Explanation of Ordinance: This Ordinance amends Ordinance No. OR:18/20 adopted on December 6, 2018 to make certain formatting changes and to specifically address that Memorandum from the Borough of Watchung Planning Board, dated November 27, 2018.

AN ORDINANCE TO AMEND ORDINANCE OR:18/20, ADOPTING A "REDEVELOPMENT PLAN" FOR A NON-CONDEMNATION AREA IN NEED OF REDEVELOPMENT CONSISTING OF BLOCK 7402, LOTS 19.01 AND 19.02 AND BLOCK 7403, LOTS 5 AND 10 AND FURTHER IDENTIFIED AS THE "BONNIE BURN ROAD REDEVELOPMENT AREA", AS SHOWN ON THE BOROUGH OF WATCHUNG TAX MAP IN ACCORDANCE WITH N.J.S.A. 40A:12A-7.

ORDINANCE OR:19/05

WHEREAS, Block 7402, Lots 19.01 and 19.02 and Block 7403, Lots 5 and 10 are located in the northeastern section of Watchung Borough, Somerset County, New Jersey. The four lots, taken together as the Bonnie Burn Road Study Area ("Study Area" or "Site"), have frontage only on Bonnie Burn Road (County Road 641) which is classified as a minor arterial road and is under Union County jurisdiction. Bonnie Burn Road is a two-lane road with no shoulder or sidewalks and has a curvilinear alignment along the Site. The four lots are a total of 41.03 acres with approximately 1,000 feet of frontage along Bonnie Burn Road. It is located approximately 1,000 feet south of Valley Road. (See Map 1 – Location Map, Map 2- Tax Map, Map 3 - Aerial Map.); and

WHEREAS, this Redevelopment Plan sets forth the manner in which the Site will be developed as an inclusionary multi-family housing development of a maximum of two hundred and thirty (230) units consisting of forty-six (46) low- and moderate-income, non-age restricted affordable rental units and one hundred eighty-four (184) market-rate units. The Site was originally identified for development of an inclusionary non-age restricted affordable rental development in the Borough of Watchung and Fair Share Housing Center Settlement Agreement ("FSHC Settlement Agreement") adopted on June 7, 2018 and the Order on Fairness and Preliminary Compliance Hearing dated September 19, 2018; and

WHEREAS, on June 7, 2018, the Borough Council of the Borough of Watchung adopted Resolution No.11:06/07/18 which authorized and directed the Borough of Watchung Planning Board to undertake a preliminary investigation of the Site to determine whether or not certain lands should be designated as a Non-Condemnation Area Redevelopment Area in accordance with N.J.S.A. 40A:12A-1, et seq. (the Local Housing and Redevelopment Law or "LHRL"); and

WHEREAS, on August 21, 2018, the Planning Board conducted a public hearing to determine whether the Site is a potential non-condemnation area in need of redevelopment, with all notice and jurisdictional requirements having been met; and

WHEREAS, the Planning Board reviewed the Preliminary Investigation Report prepared by Marcia R. Shiffman, PP/AICP/LLA of Maser Consulting P.A. dated July 2018, as well as heard the testimony of Marcia R. Shiffman, PP/AICP/LLA, and comments by residents of the Borough as to the proposed Site and the designation of the same as an area in need of redevelopment; and

WHEREAS, after the conclusion of the public hearing the Planning Board adopted, on September 18, 2018, Resolution No.PB18-RO8 finding and recommending to the Borough Council that the Site be designated as a Non-Condemnation Area in Need of Redevelopment and adopted the *Preliminary Investigation Report for the Bonnie Burn Road Site, Block 7402, Lots 19.01 and 19.02 and Block 7403, Lots 5 and 10*; and

WHEREAS, on October 4, 2018, the Borough Council adopted Resolution No. R11:10/04/18 which designated the Site as an Area in Need of Non-Condemnation Redevelopment and directed the preparation of a Redevelopment Plan for the Site and its presentation to the Borough Council; and

WHEREAS, Borough designation of the Site as a Non-Condemnation Redevelopment Area, along with adoption of this Redevelopment Plan, allow for the development of the Site as contemplated in the June 7, 2018 Borough of Watchung and Fair Share Housing Center Settlement Agreement ("FSHC Settlement Agreement") and this Redevelopment Plan. This designation and adoption of the Redevelopment Plan also enable the use of other mechanisms (e.g., a payment in lieu of taxes arrangement) that are necessary for the realization of the affordable rental development specified in this Redevelopment Plan; and

WHEREAS, on November 27, 2018, the Borough Planning Board reported on Ordinance:18/20, the "Redevelopment Plan Ordinance" and stated that the Ordinance to be substantially consistent with the Borough Master Plan; The Planning Board also provided certain Recommendations for the Borough Council to consider. This revised Ordinance reflects the Borough Council's response to the Planning Board Recommendations; and

WHEREAS, Map 4 – Buffer Diagram & Concept Plan, prepared by Peter G. Steck, P.P., dated November 7, 2018, illustrates the development concept of the Site as contemplated in this Redevelopment Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF WATCHUNG, in the County of Somerset and the State of New Jersey, that the "Bonnie Burn Road Redevelopment Plan" (the "Redevelopment Plan") be adopted, as follows, in accordance with N.J.S.A. 40A:12A-7. of the LHRL:

SECTION 1. RELATIONSHIP TO LOCAL OBJECTIVES, CONSISTENCY WITH BOROUGH MASTER PLAN, AND REDEVELOPMENT OBJECTIVE:

The Local Housing and Redevelopment Law (LHRL) requires that the Redevelopment Plan describe its relationship to definite local objectives as to appropriate land uses, density of population, and improved traffic and public transportation, public utilities, recreational and community facilities and other public improvements (40A:12A-7.a.(1)).

The LHRL requires that all provisions of the Redevelopment Plan shall be either substantially consistent with the municipal master plan or designed to effectuate the master plan; but the municipal governing body may adopt a redevelopment plan which is inconsistent with or not designed to effectuate the master plan by affirmative vote of a majority of its full authorized membership with the reasons for so acting set forth in the redevelopment plan. (40A:12A-7.d.).

A. Consistency with Master Plan.

This Redevelopment Plan implements a key component of the Borough's effort to meet its affordable housing obligation for the 1999 to 2025 time period pursuant to applicable affordable housing regulations, the Order on Fairness and Preliminary Compliance Hearing and the Borough's Settlement Agreement the Fair Share Housing Center (FSHC) and consistent with various objectives and recommendations of the Borough's 1994 Master Plan Update and the 2011 Master Plan Reexamination.

The Master Plan Reexamination adopted by the Planning Board in 2011 specifically evaluated the site and recommended that development be consistent with the R-M-L-II zone (which permits a lower density than permitted herein, with no affordable housing provided). However, due to the uncertainty existing at the time regarding State-mandated affordable housing obligations, the 2011 Master Plan Reexamination anticipates the likelihood that the Borough would need to address an affordable housing obligation in a manner not directly addressed in the Master Plan Reexamination. Due to this uncertainty, the Reexamination Master Plan recommends that the Borough monitor changes to affordable housing regulations, evaluate their effect on the Borough and react appropriately, as follows:

At this time, the future of COAH is uncertain. On October 8, 2010, the Appellate Division invalidated substantial portions of the COAH's revised Third Round Rules. The court gave COAH five months to adopt new rules. At the time various legislative approaches have been

proposed. The first bill introduced in the 2010 session of the New Jersey State Senate, S-1, proposes to abolish COAH and provide a new means of calculating and addressing affordable housing needs. A-3447 would also make similar reforms to the Fair Housing Act and would similarly abolish COAH.

All of these factors point towards major potential changes to affordable housing requirements. However, it is unclear what their exact form will be or what the potential effect on the Borough. It has been determined that municipalities have a constitutional obligation to provide a realistic opportunity for affordable housing. This obligation will not likely go away entirely. Thus, it is imperative that the Borough continue to monitor the changes to affordable housing regulations, evaluate their effect on the Borough and react appropriately.

In the section entitled "Past and Potential Changes in Land Use and Population," the 2011 Master Plan Reexamination further anticipates the potential need to address an affordable housing obligation in a manner not directly addressed in the Master Plan Reexamination. In this section, the Master Plan Reexamination anticipates that residential development of vacant land would be minimal due to development constraints such as lack of sewer and wetlands but indicates that *"some residential development may occur as a result of affordable housing obligations imposed by the State."*

Lastly, the 2011 Master Plan Reexamination reviewed and incorporated the "Statement of Objectives, Principles, Assumptions, Policies and Standards" of the Borough's 1994 Master Plan Update which includes the following objective effectuated by this Redevelopment Plan:

The Development Plan should continue to address the mandate of the "Mt. Laurel II" New Jersey State Supreme Court Decision and the requirements of the New Jersey Council on Affordable Housing (COAH) which obligates each municipality to provide for its "fair share" of its regions "low" and "moderate" income housing. The Borough of Watchung should formulate a so-called "Housing Compliance Plan" which safeguards the integrity of existing residential neighborhoods, acknowledges environmentally fragile areas, and permits the continuance of a reasonable balance between residential and non-residential development.

Consistent with the above-described objectives and recommendations of the Borough's 1994 Master Plan Update and 2011 Master Plan Reexamination, this Redevelopment Plan implements a key component of the Borough's effort to meet its affordable housing obligation for the 1999 to 2025 time period.

In response to the March 10, 2015 decision of the New Jersey Supreme Court (which dissolved the substantive certification process before the New Jersey Council on Affordable Housing (COAH) and created a judicial process by which a municipality can seek a judicial determination that their housing element satisfied their "third round" affordable housing obligation) the Borough filed a declaratory

judgment action with the Superior Court which sought judicial determination of compliance with the Borough's Third Round affordable housing obligation.

The Borough and the FSHC, a Supreme Court-designated interested party in this matter appeared before the Hon. Thomas C. Miller, P.J.Cv., and worked with the Court-appointed Special Master, to review the Borough's affordable housing plans. Through this process, the Borough and FSHC agreed to settle this litigation and present the settlement to the trial court with jurisdiction over this matter. The Borough entered into a Settlement Agreement with the FSHC for its 1999-2025 affordable housing obligations, which Settlement Agreement requires, amongst other actions, that the Borough adopt and endorse a Housing Element and Fair Share Plan (HEFSP) and adopt the implementing ordinances outlined in the Settlement Agreement.

One of the key implementing ordinances outlined in the Settlement Agreement involves rezoning of the subject site to allow for an inclusionary development that contains 46 non-age restricted rental affordable units (which would be effectuated by adoption of this Redevelopment Plan).

The Court's Special Master provided to the Court a Report of the Special Master finding that the Borough's Settlement Agreement with the FSHC (which, again, included the development addressed in this Redevelopment Plan as a key component) will adequately protect the interests of low- and moderate-income households. The Hon. Thomas C. Miller, P.J.Cv. then subsequently held a Fairness Hearing and determined on September 19, 2018 that the Settlement Agreement was fair and reasonable to the interests of low- and moderate-income households. The Order on Fairness and Preliminary Compliance Hearing issued by Judge Miller requires that the Borough submit to the Special Master for review and comment a new HESFP and all resolutions and ordinances necessary to implement the HEFSP (which the Borough is required to adopt within 180 days from the date of the Order).

The adoption of this Redevelopment Plan (along with the HEFSP and other implementing ordinances and resolutions) addresses the Borough's Third Round affordable housing obligation consistent with the Order on Fairness and Preliminary Compliance Hearing and provides a realistic opportunity for the development of affordable housing units that will satisfy the Borough's Third Round obligation under the New Jersey Supreme Court's Mount Laurel decisions from 1999 to 2025.

The Site has been part of Watchung's affordable housing deliberations for over 30 years to address the Borough's affordable housing obligations. Block 7403, Lot 10, a 21-acre lot which is over 50% of the site area, was previously involved in affordable housing litigation with the Borough. In 1988, this lot was one of a number of other properties that were the subject of builder's remedy lawsuits

against that Borough of Watchung. The Developers Mount Laurel Agreement settling this litigation was signed on August 25, 1988 and recorded on October 12, 1988. This Developers Mount Laurel Agreement provided that the Z.V. Associates property, Block 7403, Lot 10, would be rezoned to a higher density residential district. The R-M-L II District was established over this lot to increase the density of the 21.7-acre site from one unit per 60,000 square feet to one unit per 40,000 square feet for a total maximum of 20 lots. In return for the increased density increasing the number of single family lots by seven lots, there were specific conditions placed on the property. There was also a required cash contribution of $280,000 for the Borough use in satisfying its low and moderate-income housing obligation. In 1988, the Borough was able to address its initial Mt. Laurel obligation without including this property for multi-family development except through the cash contributions for affordable housing at that time. The 1997 Borough of Watchung Housing Element and Fair Share Plan Addendum calls out these negotiated developer cash contributions to the Borough Housing Trust Fund to be used to finance the regional contribution agreement.

Notwithstanding the lower density recommendation for the Site in the 1988 Developers Mt. Laurel Agreement and in the 2011 Master Plan Reexamination, this Redevelopment Plan is not substantially inconsistent with the Borough Master Plan when evaluated as a whole. As addressed above, the Redevelopment Plan implements a key component of the Borough's effort to meet its affordable housing obligation for the 1999 to 2025 time period consistent with various objectives, analyses and recommendations of the Borough's 1994 Master Plan Update and 2011 Master Plan Reexamination and pursuant to applicable affordable housing regulations, the Order on Fairness and Preliminary Compliance Hearing and the Settlement Agreement.

B. **Redevelopment Objective.** The overall objective of this Redevelopment Plan is to provide for the development of the subject Site with a 230-unit inclusionary rental housing development that includes forty-six (46) non-age restricted affordable rental units in order to address a component of the Borough's affordable housing obligation in a manner that is thoughtful and attractive in terms of site and building design.

SECTION 2. RELATIONSHIP TO LOCAL ZONING:

The LHRL requires that the Redevelopment Plan describe its relationship to pertinent municipal development regulations as defined in the "Municipal Land Use Law," P.L. 1975, c.291 (C.40:55D-1 et seq.). The redevelopment plan shall supersede applicable provisions of the development regulations of the municipality or constitute an overlay zoning district within the redevelopment area. When the redevelopment plan supersedes any provision of the development regulations, the ordinance adopting the redevelopment plan shall contain an explicit amendment to the zoning district map included in the zoning ordinance. The zoning district map as amended shall indicate the redevelopment area to which the redevelopment plan applies. (40A:12A-7.c.)

A. This Redevelopment Plan shall supersede the Borough of Watchung Land Development Ordinance (LDO), and any other requirement of the Borough Revised General Ordinances pertaining to land use and building requirements with respect to development of the subject Site. Only those requirements of the Borough LDO that are specifically referenced in this Redevelopment Plan shall apply to development of the Site in the manner specified in this Redevelopment Plan.

B. Terms used in this Plan shall have the same meaning as defined in the Borough's LDO, except as specifically amended in this Plan.

C. For purposes of calculating minimum required lot area, maximum permitted building coverage and maximum permitted lot impervious coverage, the gross lot area (known to be 41 acres) shall be the unit of measure.

D. The Planning Board may grant deviations from the regulations contained within this Redevelopment Plan where by reason of exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographic conditions, pre-existing structures and physical features uniquely affecting a specific piece of property, the strict application of any area, yard, bulk or design objective or regulation adopted pursuant to this Redevelopment Plan would result in peculiar and exceptional practical difficulties to, or exceptional or undue hardship upon, the developer or redeveloper of such property (i.e., a "c(1)" variance pursuant to N.J.S.A. 40:55D-70c(1)). The Planning Board may also grant a deviation from the regulations contained within this Redevelopment Plan related to a specific piece of property where the purposes of this Redevelopment Plan would be advanced by such deviation from the strict application of the requirements of this Plan and the benefits of granting the deviation would outweigh any detriments (i.e., a "c(2)" variance pursuant to N.J.S.A. 40:55D-70c(2))..

E. The Planning Board may grant exceptions or waivers of design standards from the requirements for site plan approval as may be reasonable and within the general purpose and intent of the provisions for site plan review within the Plan, if the literal enforcement of one or more provisions of the Plan is impracticable or would exact undue hardship because of peculiar conditions pertaining to the Site. Deviations may be granted under the terms of this section provided such deviations can be granted without resulting in substantial detriment to the public good and will not substantially impair the intent and purpose of the Redevelopment Plan.

F. No deviations may be granted which will result in permitting a use that is not a permitted use within this Redevelopment Plan. Any deviations from standards of this Plan that results in a "d" variance

pursuant to N.J.S.A. 40:55D-70d shall be addressed as an amendment to the Plan rather than by variance relief through the Borough's Zoning Board of Adjustment.

G. The Borough Council shall act as the "Redevelopment Authority" pursuant to N.J.S.A. 40A-12A-4.c for purposes of implementing the Redevelopment Plan and carrying out redevelopment. In doing so, the Borough Council shall have the powers set forth in N.J.S.A. 40A-12A-8 to effectuate all of its duties and responsibilities in the execution and implementation of this Redevelopment Plan.

H. The Official Zoning Map of the Borough of Watchung is hereby amended to designate the following properties as the "Bonnie Burn Road Redevelopment Area": Lots 19.01 and 19.02 in Block 7402; and Lots 5 and 10 in Block 7403. Map 5 depicts the amendment to the Borough Zoning Map. The "Land Use and Building Requirements" detailed below outline permitted land uses and building requirements in the Bonnie Burn Road Redevelopment District.

I. The zoning established in the Bonnie Burn Road Redevelopment District shall replace the R-M-L-II Zone, as applicable to the Site. The Official Zoning Map shall be modified to reflect the zoning established in this Bonnie Burn Road Redevelopment Plan.

SECTION 3. LAND USE AND BUILDING REQUIREMENTS – BONNIE BURN ROAD REDEVELOPMENT DISTRICT:

The LHRL requires that the Redevelopment Plan outline proposed land uses and building requirements in the redevelopment area (40A:12A-7.a.(2)).

A. Principal Permitted Uses.

1. Multi-family dwelling units (apartment units) in one or more buildings as an inclusionary housing development, but not to exceed a total of 230 dwelling units within the zone.

2. Twenty percent (20%) of the total number of dwelling units in the zone shall be reserved for rental occupancy as affordable housing units. The provision of affordable housing shall be consistent with all applicable rules of the Council on Affordable Housing (COAH) and the Uniform Housing Affordability Controls (UHAC), including requirements of phasing and bedroom distribution. There shall be no more three-bedroom affordable units than the minimum number of units required by COAH regulations. At least thirteen percent (13%) of the affordable units shall be very low-income housing as defined by the New Jersey Fair Housing Act. The low- and moderate-income units shall be distributed throughout the complex and not concentrated in any one building.

3. The market-rate units shall consist only of one-bedroom, and two-bedroom units. A minimum of twenty (20%) of the market-rate units shall consist of one-bedroom units

B. Permitted Accessory Uses.

1. Uses and structures customary to the principal permitted use including, but not limited to, private residential garages, parking areas, refuse and recycling areas, swimming pools, tennis courts, club houses for residents, management offices, leasing offices, walking/jogging trails, recreation facilities, and dog runs.

2. All accessory structures except permitted fences, signs, retaining walls, bus shelters shall be located at least 100' from the zone boundary line.

3. Fences and walls in accordance with Section 28-502 and as follows:
   a. Section 28-502.A.2. shall apply to the boundary between a single-family residential district and this Redevelopment Area and permit a fence of six (6) feet in height.
   b. Section 28-502A.1.(a) shall permit opaque earth-tone fences more than 50% solid.

4. Signs may be provided in accordance with Section 28-504 of the Borough LDO and as follows:
   a. Permitted signs shall include one project identification sign, residential unit and residential building identification signs, traffic and pedestrian directional signs and other public safety signs.
   b. A project identification monument sign shall be permitted at the driveway entrance to the project not exceeding a sign panel area of 32 square feet in each face and not exceeding 8 feet in total height including the monument base.
   c. A monument base constructed of stone or similar material and landscaped shall be provided.
   d. Building mounted identification signs or free-standing informational signs shall not exceed 4 square feet.
   e. Signs shall be constructed of stone, wood or similar materials and shall not be internally illuminated.
   f. An overall sign plan shall be submitted for review as part of the site plan application.

C. Maximum Building Heights, Number of Units, Building Length and Height Measurements

1. The height of the buildings shall be consistent with that depicted on Map 6 and Map 7 , Concept Height Sections which includes cross sections of all building types. On Lots 19.01 and 19.02 in Block 7402, the maximum building height shall be thirty-eight (38) feet and shall not exceed two exposed (2) stories on the upper side of the building nor exceed three exposed (3) stories on the lower side of the buildings. On Lots 5 and 10 in Block

7403, the maximum building height shall be forty-eight (48) feet and shall not exceed three exposed (3) stories on the upper side of the building nor exceed four (4) exposed stories on the lower side of the buildings.

2. Building height in feet shall be the vertical distance measured from the average finished grade at the perimeter of the foundation calculated at 20 foot increments to the mean level between the eaves and the highest point of the roof in the case of pitched roofs.

3. Building height in stories shall be measured counting as a story the space between the upper surface of any floor and the upper surface of the next floor above it or, if there is no floor above it, then the surface between the floor and the ceiling next above it. Space under a sloped roof that is not habitable and space partially or fully below grade that is not habitable under the State Uniform Construction Code shall not be considered a story or part of a story.

4. On Lots 19.01 and 19.02 in Block 7402, no building shall contain more than 44 dwelling units or be greater than three hundred (300) feet in length. On Lots 5 and 10 in Block 7403, no building shall contain more than 64 dwelling units or be greater than three hundred (330) feet in length.

D. Area, Yard and Other Requirements

1. The minimum required lot area shall be 41 acres. No subdivision of the Site shall be permitted.

2. Residential buildings within the development shall be setback from the perimeter of the site the distances indicated on Map 4 Buffer Diagram and Concept Plan, except that in the review of the site plan application the Planning Board may permit the setback of one or more of the buildings to be reduced to a minimum of 100 feet from the Site perimeter if such lesser setback is necessary to achieve the proposed site plan.

3. Residential buildings within the development shall be separated from one another a distance of no less than 60 feet.

4. No residential building shall be located closer than 15 feet to the cartway of a principal circulation drive within the development.

5. The maximum lot coverage (impervious coverage) shall be 40% of the site area. Any

land area that may be dedicated for road right-of-way purposes or dedicated for preserved open space shall not be deducted from the calculation of the maximum permitted lot coverage.

6. The maximum building coverage shall be 20% of the site area. Any land area that may be dedicated for road right-of-way purposes or dedicated for preserved open space shall not be deducted from the calculation of the maximum permitted lot coverage.

7. Approximately 28% of the total site area, which includes delineated wetlands, wetlands buffer area, stream and stream riparian buffer area, shall be maintained in a natural state and undisturbed.

8. A minimum of 60% of the site shall be pervious surfaces. Any disturbed areas that are designed as pervious surfaces shall be replanted in accordance with the approved site plan.

Commented [MS1]: Response to Planning Board recommendations on 'The ordinance should include more clarification as to wheat is being distribuend. Should be a more concise percentage of the disturbed vs. the undisturbed areas, and of the disturbed area, clarification should be made as to the amount of green space to be maintained. FYI, without a site plan, we don't know the % of disturbed area. But we do know that a minimum of 60% of the site will be pervious and that 28% of the site is conservation area.

E. Buffers

1. An eighty (80) foot wide buffer shall be established along the northwesterly property boundary of Lots 19.01 and 19.02 in Block 7402. All other tract boundaries shall have a minimum buffer width of 50 feet. Where driveways, parking areas, walkways and utility lines are needed to service the development, such linear improvements may cross required buffer areas provided such intrusions are minimized. Stormwater detention basins and other stormwater management features and facilities may be constructed within required buffer areas provided that a minimum undisturbed buffer area of at least 40 feet is established along the exterior tract boundary as described in Map 4 - Buffer Diagram & Concept Plan. Permitted within required buffer areas are retaining walls, fencing along property boundaries and associated safety fencing.

2. The buffer shall comply with the landscape standards under Section 28-609.E., except as modified by this Redevelopment Plan as follows:

   Existing healthy trees in the buffer area shall be retained to the greatest extent possible. During the review of the site plan application, the Planning Board may require a combination of evergreens, deciduous and conifer trees and landscape materials and/or earth tone fencing in such locations, design and size as necessary to provide year-round screening to minimize off-site views into the Site to the greatest degree practicable from adjoining residential properties.

Commented [MS2]: Response to Planning Board November 27,2018 comments.

The transition buffer requirements under Section 28-609.E.2. shall be addressed except the dimensions are modified consistent with the buffer widths shown on Map 4, Buffer Diagram & Concept Plan and as indicated in E.1.

F. Recreation Amenities and Security

1. Permitted recreation amenities shall include, but not be limited to a resident clubhouse, resident lounge, a fitness center, a private conference room, an outdoor swimming pool, complimentary Wi-Fi through the common areas, pet-friendly features, a smoke-free environment, and a recreation area serving children of various ages.

2. Required recreation amenities shall include a recreation facilities building/club house with a minimum gross floor area of 5,000 square feet, a fitness center, an outdoor swimming pool, and a recreation area serving children of various ages

3. The site plan submission shall include a proposed program for on-site security. The program shall include a permanent on-site resident superintendent and shall include consideration of some combination of the following: security camera system and a key-fob security system controlling entrances to building and individual apartments.

4. Section 28-505.A. Recreation Required for Multifamily Development shall apply, except that:
   a. The placement of recreational amenities shall comply with the perimeter setback requirements at D.2. above and the perimeter buffer requirements of E.1 and E.2 above except that walking trails shall not subject to these requirements provided such trails are reflected on the site plan approved by the Board after demonstration to the Board that the trails have been placed in a manner that minimizes tree removal.

G. Parking requirements

1. Parking shall be provided in accordance with the Residential Site Improvement Standards, N.J.A.C. 5: 21-1, et seq. De minimis exceptions may be considered by the Planning Board to advance the purposes of this Redevelopment Plan in accordance with the de minimis exception standards authorized by the Residential Site Improvement Standards.

2. Parking spaces shall be located at least 10 feet from a residential building within the development; except where a parking space also provides access to an enclosed garage, no such setback shall be required.

3. Parking lot design shall comply with Section 28-607 unless superseded by the Redevelopment Plan requirements.

4. Section 28-609 G. Parking Lot, Loading and Utility Area Landscaping shall be provided with the exception that parking under the buildings will require permitted modifications to the landscaping standards to accommodate the design.

H. Exemptions

1. The provisions of Chapter XXIV of the Revised General Ordinances of the Borough of Watchung concerning tree preservation shall not apply to development within this zone except for portions of the tract required to be in buffer areas along the perimeter of the tract. Where tree removal and replacement are in accordance with an approved site plan, an inventory of trees for the entire lot or tract and within undisturbed portions of the required buffer area shall not be required. Tree replacement shall only be required for trees removed in required buffer areas as authorized by an approved site plan. However, to address Site tree removal outside of the required buffer areas, a minimum of one shade tree measuring a minimum of two and one-half to three (2 1/2 – 3) inch caliper shall be provided for each dwelling unit. This provision includes trees required for street tree and parking area plantings, but excludes the trees required for landscape buffers.

I. Building Design Standards

1. All residential buildings shall have similar façade treatments so that they are compatible with one another. Additionally, all sides of any one residential building shall have similar façade treatments.

2. Long buildings shall be broken into façade segments. Any building with a length of over 100 feet shall have off-set facades at least every 30 feet created with setback or bump-out sections being 1.5 feet or more in depth.

3. A variety of materials and architectural features are encouraged to, for example, distinguish the first floor from higher floors, to distinguish top floors from lower floors, and to highlight building entrances.

4. The building design shall include a pitched roof design with a minimum pitch of 4:12.

5. Rooftop HVAC units, if employed, shall be aesthetically shielded by roof insets and appropriately buffered for noise.

J. Overall Building and Site Design Concept.

While the development planned herein represents an important element of the Borough's affordable housing plan, it is critical that the development also be carefully designed in consideration of surrounding land uses, seek to minimize overall land disturbance and tree removal, and be attractively designed. The "Narrative Statement" below, provides a written explanation of the planned building/ architectural design and overall site design concept. This narrative describes how the buildings and site will be attractively and thoughtfully designed.

Narrative Statement

The inclusionary housing development proposed to be implemented under the terms of this Redevelopment Plan is intended to follow the conceptual layout shown on Map 4 - Buffer Diagram & Concept Plan. The concept plan shows six residential buildings positioned to avoid unnecessary intrusions on the environmentally sensitive portions of the site. Those environmentally sensitive areas include wetlands and associated transition areas as well as riparian zones associated with water courses.

The concept plan envisions a total of 230 dwelling units intended for rental occupancy with 20 percent of the total reserved for low- and moderate-income households (for a total of 46 affordable units). The low and moderate-income units will be distributed throughout the development and not concentrated in any one building. Toward the interior of the Site, residential buildings with three-stories exposed on one side and four-stories on the opposite side are proposed. Further to the west, buildings with three-stories on one side and two stories on the opposite side are proposed. The differing story heights are designed to accommodate the sloping nature of the Site and to situate the tallest buildings furthest away from neighboring single-family homes.

Access to the Site is proposed via a pair of driveways in a parkway format that lead to a clubhouse with recreational facilities. This accessory component serves as a focal point for residents and their guests approaching the residential buildings.

Architectural Design Standards. Map 8 Concept Stone Elevation and Map 9 Concept Brick Elevation are shown as conceptual architectural designs. The final architectural design has not been prepared at this time and changes in the architectural plans are likely to occur. Final plans will be submitted and reviewed by the Planning Board.

All materials, colors and details used on the exterior of a building shall be architecturally compatible with the style of such building, as well as with the other buildings, so as to create a cohesive relationship between the buildings. Buildings shall be designed so as to prevent exterior elevations from containing large expanses of blank or featureless walls.

The exterior treatment shall include quality materials, such as brick, stone, "Hardie" board, and/or composite materials, siding and materials of similar quality and duration as is characteristic of luxury building. Among the architectural features proposed are stone counter-tops, tile backsplash and stainless steel kitchen appliances, washer-dryers within each unit, individual unit specific temperature control, nominal 9 foot ceilings within units, elevators, private balconies in selected units and private garages for a number of resident vehicles.

K. Additional Requirements.

1. Traffic Impact Study. The Redeveloper shall prepare and submit a Traffic Impact Study as part of the site plan application for review by the Board that the addresses the inclusionary development's traffic impact which includes the following:
   a. The existing road network available to serve the proposed development, as well as the proposed road network within the development itself and the surrounding road network which will be affected by the proposed development. This analysis shall include the capacity of the existing and proposed roadways; the anticipated traffic volumes as a result of the proposed development; the physical structure of road networks; and any problem areas in the area road network affected by this development and other planned development with impacts on the road network, including unsafe intersections and vertical or horizontal alignments.
   b. The analysis shall evaluate current and planned development in the surroundings including individual residences or businesses on Bonnie Burn Road, including Weldon Quarry.
   c. The traffic analysis shall consider the County of Union traffic circulation and development in adjoining municipalities that may affect the traffic conditions in the Redevelopment Area.
   d. The Planning Board, during its site plan review, may condition site plan approval consistent with Somerset and Union County Planning Board approvals, as applicable on (1) improvements to on-tract entrances and exits and (2) contributions to off-tract improvements made necessary by the on-tract development.
   e. The Redeveloper will be responsible for off-tract site improvements related to traffic such as a traffic light, acceleration and deceleration lane improvements to achieve sufficient sight distances and related improvements to individual driveway(s) serving the Site fronting onto Bonnie Burn Road.
   f. All off-tract improvements and entrances and exits along Bonnie Burn Road shall be subject to Somerset and Union County Planning Board approval.

2. Environmental Impact Statement and Site Assessment. The site plan submission shall include an Environmental Impact Statement (EIS) pursuant to Section 28-804. The EIS shall be accompanied by a Phase I Environmental Site Assessment and a Phase II Environmental Site Assessment, if necessary. In this fashion, environmental remediation, if necessary, can be incorporated into the site plan approval.

3. The requirements of Article 28-600 shall apply unless specifically modified or waived by this Redevelopment Plan. Notwithstanding any requirements to the contrary, the following specific design requirements shall apply within the Redevelopment Area (to the degree other requirements in the Revised General Ordinances conflict), the following requirements shall apply to development on the Site).
   a. The development shall include sidewalks providing pedestrian access from the parking lots to the buildings and along the access drive to Bonnie Burn Road.
   b. The site shall be designed to properly allow for emergency vehicle maneuverability and access.
   c. All buildings shall be sprinklered.
   d. Notwithstanding any requirements to the contrary, stormwater management facilities may be permitted within yard setbacks as shown on the Map 4, Buffer Diagram & Concept Plan. Such facilities shall be attractively landscaped and/or screened consistent with applicable requirements of Article 28-600.

4. Construction Phasing. The site plan submission shall include a description of the construction phasing (e.g., relative timing of site clearing, grading, placement of utilities, building construction, etc.).

5. Weldon Quarry Lease Notice. A form of notice shall be included in all leases informing future development residents that Weldon Quarry is across Bonnie Burn Road and that it performs blasting on a regular basis. A draft shall be included with the site plan submission.

6. Sanitary Sewers and Other Utilities. The site plan approval shall be conditioned upon the Redeveloper obtaining sewer capacity from the Township of Berkeley Heights, amending the Sewer Service Area and extending the sewers to the development at its sole cost. All utilities are to be located underground.

7. The Redeveloper is responsible for any cost incurred by the Borough to review the required site plan, and related traffic and environmental impact analysis.

8. Construction of the Site shall comply with any and all applicable requirements and regulations related to blasting.

9. Development of the Site shall be subject to the applicable requirements of the following Articles of the Borough LDO: 28-800, Development Application Review Procedures and Checklists; 28-900, Application Fees, Guarantees, Inspections and Off-Tract Improvements; and 28-1200, Administration, Penalties, Repealer, Validity.

10. The following items in the Preliminary Major Application Checklist shall be modified as follows: #12 (Tree Removal/ Tree Replacement Application) shall not be required; and #32 (individual tree locations) shall be provided only in required buffer areas in areas adjacent to the homes located on Oakwood Road East and Mareu Drive bordering the site.

11. The development shall comply with all applicable requirements necessary for the Borough to address its affordable housing obligation including but not necessarily limited to: recording of necessary deed restriction(s); affirmative marketing; bedroom distribution; low/ moderate income split; and engagement of a qualified administrative agent.

12. Upon site plan approval, portions of the Site that are to remain undeveloped (e.g., wetlands, wetlands buffer areas, buffer areas, and open space areas) shall be placed within a duly-recorded conservation easement.

13. A deed restriction within that certain August 2, 1988 Developer's Mount Laurel Agreement is not consistent with the Order on Fairness and Preliminary Compliance Hearing, the Borough's Settlement Agreement with the Fair Share Housing Center, and this Redevelopment Plan. In cooperation with the Borough, the designated Redeveloper shall file a motion to the Court issuing the Order on Fairness and Preliminary Compliance Hearing to remove that deed restriction. That certain Revised Final Plat for Oakwood Estates," filed on March 14, 2011 in the Somerset County Clerk's Office as Map. No. 6408-1205, also conflicts with this Redevelopment Plan, and the Order on Fairness and Preliminary Compliance Hearing and the Borough's Settlement Agreement with the Fair Share Housing Center. This Redevelopment Plan supersedes any bulk requirements and density restrictions imposed by the Plat for Oakwood Estates with regard to the Redevelopment Area. The Redeveloper shall cause a corrective deed to be recorded memorializing this Redevelopment Plan's supersession of the bulk and density requirements imposed by Plat for Oakwood Estates.

14. The site plan shall be provided to the Environmental Commission for their review and comment to the Planning Board.

Commented [MS3]:

Commented [MS4R3]: Recommended language from Planning Board.

SECTION 4. AFFORDABLE HOUSING:

The LHRL provides that the Redevelopment Plan may include the provision of affordable housing in accordance with the "Fair Housing Act" and the housing element of the municipal master plan.

As stated above, the development will be a two hundred-thirty (230) unit multi-family development. Forty-six (46) of the units shall be low- and moderate-income ("affordable") non-age-restricted rental housing units as defined by the New Jersey Fair Housing Act. No less than thirteen percent (13%) of the 46 affordable units shall be very low-income units as defined in the New Jersey Fair Housing Act. The development shall comply with the COAH and UHAC regulations and the Borough's LDO Chapter 28-1000, Affordable Housing Ordinance.

All units within the Site will be deed restricted for low and moderate family occupancy for a period of thirty (30) years from the date of issuance of the Certificate of Occupancy. The controls will continue in accordance with UHAC after the first 30 year period unless and until the Borough chooses to release the restrictions in accordance with UHAC. The redeveloper shall be responsible for all costs associated with the qualified Administrative Agent.

Commented [MS5]: Recommended language from Planning Board.

SECTION 5. PROPERTY ACQUISITION:

The LHRL requires that the Redevelopment Plan identify properties within the redevelopment area which are proposed to be acquired in accordance with the redevelopment plan. (40A:12A-7 a.(4)).

No acquisition of property by the Borough is involved in this Redevelopment Plan. Further, because the Area in Need of Redevelopment Preliminary Investigation was conducted as a "Non-Condemnation" study, no property may be acquired by the municipality by eminent domain in association with this Redevelopment Plan.

SECTION 6. RELOCATION:

The LHRL requires that the Redevelopment Plan outline adequate provision for the temporary and permanent relocation, as necessary, of residents in the redevelopment area, including an estimate of the extent to which decent, safe and sanitary dwelling units affordable to displaced residents will be available to them in the existing local housing market. (40A:12A-7 a.(3)).

The property currently contains an abandoned residence but is otherwise undeveloped. Therefore, there will be no need to relocate any residents in order to construct this Redevelopment Plan.

SECTION 7. RELATIONSHIP TO PLANS OF OTHER JURISDICTIONS AND TO THE MASTER PLANS OF CONTIGUOUS MUNICIPALITIES, COUNTIES AND/OR STATE:

The LHRL requires that the Redevelopment Plan describe any significant relationship of the redevelopment plan to: the master plans of contiguous municipalities, the master plan of the county in which the municipality is located, and the State Development and Redevelopment Plan. (40A:12A-7.a.(5)).

A. Adjacent Municipalities.

The Site is located in excess of one-half mile from the Township of Berkeley Heights to the west and in excess of one-half mile from the Township of Scotch Plains to the east. The Site is physically and visually separated from, and not located in close proximity to, adjacent municipalities. Given the physical separation of the Site to other municipalities the Redevelopment Plan will not significantly affect any nearby municipalities. However, since development at the Site will rely on Bonnie Burn Road as its sole access, traffic from development within the Site is expected to be added to existing traffic in both Berkeley Heights and Scotch Plains.

B. Somerset County Master Plan, Housing Element and Wastewater Management Plan.

The Somerset County Master Plan, adopted in 1987, includes background data and information, goals and recommendations and implementation strategies pertaining to the following components: Land Use, Housing, Transportation, the Environment and Capital Facilities, the majority of which remain relevant today. In particular, this Redevelopment Plan is consistent with Goal 5 which encourages a variety of housing types.

This Redevelopment Plan is also consistent with various "Guiding Principles" and "Planning Objectives" of the Housing Element of the Somerset County Master Plan (November 2017) including but not limited to the following: Guiding Principle 1 (encouraging a range of housing types); Planning Objective 1C (increase the supply of rental and for purchase housing affordable to low and moderate income households); Guiding Principle 5 (support efforts to advance the State Fair Housing Act); Planning Objective 5A (increase the supply of housing affordable to low- and moderate-income households); and Planning Objective 5B (update, adopt and implement municipal Housing Element and Fair Share Plan).

Completion of the Countywide Wastewater Management Plan (WMP) for Somerset County is being accomplished in phases. The first phase comprised of the updated Countywide Wastewater Service Areas Map was completed in 2013. The Wastewater Service Areas Map, which was adopted by NJDEP, delineates the assigned sewer service areas associated with existing wastewater treatment facilities. Work is currently underway by the County Planning Division on the required wastewater

treatment facility capacity analysis and identification of potential strategies for addressing any capacity deficiencies. The majority of the Site (Lots 5 and 10 in Block 7403) is located within the future wastewater service area (Middlesex County Utility Service Area or MCUA) on the updated Countywide Wastewater Service Areas Map adopted by NJDEP. The remainder of the Site (Lots 19.01 and 19.02 in Block 7402) is identified within the sewer service area associated with the portion of the Berkeley Heights Water Pollution Control Plant. However, the Wastewater Service Areas Map notes that the area within Watchung identified within the sewer service area associated with the Berkeley Heights Water Pollution Control Plant would be adopted at a later date. It would thus appear that the Wastewater Service Areas Map would need to be updated. It is noted that the Borough's 2005 and 2011 Master Plan Reexamination Reports both endorse extension of sewer in the area to serve development that was anticipated at those times.

C. The State Development and Redevelopment Plan.

The State Development and Redevelopment Plan (SDRP) was adopted by the State Planning Commission on March 1, 2001. This Redevelopment Plan directly supports the State Plan Policy Goals by facilitating development of a thoughtfully designed rental apartment development with affordable housing that is consistent with local, regional and state land use policies. In particular, the proposed development of the Site is consistent with Goal #6 of the SDRP - "Provide Adequate Housing at a Reasonable Cost". The proposed development is particularly consistent with the following strategy of the SDRP: "Provide adequate housing at a reasonable cost through public/private partnerships that create and maintain a broad choice of attractive, affordable, ecologically designed housing." The statewide policy map includes the Site within the Suburban Planning Area (PA 2) which encourages a variety of housing choices.

SECTION 8. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Somerset County Planning Board and to all other persons or entities entitled to notice, including to the Clerk of adjoining municipalities, to the last owner of the Property and all persons at their last known address, if any, whose names are noted on the assessment records as claimants of an interest in the Property. The Borough Clerk shall execute Affidavits of Proof of Service of the notices required by this Section 8, and shall keep the Affidavits on file along with the Proof of Publication of the notice of the required public hearing on the proposed change.

Section 9. After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Borough of Watchung for its review in accordance with N.J.S.A. 40A:12A-7e. The Planning Board is directed pursuant to N.J.S.A. 40A:12A-7d to transmit to the Borough Council, within forty-five (45) days after referral, a report finding that the Redevelopment Plan shall be substantially consistent with the Borough Master Plan or designed to effectuate the Master Plan or that the Redevelopment Plan is substantially inconsistent with the Borough Master Plan or not designed to effectuate the Master Plan.

Section 10. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

Section 11. All ordinances or parts of ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 12. This Ordinance shall take effect immediately upon: (i) adoption; (ii) publication in accordance with the laws of the State of New Jersey; and (iii) filing of the final form of adopted Ordinance by the Clerk with the Somerset County Planning Board pursuant to N.J.S.A. 40:55D-16.

ATTEST:

Michelle DeRocco

Michelle DeRocco, Borough Clerk

BOROUGH OF WATCHUNG:

BY: Keith S. Balla

Keith S. Balla, Mayor

Introduced: Black

Passed: March 21, 2019

Published: March 28, 2019

Adopted: April 18, 2019

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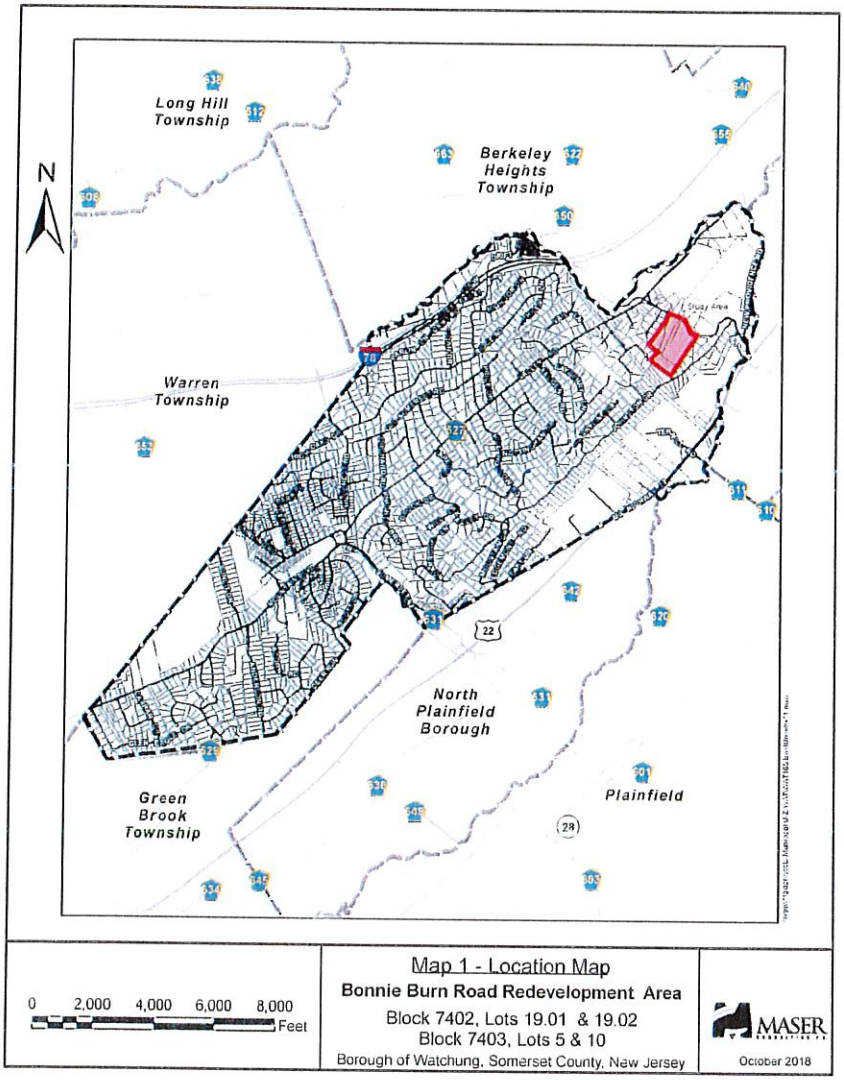
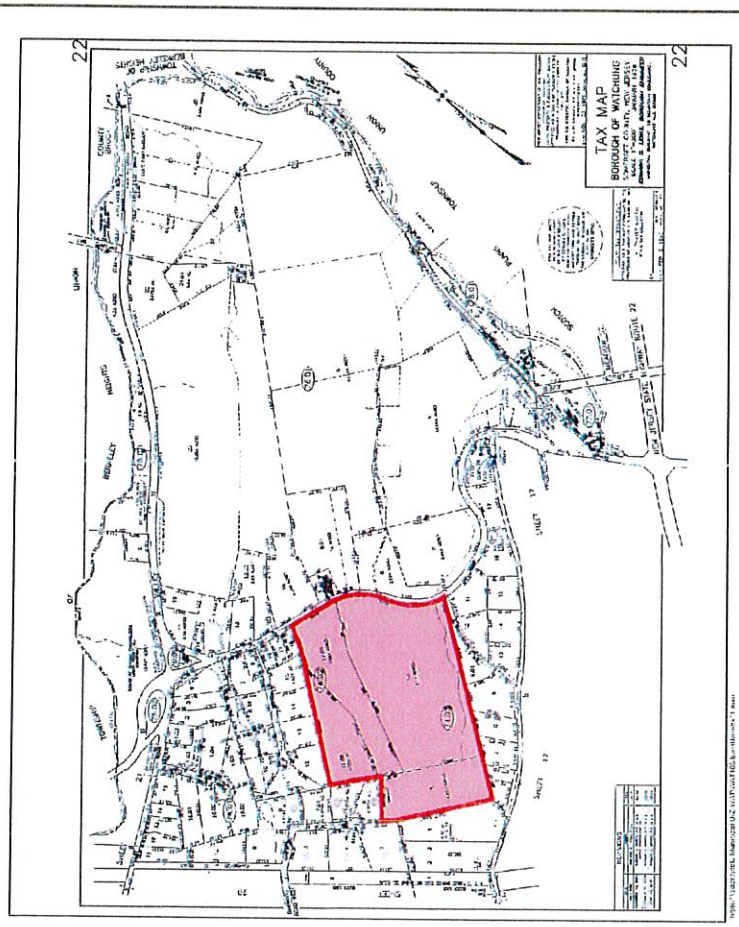


Map 1 - Location Map
Bonnie Burn Road Redevelopment Area
Block 7402, Lots 19.01 & 19.02
Block 7403, Lots 5 & 10
Borough of Watchung, Somerset County, New Jersey
October 2018

11 13 2018,
Revised 11 20 2018
Revised 03 15 2019



0 300 600 900 1,200 1,500 Feet

Map 2 - Tax Map

Bonnie Burn Road Redevelopment Area

Block 7402, Lots 19.01 & 19.02

Block 7403, Lots 5 & 10

Borough of Watchung, Somerset County, New Jersey

MASER

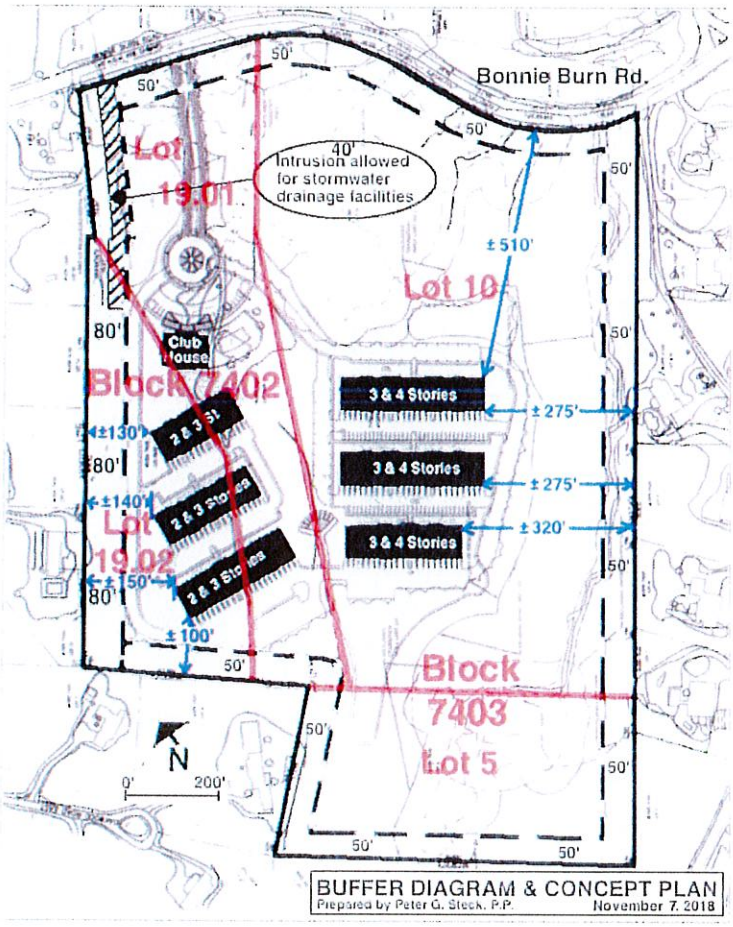
October 2018

0 200 400 600 800 Feet

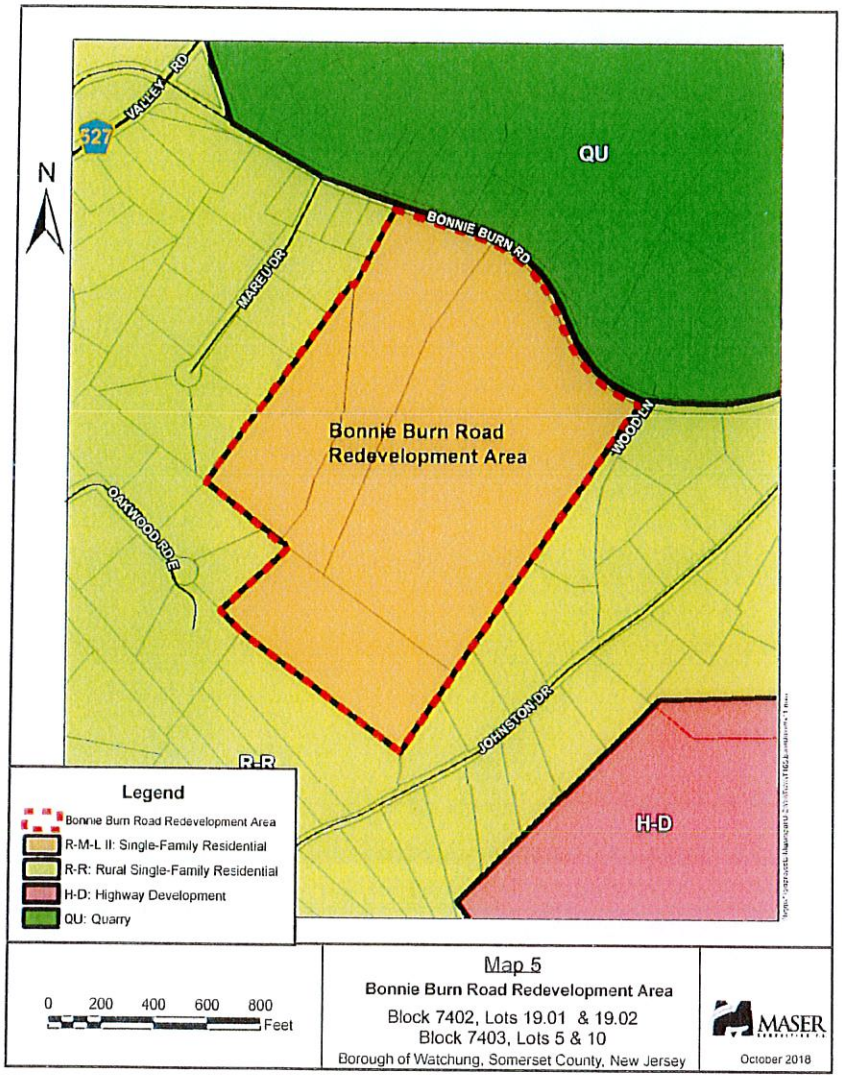
Map 3 - 2015 Aerial Photograph
Bonnie Burn Road Redevelopment Area
Block 7402, Lots 19.01 & 19.02
Block 7403, Lots 5 & 10
Borough of Watchung, Somerset County, New Jersey

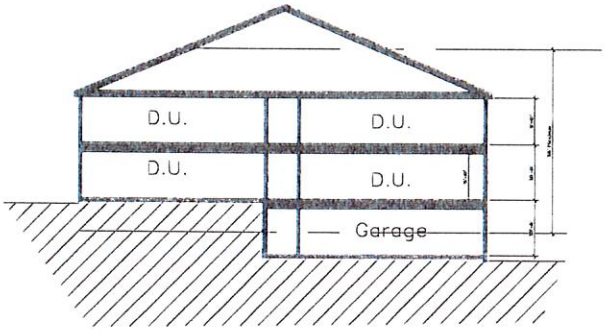
MASER CONSULTING P.A.
October 2018

Proposed Buffer Diagram & Concept Plan with setback dimensions and proposed Approximate Conservation Area Plan
Peter Steck, P.P., Nov. 7, 2018



Map 4

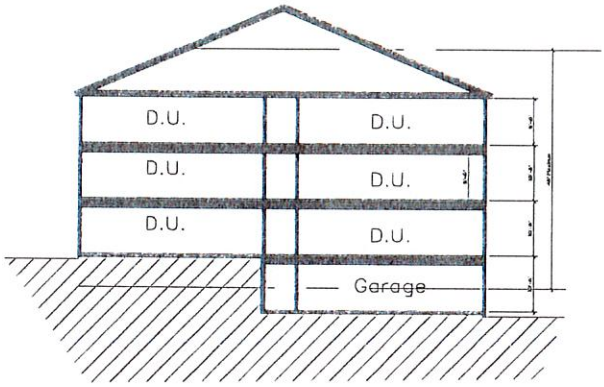

N
VALLEY RD
527
QU
BONNIE BURN RD
MASEU DR
Bonnie Burn Road
Redevelopment Area
WOODLAWN
OAKWOOD RD E
JOHNSTON DR
R-R
H-D
Legend
Bonnie Burn Road Redevelopment Area
R-M-L II: Single-Family Residential
R-R: Rural Single-Family Residential
H-D: Highway Development
QU: Quarry
0 200 400 600 800
Feet
Map 5
Bonnie Burn Road Redevelopment Area
Block 7402, Lots 19.01 & 19.02
Block 7403, Lots 5 & 10
Borough of Watchung, Somerset County, New Jersey
MASER
October 2018



Map 6

CONCEPT HEIGHT SECTION

SCALE: 1/16" = 1'-0"



CONCEPT HEIGHT SECTION

SCALE: 1/16" = 1'-0"

Map 7

CONCEPT STONE ELEVATION

This elevation is conceptual only. Final designs have not been prepared. Changes to the plan will occur. Final plans will be submitted and reviewed by the Watchung Planning Board.

Map 8

CONCEPT BRICK ELEVATION

This elevation is conceptual only. Final designs have not been prepared. Changes to the plan will occur. Final plans will be submitted and reviewed by the Watchung Planning Board.

Map 9