

HOPEWELL TOWNSHIP PLANNING BOARD

RESOLUTION NO. 19-015

RESOLUTION RECOMMENDING THAT THE SITE DESCRIBED AS BLOCK 93, LOTS 5.01 & 5.02 CONSTITUTES A PORTION OF AN AREA IN NEED OF REDEVELOPMENT (NON-CONDEMNATION) CURRENTLY CONSISTING OF BLOCK 91, LOTS 3.11, 3.14, 3.161, 3.181, 3.191, 3.22, 3.95 & 3.961 AND BLOCK 93, LOTS 3.01 (N/K/A LOT 3.03) & 6.01 (N/K/A LOT 6.02) IN ACCORDANCE WITH THE CRITERIA SET FORTH IN N.J.S.A. 40A:12A-5 AND N.J.S.A. 40A:12A-3

WHEREAS, the Township designated Block 91, Lots 3.11, 3.14, 3.161, 3.181, 3.191, 3.22, 3.95 and 3.961 and Block 93, Lots 3.01, 5.01 and 6.01 as the CF Hopewell Redevelopment Area in Resolution No 17-297 adopted by the Township Committee on September 11, 2017; and

WHEREAS, the Township added Lot 5.02 in Block 93 to the CF Hopewell Redevelopment Area in Resolution No 17-412 adopted by the Township Committee on December 11, 2017; and

WHEREAS, Deer Valley Realty, LLC challenged those designations by way of complaint in lieu of prerogative writs, Docket No MER-L-2326-17; and

WHEREAS, by Order dated February 22, 2019, signed by the Honorable Mary C. Jacobson, AJSC, the Court remanded the determination of the Hopewell Township Committee to include municipally owned property designated as Block 93, Lots 5.01 and 5.02 as part of the CF Hopewell Redevelopment Area as a non-condemnation area in need of redevelopment; and

WHEREAS, the Hopewell Township Committee in Resolution #19-96 adopted on March 4, 2019, authorized and directed the Hopewell Township Planning Board to supplement the record with respect to Block 93, Lots 5.01 and 5.02 (a portion of the CF Hopewell Redevelopment Area); and

WHEREAS, a public hearing was held by the Planning Board on June 12, 2019, with all notice and jurisdictional requirements having been met; and

WHEREAS, on June 12, 2019, the Hopewell Township Planning Board conducted a hearing supplementing the Planning Board's previous record as to the designation of Block 93, Lots 5.01 and 5.02 as part of a non-condemnation area in need of redevelopment; and

WHEREAS, the following documents were submitted to the Board and were made part of the record:

- **Exhibit A-1** a "Preliminary Investigation on Remand to Determine Whether Block 93, Lots 5.01 and 5.02 Should Be Designated An Area In Need of Redevelopment dated June 2019 prepared by Banisch Associates, Inc

WHEREAS, Francis J. Banisch, III, AICP/PP, Township Planner provided testimony as well as presented and made revisions to Exhibit A-1 at the hearing; and

WHEREAS, various members of the public were present, were given an opportunity to be heard, an opportunity to provide comments, an opportunity to question the witnesses and an opportunity to fully participate in the hearing; and

WHEREAS, two members of the public asked questions and provided comments; and

WHEREAS, the following testimony, evidence and information was provided to the Board: **Francis J. Banisch, III, AICP/PP** – Mr. Banisch, the Township Planner, presented a Preliminary Investigation Report dated June 2019 (A-1) which report and testimony included the following:

1. The Preliminary Investigation Report (PIR) follows on the July 27, 2017 PIR that reviewed the conditions on Block 91, Lots 3.11, 3.14, 3.161, 3.181, 3.191, 3.22, 3.95 and 3.961 and Block 93, Lots 3.01, 5.01 and 6.01 and the December 7, 2017 PIR that reviewed the conditions on Lot 5.02.
2. Both PIRs found that the subject parcels met the statutory criteria for designating an area in need of redevelopment and recommended such designation in Resolution No. 17-012 dated July 27, 2017 and Resolution No. 17-027 dated December 7, 2017.
3. The Township designated the study area lots in Block 91 and Block 93 as an area in need of redevelopment in Resolution No. 17-297 dated September 11, 2017.
4. The Township subsequently designated Lot 5.02 as a non-condemnation area in need of redevelopment pursuant to N.J.S.A. 40A:12A-1, et seq., in Resolution No. 17-412 adopted on December 11, 2017.
5. Except for Block 93, Lots 5.01 and 5.02, the redevelopment designation for the remaining lots was upheld by Judge Jacobson. However, the Judge required a remand back to the Planning Board for additional findings in order for Hopewell Township to include Lots 5.01 and 5.02 in a redevelopment area.
6. CF Hopewell is the owner of Lots 5.01 and 5.02 via a land swap with Hopewell Township which took place on November 6, 2018. These parcels include a 4-acre parcel occupied by three special needs units and a 23-acre vacant agricultural parcel.
7. Lots 5.01 and 5.02 are surrounded by Block 93, Lots 3.01 (n/k/a Lot 3.03) and 6.01 (n/k/a Lot 6.02) – parcels with a previously approved general development plan for office development – which are unlikely to be developed for office use in the future.

8. Lots 3.01 and 6.01 were previously recommended as an area in need of redevelopment (Planning Board Resolution No 17-012 adopted July 27, 2017) and approved by the Township Committee (Resolution No 17-297 adopted September 11, 2017). Lots 3.01 and 6.01 were subsequently reconfigured as Lots 3.03 and 6.02 as part of a land swap according to the adopted redevelopment plan.
9. Hopewell Township adopted an ordinance and a redevelopment plan (via Resolution No 17-376, November 27, 2017) for Block 91, Lots 3.11, 3.14, 3.161, 3.181, 3.191, 3.22, 3.95, 3.961 and Block 93, Lots 3.01, 5.01, 6.01 (hereinafter the “Scotch Road Redevelopment Plan”), upon recommendation of the Planning Board (via Resolution No 17-021 dated November 15, 2017). As noted in the title of the redevelopment plan, the Hopewell Township Committee adopted a plan for the west side of Scotch Road that included Lots 3.01 and 6.01 as well as Lots 5.01 and 5.02 which are the subject of a remand from the Court.
10. The Scotch Road Redevelopment Plan calls for three “Redevelopment Area Zones,” one of which includes Lots 5.01 and 5.02.
11. Lots 5.01 and 5.02 were owned by Hopewell Township at the time of the initial preliminary redevelopment investigations referenced above, but were subsequently transferred to CF Hopewell for use as part of an inclusionary development, according to the terms of the Redevelopment Agreement.
12. In addition, Lot 5.01, consisting of 27.03 acres formerly owned by Hopewell Township, has remained vacant and undeveloped for more than ten years, resulting in part from the lack of access to sewerage treatment to serve the site. Despite being purchased for affordable housing purposes and being located in the sewer service area, the daunting cost of sewer extensions has resulted in Lot 5.01 being unlikely to be privately developed without the benefits that can accrue from a redevelopment area designation.
13. Another locational factor uniquely affecting Lot 5.01 is the fact that it is surrounded by lands previously included in a General Development Plan that received local approval for 3,500,000 to 4,000,000 square feet of office space, but which has proven to be unbuildable as approved. The repositioning of the GDP-approved lands through an adopted redevelopment plan has made Lot 5.01 an important element in an efficiently and safely planned inclusionary development – a planned development that will yield far more affordable housing than was ever envisioned on Lot 5.01 in the past.

14. Lots 5.01 and 5.02 were acquired to aid in satisfying the Township's affordable housing obligation. Their location, surrounded by lands planned for mixed use high density inclusionary development makes the parcels a key portion of any redevelopment area that includes Lots 3.01 and 5.01. The inclusion of Lots 5.01 and 5.02 in the area in need designation rounds out the shape of the redevelopment area and eliminates the inefficiency of the "horseshoe" shape of the CF Hopewell site by filling in the "hole". Inclusion of Lots 5.01 and 5.02 also helps to improve connectivity around the stream corridor that bisects the inclusionary development site and provides important road frontage to allow access flexibility for any future redevelopment.
15. Lot 5.01 has remained vacant and undeveloped despite its intended use for affordable housing due primarily to the lack of affordable access of sewer treatment capacity. As such, it is land that, despite many years of Township ownership, has not become potentially useful to the public welfare but which could serve the public welfare if included as part of the fabric of the inclusionary neighborhoods that will surround the property.
16. The GDP outlined what Hopewell Township has approved as the proper utilization of these lands. Nonetheless, there has been a growing lack of proper utilization resulting from the collapse of the regional real estate market sufficient to prompt owners with major development entitlements to request new development opportunities. The changing fortunes of the large scale office market has prevented these lands from becoming "fully productive" according to the GDP which offers a measurable standard for their productivity.
17. The misfortunes of the failed office GDP that have resulted in a stagnant condition of land also contribute to the not fully productive condition of Lots 5.01 and 5.02, given their location surrounded by the vacant GDP approved office park lands.
18. Lot 5.02 (4 acres), was subdivided from a larger parcel that formerly included Lot 5.01; it contains a single family dwelling converted for use as a group home. Lot 5.02 is not properly utilized for the intended affordable housing purposes, since it could accommodate dozens of affordable units if it had sewer service but now only contains a small former single family dwelling converted for use as three special needs bedrooms. This is a gross underutilization for a site intended to serve the needs of low and moderate income persons/households.
19. Both lots qualify for inclusion in an area in need of redevelopment pursuant to N.J.S.A. 40A:12A-5h which states that "The designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulation."

The State Development and Redevelopment Plan includes Lots 5.01 and 5.02 within PA-3 - the Fringe Planning Area (west of Scotch Road). The intent of the State Plan for PA3 is to:

- accommodate growth in Centers;
- protect the Environs primarily as open lands;
- revitalize cities and towns;
- protect the character of existing stable communities;
- protect natural resources;
- provide a buffer between Metropolitan and Suburban Planning Areas and less developed Rural and Environmentally Sensitive Planning Areas;
- confine programmed sewers and public water services to Centers

20. Policy objectives for Redevelopment in Planning Area 3 seek to:

- a) Encourage appropriate redevelopment in existing centers and existing developed areas that have the potential to become centers, or in ways that support center-based development, to accommodate growth that would otherwise occur in the Environs.
- b) Redevelop with intensities sufficient to support transit, a broad range of uses, efficient use of infrastructure and physical design features that enhance public safety, encourage pedestrian activity and reduce dependency on the automobile.

21. The State Plan encourages compact development in PA-3 that protects resources and community character while providing for growth in appropriate locations. In light of the circumstances that affect Lots 5.01 and 5.02, a redevelopment area designation is clearly supportive of the intent of the State Plan.

22. A principal qualifying criteria for both Lots 5.01 and 5.02 is based on the definition of a “redevelopment area” at Section 3 of the Local Housing and Redevelopment Act (LRHL). Additional parcels not meeting the statutory criteria outlined in N.J.S.A. 40A:12A-5 may also be included in the designated area; the statute states as follows:

“A redevelopment area may include land, buildings or improvements which of themselves are not detrimental to the public health, safety or welfare, but **the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part.**”

23. Lots 5.01 and 5.02 qualify categorically as an area in need of redevelopment. Given the location of Lots 5.01 and 5.02, surrounded by lands slated for high density mixed use neighborhoods, these parcels are clearly essential to the efficient use of Lot 6.03 intended for inclusionary development.

24. The Court has recognized the legitimacy of the redevelopment designation for Lots 3.01 and 6.01 and the redevelopment plan for these lots is on solid footing. Since a redevelopment plan has

been lawfully enacted for these lands which surround Lots 5.01 and 5.02 on the north, west and south, Lots 5.01 and 5.02 occupy a pivotal location, significantly affecting the redeveloper's ability to efficiently develop an inclusionary development on Lots 3.01 and 6.01. Lots 3.01 and 6.01 have been subdivided, as set forth above, to provide a consolidated "horseshoe" shaped development node in the center, surrounded by open space that has already been conveyed to Hopewell Township on the basis of this redevelopment plan and the referenced land swap.

25. During the course of the hearing, Mr. Banisch offered his opinion as to the qualifying criteria for each of the lots.

26. With respect to Lot 5.01, Mr. Banisch testified that this lot qualifies for an area in need of redevelopment as per the following sections of the statute:

- N.J.S.A. 40A:12A-5(c) as being unimproved vacant land remote from sewers and surrounded by failed GDP lands
- N.J.S.A. 40A:12A-5(e) as not being fully productive
- N.J.S.A. 40A:12A-5(h) as being consistent with smart growth planning
- Lot 5.01 also qualifies under Section 3 of the statute in that it is necessary for the effective redevelopment of the area in which it is a part

27. With respect to Lot 5.02, Mr. Banisch opined that this lot qualifies for an area in need of redevelopment under the statute as follows:

- Section 3 – the lot is necessary for the effective redevelopment of the area
- N.J.S.A. 40A:12A-5(h) as being consistent with smart growth planning

28. Lots 3.01 and 6.01 have been subdivided (as shown on Exhibit 2 of A-1) to provide a consolidated "horseshoe" shaped development node in the center (new lot 6.03 which is surrounded by open space that has already been conveyed to Hopewell Township on the basis of this redevelopment plan and the referenced land swaps).

29. Mr. Banisch discussed revisions to A-1 with the Board which the Board accepted and which are reflected in a revised report entitled "Preliminary Investigation on Remand to Determine Whether Block 93 Lots 5.01 and 5.02 Should Be Designated An Area In Need of Redevelopment" dated June 2019, a copy of which is attached to this resolution.

30. At the conclusion of the presentation, two members of the public provided their comments.

31. At the conclusion of the public comments, the Board Chairman and the Board members offered the following comments:

- Committeeman and Board member Kuchinski commented that the land swap referred to above provides a unique opportunity for a clean view shed, a tree preservation and

- enhances the ability of the Township to meet the Township's affordable housing obligation, while protecting and adhering to sound planning and environmental considerations.
- Board member Sandom offered that these lots, under their prior and current configuration, were always allocated for affordable housing, always considered to protect the view shed and need to be included as part of the redevelopment area.
- Board Chairperson Murphy opined that although Lot 5.02 may not qualify currently for inclusion under N.J.S.A. 40A:12A-5(e) because the land is no longer municipally owned, it was at the time of the original designation. She strongly feels that (e) is applicable under the original designation as the land is clearly under-utilized for affordable housing and believed that the Board should not ignore the history of the property. She felt restricted to evaluate this criteria as it may not apply now, only because the redevelopment plan has been progressing.
- Board member Parker commented that he did not believe that the Board could ignore the history of the property and offered that the Board should look at a holistic approach to the designation. He further commented that it is by far good planning and without these lots, the Township could not meet its affordable housing obligation.
- Board Chairperson Murphy pointed out the substantial wetlands corridor that bisects the “horseshoe” and supports the inclusion of these lots to provide more development options while preserving environmental considerations.

WHEREAS, the Board has made the following **ULTIMATE FINDINGS OF FACT AND CONCLUSIONS:**

1. The redevelopment plan has already been adopted for the west side of Scotch Road that will substantially advance the goal of fulfilling the Township of Hopewell's fair share housing mandate and the inclusion of Lots 5.01 and 5.02 are critical to the efficient development and delivery of both market and affordable housing and the associated commercial mixed use.
2. A substantial wetland corridor bisects the “horseshoe” planned for inclusionary development and Lots 5.01 and 5.02 provide important road frontage that can better provide for full utilization of the designated redevelopment area lands north of the wetlands.
3. Block 93, Lot 5.01 qualifies for designation as an area or part of an area in need of redevelopment because this lot meets the following statutory requirements:

N.J.S.A. 40A:12A-5(c)

- unimproved vacant land
- remote from sewers
- surrounded by failed GDP lands

Lot 5.01 also qualifies under N.J.S.A. 40A:12A-5(e)

- land not fully productive

Lot 5.01 also qualifies under N.J.S.A. 40A:12A-5(h)

- smart growth planning

Finally and most importantly, this lot qualifies under N.J.S.A. 40A:12A-5(e). The Board specifically finds and concludes that this lot is necessary and essential for the effective redevelopment of the area in which it will be a part.

4. Block 93, Lot 5.02 qualifies as an area in need of redevelopment because this lot meets the criteria of Section 3 of the Local Housing and Redevelopment Act (LRHL) because Lot 5.02 is necessary and essential for the effective redevelopment of the area in which it will be a part, as well as N.J.S.A. 40A:12A-5(h) for smart growth planning.

WHEREAS, at the conclusion of the hearing on June 12, 2019, the Board took action and voted to recommend to the Township Committee that the sites commonly described as Block 93, Lots 5.01 and 5.02 are recommended to be included in the CF Hopewell area in need of redevelopment in accordance with the criteria set forth in N.J.S.A. 40A:12A-5 and 40A:12A-3 as set forth above, and directed that the Board Attorney prepare the resolution memorializing the action taken.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Hopewell, County of Mercer, New Jersey, that the Planning Board recommends that the Study Area (Block 93, Lots 5.01 & 5.02) be designated as an area in need of redevelopment and included in the CF Hopewell area in need of redevelopment.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Planning Board hereby directs the Assistant Secretary to forward this Resolution and the revised Banisch Preliminary Investigation Report to the Township Clerk for Township Committee consideration.

ROLL CALL ON THE MOTION – June 12, 2019

Yes - 7 No - 0 Absent - 4 Abstain - 0 Not Voting - 0

Belmont:	Yes	Murphy:	Yes
Khare:	Absent	Parker:	Yes
Kiss:	Absent:	Peters-Manning:	Absent
Kuchinski:	Yes	Swanson:	Yes
McLaughlin:	Yes	Sandom:	Yes
		Peterson:	Absent

VOTE ON THE MEMORIALIZATION - June 27, 2019

Yes - 6 No - 0 Absent - 2 Abstain - 0 Not Voting - 3

Belmont:	Yes	Murphy:	Yes
Khare:	Not Voting	Parker:	Yes
Kiss:	Absent	Peters-Manning:	Not Voting
Kuchinski:	Absent	Swanson:	Yes
McLaughlin:	Yes	Sandom:	Yes
		Peterson:	Not Voting

CERTIFICATION

I hereby CERTIFY that the foregoing is a true copy of a Resolution adopted by the Hopewell Township Planning Board at a duly advertised meeting held on June 27, 2019, at which a quorum was present.



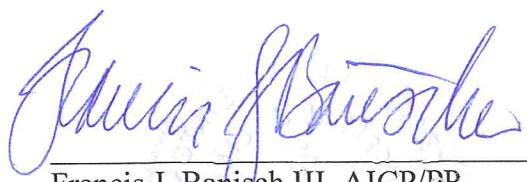
Linda Barbieri
Assistant Secretary

Preliminary Investigation on Remand
To Determine Whether
Block 93, Lots 5.01 and 5.02
Should Be Designated An
Area In Need Of Redevelopment

Hopewell Township
Mercer County, New Jersey

June 2019

Prepared By:
Banisch Associates, Inc.
111 Main Street, Flemington, NJ 08822



Francis J. Banisch III, AICP/PP
License # 1686



Date

Purpose

Hopewell Township responded early and proactively to the NJ Supreme Court's March 2015 "Mount Laurel IV" decision, filing a timely Declaratory Judgment action. The constitutional obligation to address the Township's affordable housing "fair share" obligation requires the assignment of a portion of the regional affordable housing need to each municipality.

Hopewell Township developed a plan to meet the obligation and entered into settlements with the Fair Share Housing Center and a number of inclusionary developers, enabling the Township to receive a Judgment of Compliance and Repose, protecting the Township from Builder Remedy lawsuits until July 2025. A number of redevelopment proposals were considered and a series of redevelopment designations were made by the Township. One such designation was made along Scotch Road, both east and west of this dualized roadway.

Subsequently, a Redevelopment Plan and Ordinance was adopted by the Township Committee, providing for inclusionary mixed use development on Lots 3.01, 5.01, 5.02 and 6.01. However, Judge Mary C. Jacobson, J.S.C. ordered the Township Committee to refer the matter back to the Planning Board to supplement the record, citing an error of law in the Committee's and Planning Board's interpretation and application of N.J.S.A. 40A:12A-5c to Block 93, Lots 5.01 and 5.02.

As a result of Judge Jacobson's decision, the Hopewell Township Committee adopted Resolution No. 19-96, directing the Hopewell Township Planning Board to supplement the record regarding the Board's findings relative to whether Block 93 Lots 5.01 and 5.02 constitute an area in need of redevelopment in accordance with the criteria set forth in N.J.S.A. 40A:12A-5".

This Preliminary Investigation Report (PIR) follows on the July 27, 2017 PIR that reviewed the conditions on Block 91, Lots 3.11, 3.14, 3.161, 3.181, 3.191, 3.22, 3.95 and 3.961 and Block 93, Lots 3.01, 5.01 and 6.01 and the December 7, 2017 PIR that reviewed the conditions on Lot 5.02. Both PIRs found that the subject parcels met the statutory criteria for designating an area in need of redevelopment and recommended such designation (Resolution No. 17-012 dated July 27, 2017 and Resolution No. 17-027 dated December 7, 2017). The Township designated the study area lots in Block 91 and Block 93 as an area in need of re development (Resolution No. 17-297 dated September 11, 2017). The Township subsequently designated Lot 5.02 as a non-condemnation area in need of redevelopment pursuant to N.J.S.A. 40A:12A-1, et seq., in Resolution No. 17-412 adopted on December 11, 2017.

Except for Block 93, Lot 5.01 and Lot 5.02, this redevelopment designation for the remaining lots was upheld by Judge Jacobson. However, the Judge required a referral back

to the Planning Board for additional findings in order for Hopewell Township to include Lots 5.01 and 5.02 in a redevelopment area.

This report expands the review of factors that justify the inclusion of Lots 5.01 and 5.02 in an area in need of redevelopment.

Description of the Study Area

Block 93, Lots 5.01 and 5.02 are identified on Exhibit 1 (aerial photo) and Exhibit 2 (recent subdivision map). CF Hopewell is the owner of Lots 5.01 and 5.02 via a land swap with Hopewell Township on November 6, 2018. These parcels include a 4-acre parcel occupied by three special needs units and a 23-acre vacant agricultural parcel.

Lots 5.01 and 5.02 are surrounded by Block 93, Lots 3.01 and 6.01 - parcels with a previously approved general development plan for office development - which are unlikely to be developed for office use in the future. Lots 3.01 and 6.01 were previously recommended as an area in need of redevelopment (Planning Board Resolution No. 17-012 adopted July 27, 2017) and approved by the Township Committee (Resolution No. 17-297 adopted September 11, 2017). Lots 3.01 and 6.01 were subsequently reconfigured as part of a land swap according to the adopted redevelopment plan.

Some of the conditions that justified the designation of Block 93, Lots 3.01 and 6.01 also support the designation of Lots 5.01 and 5.02, as noted in the following sections.

Attachment A includes photographs of the subject and adjoining parcels.

Existing Land Use

Exhibit 3 depicts the land cover character of the study area and Exhibit 4 illustrates the property tax class for each parcel in the Scotch Road study area. The former Merrill Lynch office campus and Capital Health dominate the east side of Scotch Road, providing centers of employment and health care convenient to local residents.

In addition to the regionally significant office and medical facilities along Scotch Road, a ribbon of residential development, on lots of varying sizes, spans the frontage of Nursery Road near the I-295 interchange. Limited residential development also occupies a small portion of the frontage of Scotch Road.

Beyond the lands east of the dualized portions of Scotch Road, the Township is generally rural in character with low density and medium density residential neighborhoods to the north and west.

The subdivision depicted on Exhibit 2 was accomplished as part of the redevelopment agreement for Block 93, Lots 3.01 and 6.01, both previously designated as an area in need of redevelopment and upheld by Judge Jacobson. The irregular reconfiguration of lot lines reflects an agreement to convey certain portions of Lot 3.01 and Lot 6.01 to Hopewell Township and for the Township to convey Lots 5.01 and 5.02 to the redeveloper. The relationship of the inclusionary development to the subject parcels is seen on Exhibit 5.

Scotch Road Redevelopment Plan

Hopewell Township adopted the Ordinance and Redevelopment Plan (via Resolution No. 17-376, November 27, 2017) for Block 91, Lots 3.11, 3.14, 3.161, 3.181, 3.191, 3.22, 3.95, 3.961 and Block 93, Lot 3.01, 5.01, 6.01 (herein “Scotch Road Redevelopment Plan”), upon recommendation of the Planning Board (via Resolution No. 17-021 dated November 15, 2017). As noted in the title of the redevelopment plan, the Hopewell Township Committee adopted a plan for the west side of Scotch Road that included the Lots 3.01 and 6.01 as well as Lots 5.01 and 5.02 which are the subject of a remand.

The redevelopment plan calls for three “*REDEVELOPMENT AREA ZONES*”, one of which includes Lots 5.01 and 5.02. According to the redevelopment plan, Block 93, Lots 3.01, 5.01, 5.02 and 6.01 are to be included in the “Inclusionary Planned Development 1 – Mixed use center”. Two other redevelopment districts are provided on the east side of Scotch Road, including “Inclusionary Planned Development 2 (Residential uses including single family homes, townhouses and apartments) and “Inclusionary Planned Development 3” (Mixed-use neighborhood of medical/health facilities with a continuing care community).

Inclusionary Planned Development 1 permits a “(M)ixed-use center with up to 100,000 square feet of retail sales and services and restaurant uses, with residential apartments on upper floors.” Commercial uses may include grocery stores, pharmacies, banks, restaurants, convenience-oriented retail stores, professional, general and business offices and institutional uses. Residential uses include single family homes, townhouses and apartments and customary accessory uses such as facilities and structures designed for recreation or community use, private garages and carports, swimming pools with outdoor dining areas, dog runs, tot lots and pedestrian and bicycle paths.

Application of Statutory Criteria to Study Area Properties

The study area qualifies for designation according to the provisions of N.J.S.A. 40A:12A-5c, e and h, as demonstrated below.

N.J.S.A. 40A:12A-5c – Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to adoption of the

resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital.

Lots 5.01 and 5.02 were owned by Hopewell Township at the time of the initial preliminary redevelopment investigations referenced above, but were subsequently transferred to CF Hopewell for use as part of the inclusionary development, according to the terms of the redevelopment agreement. Additionally, Lot 5.01, consisting of 27.03 acres formerly owned by Hopewell Township, has remained vacant and undeveloped for more than ten years, resulting in part from the lack of access to sewerage treatment to serve the site. Despite being purchased for affordable housing purposes and being located in the sewer service area, the daunting cost of sewer extensions has resulted in Lot 5.01 being unlikely to be privately developed without the benefits that can accrue from a redevelopment area designation.

Another locational factor uniquely affecting Lot 5.01 is the fact that it is surrounded by lands previously included in a General Development Plan (see Exhibit 6) that received local approval for 3,500,000 to 4,000,000 square feet of office space, but which has proven to be unbuildable as approved. The repositioning of the GDP-approved lands through an adopted redevelopment plan has made Lot 5.01 an important element in an efficiently and safely planned inclusionary development – a planned development that will yield far more affordable housing than was ever envisioned on Lot 5.01 in the past.

Lots 5.01 and 5.02 were acquired to aid in satisfying the Township's affordable housing obligation. Their location, surrounded by lands planned for mixed use high density inclusionary development makes the parcels a key portion of any redevelopment area that includes Lots 3.01 and 6.01. The inclusion of Lots 5.01 and 5.02 in the area in need designation rounds out the shape of the redevelopment area and eliminates the inefficiency of the “horseshoe” shape of the CF Hopewell site by filling in the “hole”. Inclusion of Lots 5.01 and 5.02 also helps to improve connectivity around the stream corridor that bisects the inclusionary development site and provides important road frontage to allow access flexibility for any future redevelopment.

N.J.S.A. 40A:12A-5e - *A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real property therein or other similar conditions which impede land assemblage or discourage the undertaking of improvements, resulting in a stagnant or not fully productive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare, which condition is presumed to be in general having a negative social or economic impact or otherwise being detrimental to the safety, health, morals, or welfare of the surrounding area or the community.*

As noted above, Lot 5.01 has remained vacant and undeveloped despite its intended use for affordable housing due primarily to the lack of affordable access to sewer treatment

capacity. As such it is land that, despite many years of Township ownership, has not become potentially useful to the public welfare but which could serve the public welfare if included as part of the fabric of the inclusionary neighborhoods that will surround the property.

The GDP outlined what Hopewell Township has approved as the proper utilization of these lands. Nonetheless, there has been a growing lack of proper utilization resulting from the collapse of the regional real estate market sufficient to prompt owners with major development entitlements to request new development opportunities. The changing fortunes of the large scale office market has prevented these lands from becoming “fully productive” according to the GDP, which offers a measurable standard for their productivity.

The misfortunes of the failed office GDP that have resulted in a stagnant condition of land also contribute to the not fully productive condition of Lots 5.01 and 5.02, given their location surrounded by the vacant GDP-approved office park lands,

Lot 5.02 (4 acres), which was subdivided from the larger parcel that formerly included Lot 5.01, contains a single family dwelling converted for use a group home. Lot 5.02 is not properly utilized for the intended affordable housing purposes, since it could accommodate dozens of affordable units if it had sewer service but now only contains a small former single family dwelling converted for use as three special needs bedrooms. This is a gross underutilization for a site intended to serve the needs of low and moderate income persons/households.

N.J.S.A. 40A:12A-5h - *The designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulation.*

Designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulation. The State Development and Redevelopment Plan includes Lots 5.01 and 5.02 within PA-3 - the Fringe Planning Area (west of Scotch Road). The intent of the State Plan for PA3 is to:

- accommodate growth in Centers;
- protect the Environs primarily as open lands;
- revitalize cities and towns;
- protect the character of existing stable communities;
- protect natural resources;
- provide a buffer between Metropolitan and Suburban Planning Areas and less developed Rural and Environmentally Sensitive Planning Areas;
- confine programmed sewers and public water services to Centers.

Policy objectives for Redevelopment in Planning Area 3 seek to:

- Encourage appropriate redevelopment in existing Centers and existing developed areas that have the potential to become Centers, or in ways that support Center-based development, to accommodate growth that would otherwise occur in the Environs.
- Redevelop with intensities sufficient to support transit, a broad range of uses, efficient use of infrastructure, and physical design features that enhance public safety, encourage pedestrian activity and reduce dependency on the automobile.

The State Plan encourages compact development in PA-3 that protects resources and community character while providing for growth in appropriate locations. In light of the circumstances that affect Lots 5.01 and 5.02, a redevelopment area designation is clearly supportive of the intent of the State Plan.

Other Qualifying Criteria

According to the definition of a “redevelopment area” at Section 3 of the Local Housing and Redevelopment Act (LRHL), additional parcels, not meeting the statutory criteria outlined in N.J.S.A. 40A:12A-5, may also be included in the designated area:

“A redevelopment area may include land, buildings or improvements which of themselves are not detrimental to the public health, safety or welfare, but ***the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part.***”

As noted above, Lots 5.01 and 5.02 qualify categorically as an area in need of redevelopment. Given the location of Lots 5.01 and 5.02, surrounded by lands slated for high density mixed use neighborhoods, these parcels are clearly essential to the efficient use of Lot 6.03, intended for inclusionary development. Table 1 briefly highlights how the statutory criteria are satisfied.

Table 1 - Qualifying Criteria for Redevelopment Designation	
Tax Parcel	Qualifies per <u>N.J.S.A. 40A:12A-5</u>, subsection:
Block 93 Lot 5.01	c - unimproved vacant land c - remote from sewers c - surrounded by failed GDP lands e - not fully productive h - smart growth planning Section 3 - necessary for the effective redevelopment
Block 93 Lot 5.02	h - smart growth planning Section 3 - necessary for the effective redevelopment

In the event that a parcel does not qualify for inclusion according to the statutory criteria, as noted above the redevelopment statute also provides that *a redevelopment area may include lands, buildings, or improvements which of themselves are not detrimental to the public health, safety or welfare, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part.*

Lots 3.01 and 6.01 have been subdivided, as seen on Exhibit 2, to provide a consolidated “horseshoe” shaped development node in the center (new Lot 6.03), surrounded by open space that has already been conveyed to Hopewell Township on the basis of this redevelopment plan and the referenced land swap.

With the Court’s recognition of the legitimacy of the redevelopment designation for Lots 3.01 and 6.01, the redevelopment plan for these lots is on solid footing. Since a redevelopment plan has been lawfully enacted for these lands, which surround Lots 5.01 and 5.02 on the north, west and south, Lots 5.01 and 5.02 occupy a pivotal location, significantly affecting the redeveloper’s ability to efficiently develop an inclusionary development on new Lot 6.03.

Summary of Findings and Recommendations

At the time of the 2011 Master Plan Reexamination it was noted that “...the ultimate mechanism for determining whether a municipality has met its fair share affordable housing obligation is not clearly established...” and that a plan addressing “...the full extent of Hopewell Township's fair share cannot be prepared at this time.” Since that time, much has changed, with the March 2015 Mt. Laurel IV decision sparking compliance efforts across New Jersey.

Hopewell Township recognized that it would have a substantial fair share obligation and was already planning for it when the Declaratory Judgment action was filed in 2015. In this regard, the Planning Board had identified the Scotch Road area as an appropriate location for a sizable inclusionary development and the redevelopment approach was ultimately developed to aid in accomplishing constitutional compliance.

The redevelopment plan has already been adopted for the west side of Scotch Road that will substantially advance the goal of fulfilling the fair share housing mandate, and the inclusion of Lots 5.01 and 5.02 are critical to the efficient development and delivery of both market and affordable housing and the associated commercial mixed use. A substantial wetland corridor bisects the “horseshoe” planned for inclusionary development, and Lots 5.01 and 5.02 provide important road frontage that can better provide for full utilization of the designated redevelopment area lands north of the wetlands.

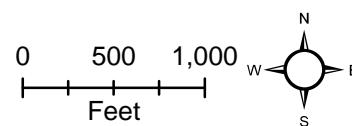
Block 93, Lot 5.01 qualifies for designation as an area or part of an area in need of redevelopment because it meets the statutory requirements related to vacant or inefficiently used land that could better contribute to the public welfare. Against a standard of “not fully productive”, Lot 5.01 has historically been vacant and unproductive except for agricultural products. Lot 5.02 has been only marginally useful in addressing the affordable housing for which it was purchased and is far from “fully productive”. In any event, Lots 5.01 and 5.02 can both qualify pursuant to Section 3, since they are necessary for the effective redevelopment of the area.

Significantly, both Lots 5.01 and 5.02 clearly also qualify as a result of being surrounded by lands planned and zoned for significant inclusionary mixed use development, since these lots occupy a critical location in the center of the inclusionary development “horseshoe”.

Exhibit 1
Aerial Photography
Preliminary
Investigation Area
Block 93,
Lots 5.01 & 5.02
Portion of
Hopewell Township
Mercer County, NJ
June 2019

Legend

- Subdivision Line for Lots 3.03 & 6.02
- Block 93, Lots 5.01 & 5.02
- Designated Redevelopment Area



Data Sources:
 NJGIN Parcels 2011
 NJDOT Roadway Network
 NJOGIS 2015 Aerial Photography
 Subdivision line digitized from
 Van note-harvey assoc
 but not verified

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

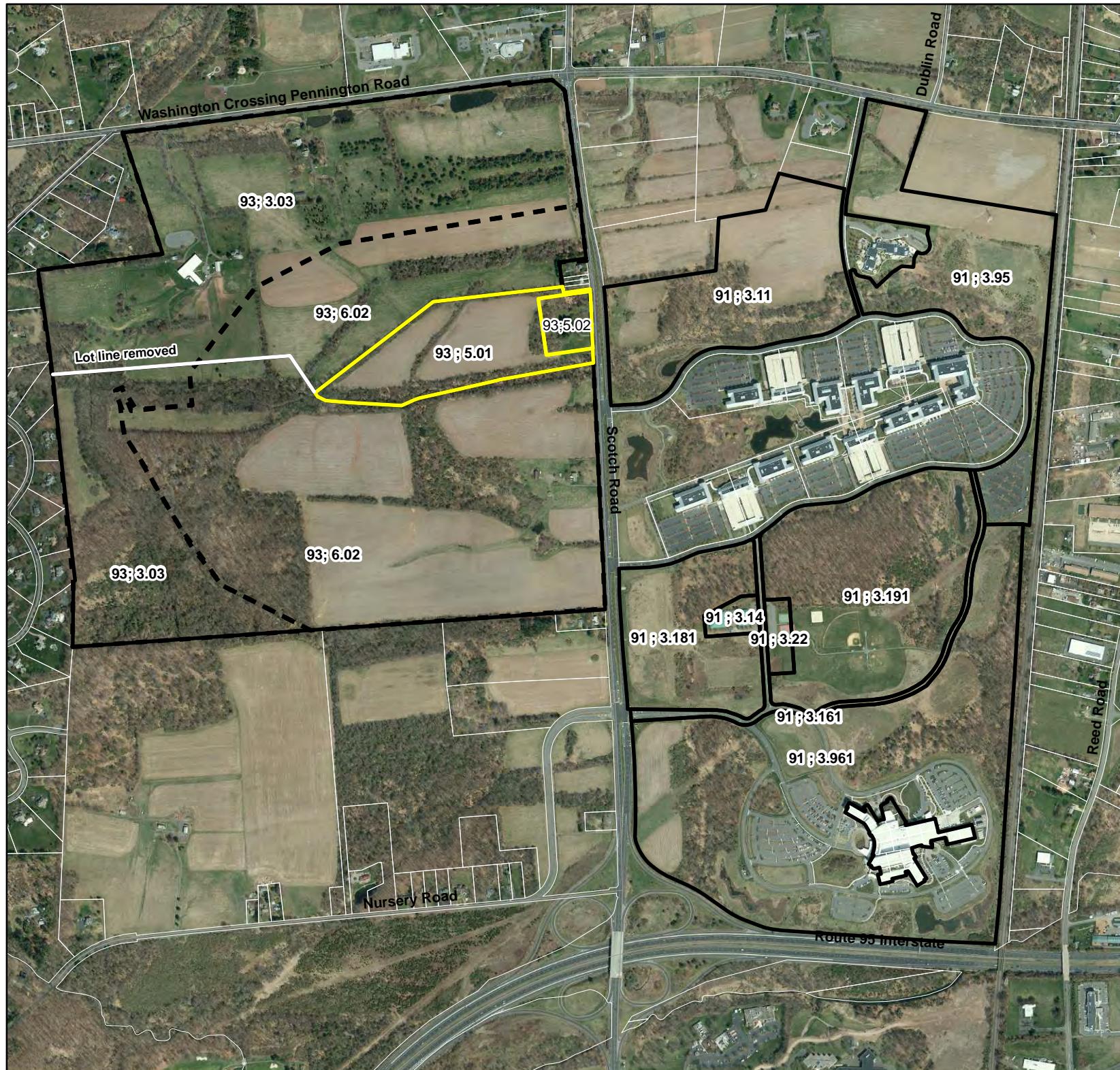


Exhibit 3
Land Use/Land Cover
Preliminary
Investigation Area
Block 93,
Lots 5.01 & 5.02
Portion of
Hopewell Township
Mercer County, NJ
June 2019

Legend

- Block 93, Lots 5.01 & 5.02
- Designated Redevelopment Area
- Subdivision Line for Lots 3.03 & 6.02
- Commercial
- Industrial
- Residential, Rural
- Residential, Low Density
- Residential, High Density
- Residential, Medium Density
- Agricultural
- Barren Land
- Forest
- Other Urban
- Water
- Wetlands

0 500 1,000
 Feet

Data Sources:
 NJGIN Parcels 2011
 NJDOT Roadway Network
 NJDEP 2012 Land use/Land Cover
 Subdivision line digitized from
 Van note-harvey assoc
 but not verified

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

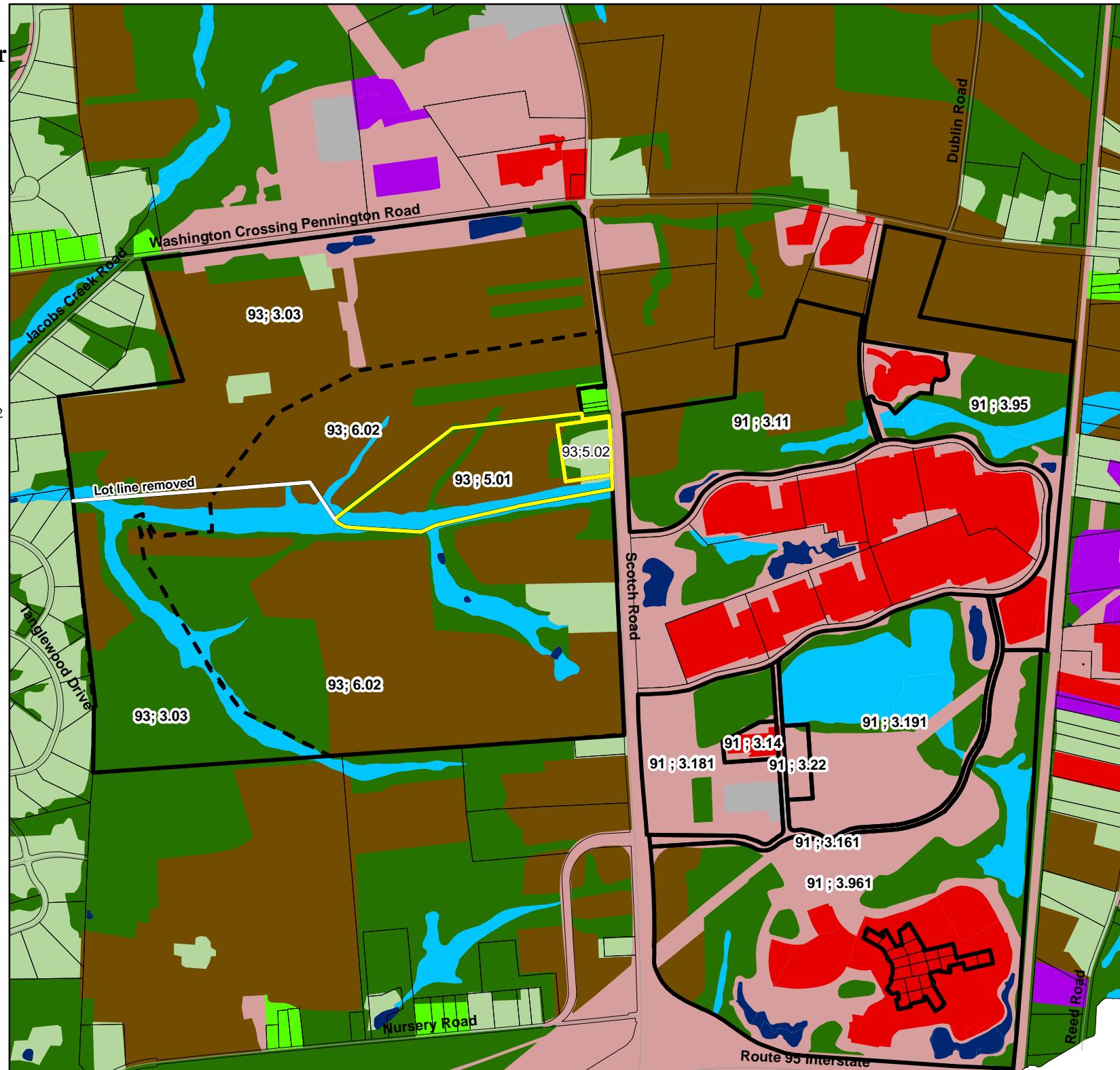


Exhibit 4
Property Tax Class
Preliminary
Investigation Area
Block 93,
Lots 5.01 & 5.02
Portion of
Hopewell Township
Mercer County, NJ
June 2019

Legend

- Block 93, Lots 5.01 & 5.02
- Designated Redevelopment Area
- Subdivision Line for Lots 3.03 & 6.01
- No data
- Vacant
- Public Property
- Other Exempt
- Residential
- Farm Qualified
- Commercial
- Railroad

A scale bar and a compass rose. The scale bar shows distances of 0, 500, and 1,000 feet. The compass rose indicates North, South, East, and West.

*Data Sources:
NJGIN Parcels 2011
NJDOT Roadway Network
Subdivision line digitized from
Van note-harvey assoc
but not verified*

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



Exhibit 5
Location of
Block 93,
Lots 5.01 & 5.02
Relative to Planned Mixed Use
Inclusionary Development
Portion of
Hopewell Township
Mercer County, NJ
June 2019



EXHIBIT 6

Merrill Lynch and CF Hopewell: a Story of Changing Times

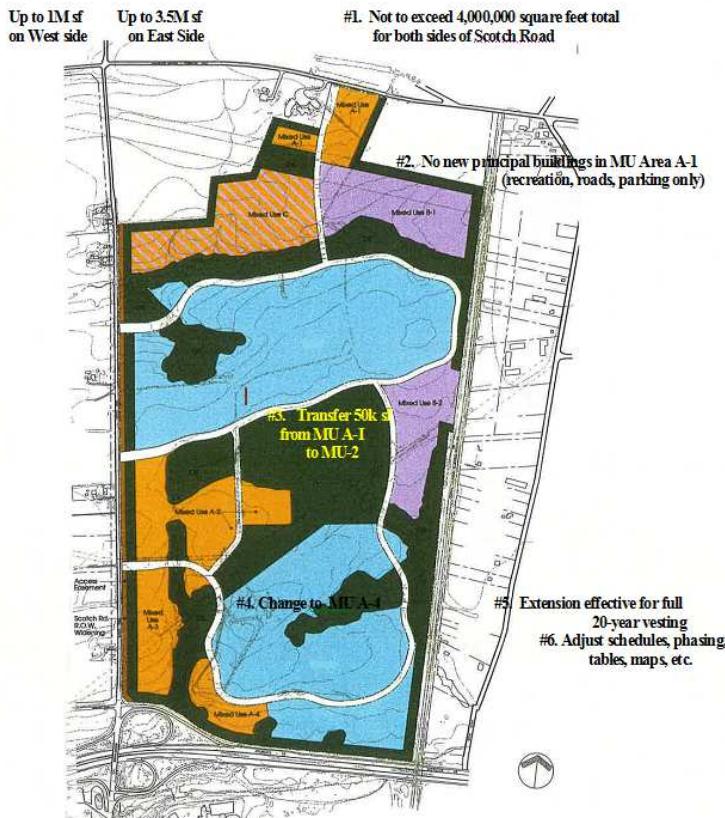
- Original 1998 GDP Approval - long-term, vested approval for a mixed-use/multiple user development not to exceed 3,500,000 square feet on approximately 450 acres. GDP approved specific bulk standards, including lot standards, building heights and setback standards and waivers from parking requirements and included the following uses:
 - Offices
 - Research and development facilities
 - Operations, manufacturing, warehousing, packaging
 - Assembly, printing, etc
 - A conference center
 - A hotel
 - Retail and personal service uses
 - Utilities
 - Recreation uses
 - Nursery school and/or day care centers
 - Open space
- Settlement Agreement (October 25, 2004) involving the Merrill Lynch Property and Garden Property (west of Scotch Road) provided for:
 - A. GDP amendment permitting *no more than 4,000,000 square feet of floor area on both ML and Garden Property.*
 - B. *A maximum of 3,500,000 square feet may still be developed on ML.*
 - C. *If Garden Property develops its permitted 1,000,000 square feet, ML would be limited to 3,000,000 square feet.*
 - D. *If Garden Property is developed for less than 1,000,000 square feet, ML may then build the difference up to 3,500,000 square feet*
- 2005 Amended GDP, shown graphically on the following page, included:
 - A. *A reduction of 500,000 square feet of floor area from the 3,500,000 square feet permitted on the east side of Scotch Road;*
 - B. *No new principal buildings north of the existing power lines* (Mixed Use Area 1-A) on the amended GDP Plan;
 - C. *Transfer the approximately 50,000 square feet from Mixed Use Area 1-A to within and adjacent to Mixed Use Area A-2 (adjacent to the existing athletic fields), for retail, restaurant use, professional services and community facilities;*
 - D. *Extend Mixed Use Area A-4 which permits a hotel, to the east side of the proposed loop road into the Office 2 area;*
 - E. Extend the term of the GDP to be effective for a full twenty (20) year vested term;

F. *Adjust the schedules*, phasing, various calculations, tables and maps as have been modified and updated to reflect Phase 2 Site Plan and Subdivision approvals as well as above-referenced requested amendments to the GDP.

2005 Changes to Merrill Lynch GDP

The 2005 Amendment to the GDP, which extended the twenty (20) year vesting term for the affected properties out to 2025, included the following finding by the Planning Board:

“Extending the time frame within which coordination of development of both properties can take place will facilitate the construction of appropriate infrastructure for both properties and allow the development on both properties to be *phased in* over an appropriate period of time so that the impact of development on both properties *can be appropriately managed and integrated into the land use development occurring within the Township.*”



- The 2005 Amendment also
 - eliminated the 1998 GDP approval condition requiring that public access by appointment to on-site recreational facilities at Merrill Lynch, and
 - secured a commitment for the donation of 170 acres west of Scotch Road.

The history of litigation, settlements, extended vesting and the changing dimensions of the real estate market have all adversely affected the plans for the interchange area.

Attachment A
Photographs of Lots 5.01 and 5.02 and Surroundings



View to the west of Lot 5.01 (open field) and Lot 5.02 (small white dwelling)



View to the southeast from Lot 5.02 (note traffic signal at American Boulevard)



View to the west from parking garage at former Merrill Lynch campus (note house on Lot 5.02)

Attachment A
Photographs of Lots 5.01 and 5.02 and Surroundings



View to the east along American Boulevard, which is the loop road through the former Merrill Lynch campus



View to the east from Scotch Road, at buildings originally part of Merrill Lynch



View to the south from American Boulevard, at buildings originally part of Merrill Lynch

Attachment A
Photographs of Lots 5.01 and 5.02 and Surroundings



View to the southeast of Capital Health, east of Scotch Road near I-295



View to the west from Scotch Road vicinity over lands dedicated to Hopewell Township according to the adopted redevelopment plan