applicant asking the board about the required signage. The Holland Township Ordinance [Article XIA: PCD/PSV Planned Commercial Development/Planned Senior Village Development District](#) [Added 4-21-1993 by Ord. No. 1993-4; amended 11-21-2000 by Ord. No. 2000-5]

1. Signs. Permitted signs within a planned senior village development shall include:
  - (a) Residential nameplate signs not exceeding one square foot in size for each quadriplex unit.
  - (b) One eight-square-foot freestanding monument sign not exceeding a maximum height of four feet to the top of the structure upon which the sign is erected for each building or building group, to identify same.
  - (c) One sixteen-square-foot freestanding monument sign not exceeding a maximum height of four feet to the top of the structure upon which the sign is erected identifying an assisted-living facility, to be placed at the internal roadway entrance to the assisted-living facility and not on County Route 519.
  - (d) One thirty-square-foot bar identifying an assisted-living facility, which bar shall be mounted on the same freestanding sign identifying the PCD/PSV at the entrance to the development on County Route 519.
  - (e) Directional and directory signs as approved by the approving authority.
  - (f) The foregoing signs shall be in addition to the signage permitted in conjunction with a planned commercial development as a portion of the planned senior village development.

The ordinance was designed for age-restricted, however the applicant in using the Sarlo Bill appeared before the Planning Board to have the age restricted lifted. The Planning Board previously approved the lifting of the age restriction. At that time the ordinance should have been changed but it was overlooked. The

options are for the applicant to obtain a design waiver or not to put a sign up. Tom Scheibener believes a sign is needed for the project. Planner Green explained that the ordinance is comprehensive and that a 30 foot sign is substantial. The board can decide what sign is acceptable. The board needs to provide the applicant with what is acceptable and are asking for guidance.

Clean plans will be submitted with condition compliance. The trails are to be for recreation for multiple uses. The hiking trail between phase 3 and 4 will be compacted gravel.

Sheet 5 regarding amenities. There was a note from prior plans. Building 2 is part of Phase 4.

The trail needs to be revised for Phase 3

Sheet 22 needed clarification. Sheet 22 and 23 are for Phase 3 and Phase 4 landscape pans. The plan on the sheets having planting counts and should match a table.

The height of the evergreens are to be 5 to 6 feet in the bulb. The plans need to be revised.

Trees to be 2 to 2.5 caliper which means 12 to 14 feet in height and the plans need to be revised.

A color conversation took place regarding page 9 item 26 and Planner Green offered taupe as a color to match the building.

Planner Green had some architectural questions and Attorney Caldwell tabled the discussion for a future meeting.

Public portion.

Ted Harwick – the Hiking Trail. The Holland Township Environmental Commission has been talking about trails and the Township Committee approved the installation of a new trail thru a grant. We have many trails in town. Can public use the trail at Huntington Knolls? Engineer Roseberry explained the trail discussed in this project is for recreation and fits the criteria of the resolution. Dan Bush explained that this is a different trail.

Mike Perrott – discussed some more trails in Holland

Ted Harwick – withdrew his trail question

John Kirby – can the trail be connected. Engineer Roseberry said the applicant can offer. Attorney Caldwell explained that the trail is in Phase 4 and we do not know if phase 4 will be done.

With no further questions from the public, the public portion was closed.

Attorney Caldwell stated that the applicant does not need to build COAH till they build 25 units. Planner Green stated that she saw architectural that were not signed and sealed so there is no liability and the details were also not provided. She does not know if what is presented complies. UHAC dictates and the elevations are needed for her review. The TWA says only 5 and the applicant needs to provide 6. Bedroom counts are also important. An Administrative Agent will need to be retained. The September memo prepared by Maser talked about payment and that testimony will be needed.

Attorney Caldwell said the applicant is protect by the changes and that Planner Green is citing the ordinance pertaining to age-restriction. Attorney Caldwell stated that the applicant does not need to provide a 6 figure number as a contribution. Additional discussions took place with the need for additional research and future discussions to take place.

Architecture plans need to be submitted as to address the concerns of Planner Green.

Attorney Caldwell asked for feedback on the proposed subdivision plan....

Exhibit A11 – Open Space Plan sheet 6 of 53 dated September 17, 2018

Engineer Chandler stated that this is a proposed subdivision and no in the plans. It is being presented to the board for feedback as to if the board is in favor of the concept.

The applicant proposes that each phase of the plan would become its own lot. It all ties to the project. Lot one would be the farmette, Lot two would be the 44 units, Lot three would be the affordable housing buildings, Lot 4 is the remaining project and Lot 5 would be the barn with the commercial component. There could be frontage issues.

Discussions took place with emphasis on why create lots and why not just move forward with the plan as is. Clairmont Road will not be dedicated to the township.

Engineer Roseberry stated that discussions of this concept can develop and that this would be a complicated subdivision. Attorney Caldwell stated from the outside it would still look the same that the reasons are internal.

More discussions took place about pros and cons with opinions being shared. Everyone agreed they are trying to work together and trying to work on a plan that is comprehensive and reasonable. Questions came up about the Highlands having to weigh in on this proposal.

The applicant was asked to provide more information. The board could not make a decision if the concept is viable until additional information is provided and the board's professionals weigh in for guidance. Attorney Gallina reminded everyone at this time, the concept is just an informational discussion.

After heated discussions, Chairman Rader stated that the Planning Board needs additional information with the board's advisory review being presented in order for a discussion to take place regarding a subdivision of the Huntington Knolls project.

Attorney Caldwell agreed to the continuance of the public hearing and no additional notice will be needed for this application. The continued public hearing will carry till the November 12, 2018 Planning Board meeting. Attorney Caldwell signed the extension letter. There will be additional testimony and public comment.

### **Sub-Committee Status and Updates:**

- Ongoing work to be discussed – Holland Township Highlands Plan Conformance Subcommittee –The Stormwater Mitigation Plan has been adopted by the Township Committee. The Water Use and Conservation Management Plan are being worked on with CDM Smith and Maser Consulting along with the sub-committee reviewing documents and offering comments. Holland Township is a “poster child” for the Highlands Council and an excellent role model for the community. The Highlands Council is trying to see about grant money for Holland Township for us to work with Maser on developing a checklist for Holland Township’s Chapter 101 Land Use. More information to follow.
- Housekeeping – Maser is working on updates of the Planning Board submission checklists. More information to follow.
- Proposed 2019 Planning Board schedule

Township of Holland  
Planning Board

### **2019 Meetings**

**PLEASE TAKE NOTICE** that the Planning Board, Township of Holland, County of Hunterdon, New Jersey, will meet to discuss or act upon public business on each of the dates set forth below, at the Municipal Building, 61 Church Road, Milford, NJ. Meetings are open to the public.

Time: If necessary, a Work Session will begin at 7:00 P.M. to discuss the Agenda of the evening.

Public participation during the work session will be prohibited.

The regular meetings begin at 7:30 P.M.

The cut-off time for meetings is 11:00 P.M.

#### **Meeting Dates**

January 14, 2019  
February 11, 2019  
March 11, 2019  
April 8, 2019  
May 13, 2019  
June 10, 2019  
July 8, 2019  
August 12, 2019  
September 9, 2019  
October 7, 2019  
November 11, 2019

#### **Agenda Deadline**

December 24, 2018  
January 21, 2019  
February 18, 2019  
March 18, 2019  
April 22, 2019  
May 20, 2019  
June 17, 2019  
July 22, 2019  
August 19, 2019  
September 23, 2019  
October 21, 2019

December 9, 2019  
January 13, 2020

November 18, 2019  
December 23, 2019

By ordinance the meetings of the Holland Township Planning Board are held the second Monday of the month, with the agenda deadline three weeks prior to the meeting.

No comments were made about the schedule. Secretary Kozak will forward to the clerk for annual posting.

**Board Member Discussion:**

- Bock 15 Lot 1 – Phillips Farm on the corner of Rt 519 and Rt 614. Nothing to report at this time.

**Public Comment**

Ted Harwick – will the checklists be available for the public to review.

**Executive Session**

There was no Executive Session scheduled at this time.

**Adjournment**

Tom Scheibener made a motion to adjourn. Motion approved. The meeting ended at 9:45 p.m.

Respectfully submitted,

*Maria Elena Jennette Kozak*

Maria Elena Jennette Kozak

Secretary