



MEMORANDUM

Clarke Caton Hintz

Architecture
Planning
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To: Montgomery Township Planning Board

From: Michael Sullivan, ASLA, AICP
Melissa McMullen, AICP
Elaine Clisham, PP, AICP

Re: **Harlingen Associates, LLC**
Preliminary & Final Subdivision & Major Site Plan
2187, 2179, 2171, 2173, & 2161 Route 206
Block 6001, Lots 33, 34, 34.01, 35, 35.01, and 36
SSIZ-3 Site Specific Inclusionary Zone 3

Date: April 27, 2023

1.0 Project and Site Description

- 1.1.** Harlingen Associates, LLC is seeking preliminary and final subdivision, along with major site plan approval for residential development that is part of the Township's court-approved affordable housing plan. The project consists of 36 market-rate townhouses and 18 residential apartments in three (3) buildings. Eleven of the apartments will be deed-restricted for occupancy by low- and moderate-income households.

The property consists of approximately 22-acres, all of which is designated as the SSIZ-3 Site Specific Inclusionary Zone 3. This zone is designed to effectuate the production of affordable housing in an "inclusionary" manner, meaning that affordable dwellings are developed with market-rate dwellings. Furthermore, there is no municipal subsidy required to support the development.

In addition to the townhouses and apartments, the Plan includes a play area, dog park, seating areas, shared open space, and pump station. The property will be subdivided into four large lots and 36 smaller lots representing the townhouses for a total of 40 lots. 8.846 acres will contain open space. 1.812 acres will contain the three apartment buildings. 8.868 acres will contain a stream corridor and freshwater wetlands. 0.508 acres will be used for a sanitary sewer pump station. 2.155 acres will be divided into the 36 townhouse lots. The lots containing the stream corridor and the pump station will be dedicated to the Township.

John Hatch, FAIA
George Hibbs, AIA
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Mary Beth Lonergan, AICP



HARLIGEN ASSOCIATES, LLC | PRELIMINARY & FINAL SUBDIVISION & MAJOR SITE PLAN

The arrangement and number of homes, buildings and roads depicted on the plans are substantially consistent with a conceptual design that was developed in cooperation with the Township prior to the formal submission of the application.

- 1.2. **EVSE Parking Requirement Has not Been Met.** The plan does not provide the required number of EVSE parking spaces required by ordinance and State law. As such, the applicant is unable to receive preliminary site plan approval unless the plan is revised to include the necessary EVSE parking spaces. As this is a State requirement, the Board is unable to grant relief for the lack of EVSE spaces.
- 1.3. The subject property is composed of vacant lots containing two weathered, paved parking lots. There is an area of mounded soil that has been stockpiled and is covered with grass and vegetation. A large portion of the property is vegetated with various successional species of shrubs and trees, indicating previous disturbance of the upland areas. Fox Brook runs along the southeast boundary of the property, with associated wetlands located within the property's wooded landscape.



Aerial of Harligen Associates, LLC Property



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Typical Vegetation in the Uplands Areas

- 1.4. The tract lies east of NJSH Route 206, adjacent to residential uses to the north and east, and commercial uses to the south. Additional commercial uses, residential uses, and a church are located across Route 206 from the subject property.



View of Southern Property Boundary and Parking Area from Mounded Fill



2.0 Use and Spatial Requirements

2.1. Townhouses.

2.1.1. Permitted Principal Use: Townhouses. The application is in compliance. Pursuant to §16-4.14.c.3(a), townhouses are a permitted principal use in the SSIZ-3 zone. Townhouses are proposed. The plan complies.

2.1.2. Maximum Principal Building Height. The application is in compliance. §16-4.14.c.5(a) permits a maximum building height of 39 ft and 2.5 stories for all principal buildings. The plans indicate building heights of 37.2 ft and 2.5 stories for the townhouse units. The plan complies.

2.1.3. Maximum Impervious Coverage. The application is in compliance. §16-4.14.c.7(a)(2) establishes a maximum permitted impervious coverage of 40% on the subdivided townhouse parcel. The plan indicates 31.5% impervious coverage for the townhouse development based on an 11.001-acre lot. The plan complies.

2.1.4. Maximum Building Coverage. The application is in compliance. Pursuant to §16-4.14.c.7(a)(3), the townhouse lot shall not exceed 15% building coverage. The plan indicates 12.2% building coverage for the townhouse lot. As noted in section 2.1.3 above, the calculations appear to be based on an 11.001-acre lot. The plan complies.

2.1.5. Minimum Building Separation. The application is in compliance. The townhouse buildings shall have a minimum separation of 40 ft in accordance with §16-4.14.c.7(a)(4). The proposed townhouse buildings have a minimum separation of 44 ft.

2.1.6. Building Locations. The application is in compliance. Pursuant to §16-4.14.c.7(a)(6), no townhouse buildings shall be located closer than 80 ft to the existing NJSH Route 206 right-of-way, 25 ft to the side property lines, and 40 ft from the rear property line.

2.2. Apartments.

2.2.1. Permitted Principal Use: Apartments. The application is in compliance. Pursuant to §16-4.14.c.3(b), apartments are a permitted principal use in the SSIZ-3 zone. Apartments are proposed. The plan complies.

2.2.2. Maximum Principal Building Height. The application is in compliance. §16-4.14.c.5(a) permits a maximum building height of 39 ft and 2.5



stories for all principal buildings. The plans indicate building heights of 34.2 ft and 2.5 stories for the apartment buildings. The plan complies.

- 2.2.3. **Maximum Impervious Coverage.** The application is in compliance. §16-4.14.c.7(b)(2) establishes a maximum impervious coverage of 40% on apartment lot. The plan indicates 37.2% impervious coverage.
- 2.2.4. **Maximum Building Coverage.** The application is in compliance. §16-4.14.c.7(b)(3) establishes a maximum building coverage of 15% on the subdivided parcel for apartment development. The plan indicates 14.7% building coverage.
- 2.2.5. **Building Locations.** The application is in compliance. Pursuant to §16-4.14.c.7(b)(4), no apartment buildings shall be located closer than 40 ft to the existing NJSH Route 206 right-of-way, 20 ft to the side property lines, 20 ft from the rear property line, and 10 ft from any parking area.

2.3. **Pump Station.**

- 2.3.1. **Permitted Principal Use: Pump Station.** The application is in compliance. Pursuant to §16-4.14.c.3(d), sanitary pump stations are a permitted principal use in the SSIZ-3 zone. A sanitary pump station is proposed. The plan complies.
- 2.3.2. **Maximum Principal Building Height.** The application is in compliance. §16-4.14.c.5(a) permits a maximum building height of 39 ft and 2.5 stories for all principal buildings. The detail located on sheet 18 of the plan indicated that the pump station is one-foot and two-inches above grade and the service hook is located about five (4) feet above grade. The plan complies. **The applicant should update the plans to include the exact height of the pump station above grade.**
- 2.3.3. **Maximum Impervious Coverage.** The application is in compliance. §16-4.14.c.7(c)(2) establishes a maximum impervious coverage of 50% on the subdivided parcel for the pump station. The plan indicates that the proposed pump station lot will have less than 50% impervious coverage. This should be a continuing condition of approval, as it may not be fully determined until the design of the station is completed.
- 2.3.4. **Maximum Building Coverage.** The application is in compliance. §16-4.14.c.7(c)(3) establishes a maximum building coverage of 30% on the subdivided parcel for the pump station. The plan indicates that the



pump station lot will have less than 30% building coverage. . This should be a continuing condition of approval, as it may not be fully determined until the design of the station is completed.

- 2.3.5. **Building Locations.** The application is in compliance. Pursuant to §16-4.14.c.7(c)(4), no building shall be located closer than 75 ft to the existing right-of-way of NJSH Route 206 or 10 ft from any remaining property line.

2.4. **Accessory Uses.**

- 2.4.1. **Permitted Accessory Uses.** The application is in compliance. Pursuant to §16-4.14.c.4 permits common recreational facilities, landscaping features, underground sprinkler systems, fences and walls, patios and decks, off-street parking and garages, signs, office space, and lighting. The applicant is proposing outdoor seating areas, a tot lot play area, a bicycle storage shed, recreational paths and a dog run play area, all of which fall within the permitted accessory uses. The plan complies.

- 2.4.2. **Maximum Accessory Building Height. Additional Information Necessary.** The applicant has proposed a 10 ft by 20 ft bicycle storage shed towards the southwest corner of the apartment parcel. §16-4.14.c.5(b) permits a maximum height of 15 ft and 1 story for accessory structures. No details have been provided regarding size and materials of the bicycle storage shed. **Information detailing the storage shed should be provided by the applicant demonstrating conformance with the regulations.**

3.0 **SSIZ-3 Subdivision Requirements**

- 3.1. **Subdivision Requirements for Principal Uses.** The application appears to be in compliance. Pursuant to §16-4.14.c.1(c), the property/zone is required to be subdivided in accordance with approximate acreages dedicated to each anticipated use of the property/zone. The plans generally, but not exactly, align with the “approximate acreages.” While there are slight deviations, the plan is substantially consistent with the concept plans that have been developed in coordination with the Township. As such it would be reasonable to determine that the plan complies. The following table indicates the degree to which the plans comply with the required acreages:



§16-4.14.c.1(c) SSIZ-3 Subdivision Requirements		
Required Land Use	Approximate Area Required	Proposed Area
Market-Rate Family Townhouse Units and Open Space	11 acres	11.001 acres
Affordable Family Rental Apartment Units	2 acres	1.812 acres
Sanitary Sewer Pump Station	0.5 acre	0.508 acre
Dedicated/Conserved Open Space	9 acres	8.868 acres

- 3.2. **Townhouse Acreage.** In the applicant's plat, they add the proposed fee simple townhouse lots acreage and the open space on Lot 33.01 to reach a total of 11.001 acres to be associated with the townhouses. While this appears to be the appropriate way to calculate the acreages as regards conformance with the ordinance requirements, two (2) sections of this report indicate that the open space located throughout the site should be accessible to all residents of the apartments as well as the townhouses.

4.0 Additional SSIZ-3 Zone Requirements

4.1. Dwelling Units.

4.1.1. **Maximum Number of Dwelling Units (Overall).** The application is in compliance. §16-4.14.c.6 permits a maximum of 54 dwelling units. The plan contains 36 townhouses and 18 apartments, for a total of 54 dwelling units.

4.1.2. **Maximum Dwelling Units per Building (Townhouses).** The application is in compliance. The townhouse buildings shall have a maximum of 6 units per building in accordance with §16-4.14.c.7(a)(5). Each proposed townhouse building has between three (3) and four (4) units.

4.2. Building Requirements.

4.2.1. **General Architectural Requirements.** The application is in compliance. The townhouse and apartment building designs are proposed in accordance with the General Architectural Requirements found in §16-4.14.c.8(a). The proposed buildings exhibit characteristics of classicism and the materials are unified among the townhouses and apartments. Additionally, the rear patios for each townhouse are designed as integral components of the building. The building designs are consistent with



those presented to the Township during the development of the concept plan and reflect the direction and preferences provided to the applicant by the Township.

- 4.2.2. **Façade Treatments.** The application is in compliance. The townhouse and apartment building designs are proposed in accordance with the requirements found in §16-4.14.c.8(b). The proposed front facades for both the townhouse and apartment buildings include appropriate changes in the wall plane. Additionally, the major architectural features of the front façade have been applied to all sides of the buildings.
- 4.2.3. **Roof Treatments. Additional Information Necessary.** §16-4.14.c.8(c) requires roof eaves to project at least two feet beyond the façade of the principal structure with a minimum pitch of 4/12. Additionally, cornice or frieze shall be designed as a transition between the roof and façade of each structure. No measurements regarding the pitch and projection of the proposed roofs, nor details of cornice or frieze design elements have been provided for review. **Compliance with these requirements should be confirmed.**
- 4.2.4. **Window Treatments. Additional Information Necessary.** In accordance with §16-4.14.c.8(d), all proposed windows are to exhibit vertical emphasis and be single-hung and each building elevation shall be designed with a maximum ratio of 50% window to 50% wall. Information has not been provided regarding the window-to-wall ratio or whether windows are to be single-hung. **Compliance with these requirements should be confirmed.**

4.3. Parking & Circulation

- 4.3.1. **Parking & Loading Area Locations (Townhomes).** The application is in compliance. In accordance with §16-4.14.c.7(a)(7), no parking area, loading area, driveway, or other structures shall be permitted within 40 ft of the Van Horne Road (NJSH Route 206) right-of-way or within 10 feet of any property line.
- 4.3.2. **Parking & Loading Area Locations (apartments).** The application is in compliance. In accordance with §16-4.14.c.7(b)(5), no parking area, loading area, driveway, or other structures shall be permitted within 75 ft of the Van Horne Road (NJSH Route 206) right-of-way or within 10 feet of any property line.



- 4.3.3. **Off-Street Parking Setback (Townhomes).** The application is in compliance. Per §16-4.14.c.9(a), any off-street parking on the townhouse parcel be set back at least 40 ft from the lot line. As proposed, off-street parking on the townhouse parcel is 51 ft from the northern property line.
- 4.3.4. **Off-Street Parking Setback (Apartments).** The application is in compliance. Per §16-4.14.c.9(a), any off-street parking for the apartment parcel shall be setback at least 70 ft from any existing public road. As proposed, off-street parking for the apartment parcel is 169 ft from NJSH Route 206.
- 4.3.5. **Off-street Parking & Driveways.** The application is in compliance. Pursuant to §16-4.14.c.9(b), off-street parking shall be designed in accordance with the New Jersey Residential Site Improvement Standards (R.S.I.S.), N.J.A.C. 5:21.

Each townhouse has two (2) garage spaces per unit and at least one (1) parking space in each driveway, exceeding 2.4 spaces per unit. The apartments have 38 spaces located in a parking lot on the apartment parcel. There are 20 on-street parking spaces along the internal roadways, located on the parcel containing the townhouses. Compliance with RSIS is detailed in the table below.

§16-4.14.c.9(b) Off-Street Parking Requirement					
Use	Total Units	Requirement	Spaces Required		Spaces Provided
Townhouse	36	2.4 space per unit	86.4		146
Apartment (1 Bedroom)	2	1.8 space per unit	3.6	36.5	38
Apartment (2 Bedroom)	7	2 space per unit	14		
Apartment (3 Bedroom)	9	2.1 space per unit	18.9		
TOTAL			122.9 spaces		184 spaces



4.4. Trash & Recycling Requirements.

4.4.1. Trash & Recycling Locations. Additional Information Necessary. Pursuant to §16-4.14.c.10(a), trash and recycling locations shall be provided either within the buildings or in nearby locations outside. While an outdoor trash enclosure has been provided for the apartment buildings, no trash enclosures or designated pick-up locations have been designated for the townhouse buildings. **The applicant should confirm the trash collection plan and facilities for the townhouses.**

4.4.2. Trash Enclosure & Screening. In accordance with §16-4.14.c.10(b), outdoor trash enclosures shall be a maximum of 8 ft in height with the surrounding landscaping at least 6 ft in height. The proposed trash enclosure complies, totaling 8 ft in height. However, the applicant has proposed Mountain Laurels surrounding the trash enclosure, which are only 2 ft in height. **The landscaping should be revised to include landscape species at least 6 ft in height, otherwise variance relief is required.**

4.4.3. Trash Collection Accessibility. Additional Information Necessary. Per §16-4.14.c.10(d), collection vehicles shall be able to access the trash and recycling area without interference from parked cars or other obstacles. Reasonable measures shall be taken to protect the trash and recycling area and the bins or containers placed therein against theft of trash and recyclable materials, bins or containers. The Site Plan shows the trash and recycling enclosure at the southern end of the parking area for the apartment units. It is unclear, when cars are parked, whether trash and recycling trucks will have room to turn around, or whether they are expected to back up along the length of the parking area to reach the trash enclosure. **The applicant should testify as to how garbage and recycling collection is anticipated to take place for the rental apartments.**

4.5. Signs

4.5.1. Community Sign. Additional Information Necessary. Two (2) ground-mounted freestanding signs are permitted in accordance with §16-4.14.c.11. Each sign may not exceed 6 ft in height or have a sign face larger than 25 sf. One freestanding sign may be located along the NJSH Route 206 entrance for the townhouse development. A second free standing sign shall be located at the driveway entrance to the apartment



development. Each of the proposed community signs complies with the ordinance, as described below.

4.5.1.1. Townhouse Community Sign. One (1) freestanding sign has been proposed for the entrance to the townhouse development. The proposed sign has a 7 sf sign face attached to a 6 ft by 7 ft supporting frame.

4.5.1.2. Apartment Community Sign. One (1) freestanding sign has been proposed for the entrance to the apartment development. The proposed sign has an 8 sf sign face attached to a 4 ft high supporting frame.

4.5.1.3. Sign Face Graphics. While one detail titled “Property Entrance Sign” has been provided on Sheet 12 of the Site Plans, it is unclear whether it is proposed for the townhouse or apartment community sign. Additionally, no second sign face detail has been provided for the remaining community sign. **The applicant should clarify which sign face detail has been provided, as well as supply the remaining sign detail.**

5.0 Subdivision

- 5.1. **Lot Configuration.** The application is in compliance. In consideration of the natural features on the eastern portion of the site, along with the subdivision necessary to reflect the conforming uses and circulation, the applicant has proposed lot lines as close to right angles as feasible for development in accordance with §16-5.5.a.
- 5.2. **Pump Station Ownership.** It appears the Township will own and maintain the pump station property once it is subdivided. **This should be confirmed by the applicant and any necessary documentation to that effect should be provided as a condition of approval.**
- 5.3. **Cross Easements. Additional Information Necessary.** There are facilities and infrastructure common to the townhomes, apartments, open space and pump station. **The plans should indicate cross easements for access and use of the common elements. All easement language should be subject to review by the Board Attorney.**



6.0 Site Plan

6.1. Landscaping and Plantings.

6.1.1. Tree Requirements. §16-5.6.d(3) requires that a minimum of 14 trees per acre are required for single- and multi-family developments, nonresidential developments, and open areas. The total acreage of the site is 20.034 acres which requires 281 trees ($20.034 * 14 = 280.476$). 206 total trees are proposed. **A design exception is required.**

6.1.2. Guarantee of Plant Material. Per §16-5.6.d(10), the Landscape Details sheet should be revised to include notes guaranteeing plant material for at least two years.

6.1.3. Planting Installation. Per §16-5.6.d(11), a note should be added to the plan indicating that plantings will be installed in accordance with the American Standard for Nursery Stock.

6.1.4. Street Trees. A design exception is required. Pursuant to §16-5.6.d(15), street trees shall be centered between the edge of the curb and the sidewalk, located at least 3 ft from the curb, at 50 ft intervals along the street. Although the proposed street trees are spaced at 50 ft intervals along NJSH Route 206, they are situated on the interior side of the sidewalk, as opposed to exterior between the sidewalk and curbing. **A design exception will be required for this item.**

6.1.5. Planting Design. We defer review of the remainder of the landscape and buffer requirements to the Board Landscape Architect.

6.2. Circulation.

6.2.1. Pedestrian Circulation. The applicant has proposed sidewalks and walkways to provide connections from the residential buildings to each parking area and community open space. However, the walkway between Apartment Buildings #2 and #3 leading to the tot lot and seating area on the townhouse property appears to cross directly over a drainage swale. Potential conflicts between the walkway and swale should be addressed.

6.2.2. Sidewalk Requirement. The plan is in compliance. §16-5.14c.1(d) requires “sidewalks shall be provided along all existing streets upon which all residential and nonresidential development abuts, unless specifically waived



in certain locations by the reviewing municipal agency based upon good cause shown by the applicant” A sidewalk is proposed along U.S. Route 206 along the tract frontage. The plan complies.

- 6.2.3. **Electric Vehicle Charging Stations. The plan does not comply.** Pursuant to §16-5.21.1.a of the Township’s model ordinance, adopted on December 2, 2021, requires 15% of the parking spaces associated with the apartment buildings to be prepared as Make-Ready or EVSE parking spaces. As the applicant has proposed 38 total parking spaces for the apartment complex, 6 of the spaces are required to be Make-Ready or EVSE spaces. The applicant has not designated any parking spaces for Make-Ready or EVSE parking, and no signs or details have been provided as required by the ordinance. **As this is a State requirement, no relief may be granted. The plan is unable to receive preliminary site plan approval until the appropriate number of EVSE spaces are provided.**

6.3. **Fencing.**

- 6.3.1. **Dog Run Fencing. Additional Information Necessary.** The dog run proposed at the northern most corner of the townhouse development appears to have a surrounding fence, however no details have been provided. The proposed dog run is located in the front yard of the townhouse parcel. §16-5.3.b states that fencing located in the front yard shall not exceed four feet in height. **The applicant should provide details so that compliance with the ordinance can be determined.**

6.4. **Lighting.**

- 6.4.1. **On-site Lighting.** Pursuant to §16-5.4.b.1, all shared parking areas, walkways, and common space shall be illuminated to ensure safety and security throughout the site. The applicant has proposed 29 total pole-mounted light fixtures, consisting of two types of light fixtures. Both fixtures are clear acrylic fixtures with a 55-watt LED array and 3000k temperature. Eight of the fixtures have a Type III light distribution, well suited for parking area and play areas. The remaining 21 fixtures have a Type IV light distribution, well suited for the internal roadways proposed on site.
- 6.4.2. **Mounting Height.** The application is in compliance. In accordance with §16-5.4.b.2(a), the mounting height for all lighting fixtures shall not



exceed 20 ft. All pole-mounted lights are proposed to be 20 feet in height. The plan complies.

6.4.3. Non-Glare Lighting. Additional information is required. Per §16-5.4.b.2(b), lighting fixtures are required to be non-glare. The plan does not indicate whether glare, or the degree to which there is glare, is on the site. The applicant should provide testimony as regards glare. **A design exception may be required.**

6.4.4. Downward Focused Lighting. The plan complies. Per §16-5.4.b.2(b), lighting is required to be downward focused. All proposed lighting is downward focused. The plan complies.

6.4.5. Light Shielding. Additional information is required. Per §16-5.4.b.2(b), lighting is required to be shielded “as appropriate”. The proposed fixtures do not contain shielding. Portions of the lights face the proposed townhouses and apartment buildings, and there is no indication that they contain shielding facing the proposed residences. **The lights should contain shielding where they face the proposed residences. A design exception is required.**

6.4.6. Light Intensity. Additional Information Necessary. The average footcandles for the illuminated areas shall be between 0.3 and 1.0 footcandles, pursuant to §16-5.4.b.2(c). The applicant has provided a schedule of calculated footcandle measurements for areas to be illuminated, however it is unclear on the Lighting Plan the extent to which each area was measured. **The lighting plan should be updated to include boundaries that correspond with the labels in the illumination calculation summary located on sheet 31 of the plan.**

The calculation summary indicates that all sections of the plan are conforming except for “Area 1”. “Area 1” has an of average 1.02 footcandles. **A design exception is required. If the calculation summary changes based on the recommendation above, there may be a change in the relief required.**

6.4.7. Lighting Intensity at Intersections. Pursuant to §16-5.4.b.2(c), a minimum average light intensity of 0.5 is required at intersections. The calculation summary does not specify intersections, as such it is not possible to determine conformance with the requirement. **The illumination summary should be updated to include a section for**



intersections, and the plan should be updated to clearly indicate the areas labeled as intersections. A design exception may be required.

- 6.4.8. **Lighting Timers.** Per §16-5.4.b.2(d), unless otherwise required by the Board, lighting is to be controlled by circuit timers. Nothing on the plan indicates that circuit timers control the lighting. **A design exception is required.**

7.0 Affordable Housing

- 7.1. **Affordable Housing Set-Aside.** The applicant is in compliance. The SSIZ-3 zoning ordinance requires that the property be developed with 36 market-rate townhomes and 18 apartments, of which 11 are to be affordable. The applicant is proposing a total of 54 units, including 36 townhomes and 18 apartments. Of the 18 apartments, 11 are required to be affordable.
- 7.2. **Unit Tenure.** The site plan indicates each townhome will be constructed on a separate lot and all apartments are to be constructed on one lot; hence it is assumed that the townhomes are to be for sale and the apartments are to be for rent. The applicant should confirm this, should indicate what entity will own the rental units, and should confirm that the owning entity for the rental units will be a member of the Homeowners' Association.
- 7.3. **Unit Size.** The applicant is in compliance with the DCA/HMFA minimum unit-size requirements. Although COAH's rules have no minimum unit size requirements, the Department of Community Affairs ("DCA") and the New Jersey Housing and Mortgage Finance Agency ("HMFA") do have minimum unit size requirements for affordable housing units that receive DCA funding and/or HMFA tax credit financing, as detailed in the table below:

DCA/HMFA Minimum Unit Sizes	
No. of Bedrooms	Minimum Unit Size
1 bedroom	650 square feet
2 bedrooms	875 square feet
3 bedrooms	1,150 square feet



The applicant's Architectural Plans indicate that the one-bedroom units will be at least 700 square feet; the two-bedroom units will be a minimum of 1,090 square feet; and the three-bedroom units will be a minimum of 1,156 square feet.

- 7.4. **Bedroom Size.** Although COAH's rules have no minimum unit size requirements, DCA and HMFA do have minimum bedroom size requirements for affordable housing units that receive DCA funding and/or HMFA tax credit financing. DCA, per NJAC 5:43-2.4(f), requires at least one bedroom to be 150 square feet and other bedrooms to be at least 100 square feet. The HMFA Qualified Allocation Plan ("QAP") also requires a minimum bedroom size of 100 square feet.

The Architectural Plans do not provide areas or measurements for any of the apartment bedrooms (they do provide measurements excluding closets and doorways, but not for the entire rooms). The applicant should indicate the areas of all bedrooms in the apartment units and demonstrate that they meet the DCA/HMFA minimums, including at least 150 square feet for the first bedroom.

- 7.5. **Bedroom Distribution.** The applicant is in compliance. Pursuant to COAH's prior round regulations, NJAC 5:93-7.3(a), and the Uniform Housing Affordability Controls ("UHAC"), NJAC 5:80-26.3(b), *affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:*

- *The combined number of efficiency and one-bedroom units is no greater than 20 percent of the total low- and moderate-income units;*
- *At least 30 percent of all low- and moderate-income units are two bedroom units;*
- *At least 20 percent of all low- and moderate-income units are three bedroom units; and*
- *The remainder, if any, may be allocated at the discretion of the developer.*

The Site Plans indicate the 11 proposed affordable units' bedroom distribution is as follows:

- 2 one-bedroom, or 18.2% of the total affordable units;
- 6 two-bedroom units, or 54.5% of the total affordable units; and
- 3 three-bedroom units, or 27.3% of the total affordable units.



It should be noted that each of the three-bedroom units provides one full bathroom. If possible, the applicant should consider reconfiguring the three-bedroom units to provide 1.5 bathrooms. The applicant may also wish to revise the Architectural Plans for Unit Type D5, a second-floor unit, to show no entrance from the right-side exterior directly into the great room.

- 7.6. **Unit Location.** The Site Plans do not indicate which of the apartments in each building will be designated as affordable, with the exception of the two one-bedroom units in Building 3 (the only one-bedroom units proposed). The applicant should revise the Site Plans to indicate which units will be affordable, and should ensure that the affordable units are evenly distributed to the greatest degree possible across all three buildings.
- 7.7. **Parking Assignments.** The Signage and Striping Plan indicates parking spaces will be assigned to each unit in order to conform to the ISO requirement that spaces be within 150 feet of the unit they serve. The applicant is in compliance with the parking requirements for the rental apartments; however, if spaces are to be assigned to each unit, the applicant should explain how this assignment will be done in order not to have to assign an accessible space (see below).
- 7.8. **Accessible Parking and Curb Ramps.** The Barrier-Free Subcode at NJAC 5:23-7.1 requires 2% of the required parking be accessible, generating a requirement in this instance for one accessible parking space. Site Plans show that two accessible spaces are provided, both van-accessible, which is in excess of the one van-accessible space required pursuant to Section 1106.5 of the 2015 International Building Code of New Jersey. Both spaces are within reasonable proximity to Buildings 2 and 3. There is a ramp from the van-loading area between the accessible spaces onto the sidewalk near Buildings 2 and 3. However, there appear to be no other accessible sidewalk ramps from the parking area to the sidewalk. The applicant is in compliance with the requirements for accessible parking for the rental units, but should install curb ramps from the parking lot to the sidewalks that serve Building 1.
- 7.9. **Storage.** The Architectural Plans indicate that there is no internal storage area in the rental units. The Site Plans show a 10'x20' bicycle storage building for the rental units, but no architectural details for that building have been provided. The applicant should provide architectural details for the bicycle storage building and should consider expanding the building to provide additional secure storage spaces for each of the rental units.



- 7.10. **Income Distribution and Very Low-Income Requirement.** Pursuant to UHAC at NJAC 5:80-26.3(a), in each affordable development, at least 50% of the restricted units within each bedroom distribution must be low-income units (including very low-income) and the remainder may be moderate-income units. Pursuant to the New Jersey Fair Housing Act, NJSA 52:27D-329.1, 13% of the affordable units must be affordable to very-low-income households, at least 37% must be affordable to low-income households, and up to 50% may be affordable to moderate-income households. The New Jersey Fair Housing Act requirement that 13% of the units must be affordable to very low-income households at 30% of the regional median income supersedes the UHAC standard at NJAC 5:80-26.3(d) which says 10% of the units must be affordable to households at 35% of the regional median income. An odd number of units will always favor the lower income. The applicant should provide confirmation that 13% of the affordable units in this plan (2 units) will be very low-income units, at least 37% of all affordable units (4 units) will be low-income units. The applicant should confirm that the affordable units will meet the required income-bedroom distribution, and the developer's agreement should include an income-bedroom distribution table similar to the following illustrative income and bedroom distribution table:

Unit Distribution by Income Level			
Unit Type	Very-Low Income	Low-Income	Moderate-Income
1-bedroom		1 unit	1 unit
2-bedroom	1 unit	2 units	3 units
3-bedroom	1 unit	1 unit	1 unit

- 7.11. **Phasing.** The construction of affordable units along with market units must comply with COAH rules and Township ordinances. Pursuant to COAH at NJAC 5:93-5.6(d), affordable housing units within inclusionary developments must be built in accordance with the following schedule:



Percentage of Market Housing Units Completed	Minimum Percentage of Affordable Units Completed
25	0
25 + 1 unit	10
50	50
75	75
90	100
100	

The applicant should provide an overall phasing plan and an affordable housing phasing schedule, including details of construction timing for each building. The affordable housing phasing schedule must incorporate construction of townhomes in the calculated percentages of constructed market-rate units that will trigger the required construction of affordable units.

- 7.12. **Unit Pricing, Utility Allowance.** Pursuant to COAH at NJAC 5:93-7.4(a) and UHAC at NJAC 5:80-26.3(d), the affordable units must be affordable to different-sized households, as follows:

- One-bedroom units must be affordable to 1.5 person households;
- Two-bedroom units must be affordable to 3 person households; and
- Three-bedroom units must be affordable to 4.5 person households

The applicant should provide confirmation of compliance with the establishment of maximum and average rents or sales prices for the affordable units, including a utility allowance if the units are to be affordable rentals.

- 7.13. **Length of Affordability Controls.** COAH at NJAC 5:93-9.2(e) and UHAC at NJAC 5:80-26.11(a), state that newly constructed affordable units must remain affordable to low- and moderate-income households for a period of at least 30 years. The applicant should provide confirmation of the length of affordability controls on the affordable units, and as a condition of approval should provide for Township review prior to issuance of the first certificate of occupancy for an affordable unit a draft deed restriction that enumerates each affordable unit by bedroom count and affordability level. This deed restriction must be recorded when the first CO is issued.

- 7.14. **Heating Source.** UHAC at NJAC 5:80-26.3(f) requires that affordable units must utilize the same type of heating source as market units within the inclusionary development. The utility plan shows the location of water laterals to the rental units, one per building, but does not appear to show delivery of natural gas. In



addition, no gas, water or electric meters are shown, and the location of any outdoor heating or air conditioning equipment is not shown. The applicant should revise the utility plan and/or the architectural plans to show how gas will be delivered, to show where any external meters for the rental buildings will be located and how they will be screened if required, and to show where any external heating/air conditioning equipment for the rental buildings will be located and how they will be screened if required.

- 7.15. **Accessibility and Adaptability.** The multi-family affordable and market-rate units must comply with the accessibility and adaptability requirements of the International Building Code – New Jersey Edition 2015 (“IBC-NJ 2015”) as well as COAH’s rules, including, but not limited to, NJAC 5:97-3.14. The applicant should demonstrate in its Architectural Plans that its units will comply with all applicable accessibility and adaptability requirements.
- 7.16. **Amenities.** The Site Plans show as amenities two outdoor seating areas, a dog run, and a tot lot, all sited on the common areas around the market-rate townhouses and all accessible by walkways. The applicant should provide confirmation that the occupants of the rental units, including the affordable units, will have full and equal access to these and any other amenities provided in the development.
- 7.17. **Administrative Agent.** The applicant must retain the services of an experienced administrative agent per UHAC at NJAC 5:80-26.14. The applicant should identify the administrative agent for the project. If the applicant chooses to retain an administrative agent other than the Township’s administrative agent, it must secure Township approval of the entity the applicant wishes to retain.
- 7.18. **Affirmative Marketing.** COAH at NJAC 5:93-11 and UHAC at NJAC 5:80-26.15 require an affirmative marketing program for the affordable units, and require the cost of affirmatively marketing the units to be borne by the developer of the units. The applicant or the applicant’s administrative agent should provide a copy of the affirmative marketing plan for the affordable units, and confirm that the developer/owner will be responsible for the cost of affirmatively marketing the units.

8.0 Consideration of the “C” Variances

- 8.1. The following sections summarize the “c” variance criteria for the purposes of establishing a framework for review. The applicant bears the burden of proof,



which is divided into two parts, in the justification of the “c” variances. The applicant must justify the “c” variances separately and each variance must satisfy both parts.

- 8.2. **Consideration of the Positive Criteria.** To satisfy the positive criteria for a “c” variance, the applicant has two choices. First, known as “c(1)” variance relief, the applicant may demonstrate that strict application of the regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship due to one of the following:

- By reason of exceptional narrowness, shallowness or shape of a specific piece of property;
- By reason of exceptional topographic conditions or physical features uniquely affecting the specific piece of property; or
- By reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon.

Alternatively, and known as “c(2)” variance relief, the applicant may demonstrate the following positive criteria in support of the request for relief:

- Where in an application or appeal relating to a specific piece of property to purposes of this act would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

- 8.3. **Consideration of the Negative Criteria.** Should the applicant satisfy the positive criteria, it must also be demonstrated that that the granting of the variance can be accomplished without resulting in substantial detriment to the public good and without substantial impairment of the intent and purpose of the zoning ordinance and zone plan. These factors are referred to as the negative criteria.

9.0 Design Exceptions

The proposal includes design exceptions. The Municipal Land Use Law at N.J.S.A. 40:55D-51.b discusses criteria for granting exceptions. While the burden of proof is lower than that of variances, the statute does provide a framework for decisions:



The planning board when acting upon applications for preliminary site plan approval shall have the power to grant such exceptions 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 and approval of an ordinance adopted pursuant to this article, if the literal enforcement of one or more provisions of the ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

10.0 Materials Reviewed

- 10.1.** *Montgomery Township Planning & Zoning Board Application* and related documents, dated January 19, 2023.
- 10.2.** *Preliminary & Final Site Plan and Final Construction Plans*, prepared by Michael K. Ford, PE, of Van Cleef Engineering Associates, LLC, consisting of 36 sheets, dated January 17, 2023, last revised March 10, 2023.
- 10.3.** *Final Plat*, prepared by Van Cleef Engineering Associates, LLC, consisting of 1 sheet, dated January 17, 2023.
- 10.4.** *Architectural Plans & Elevations*, prepared by Holliday Architects, Inc., consisting of 22 sheets, dated August 2, 2021, last revised February 17, 2023.
- 10.5.** *Outbound Survey*, prepared by Pamela Mathews, PE & PLS, of Van Cleef Engineering Associates, LLC, consisting of 1 sheet, dated December 11, 2020.
- 10.6.** *Drainage Area and Soil Exploration Mapping*, prepared by Michael K. Ford, PE, of Van Cleef Engineering Associates, LLC, consisting of 4 sheets, dated November 3, 2022.
- 10.7.** *Drainage Report*, prepared by Michael K. Ford, PE, of Van Cleef Engineering Associates, LLC, consisting of 250 pages, dated January 17, 2023.
- 10.8.** *Environmental Impact Statement*, prepared by EcolSciences, Inc., consisting of 79 pages, dated January 19, 2023.
- 10.9.** *Flood Hazard Area Verification Approval*, prepared by New Jersey Department of Environmental Protection, consisting of 3 pages, dated August 29, 2022.
- 10.10.** *Wetlands Delineation Plan*, prepared by Pamela Mathews, PLS & PE, of Van Cleef Engineering Associates, LLC, consisting of 1 sheet, dated June 5, 2019, last revised November 21, 2019.



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- 10.11.** *Flood Hazard Area Delineation Map*, prepared by Peter W. Olleman, PE, of Van Cleef Engineering Associates, LLC, consisting of 1 sheet, dated November 19, 2021, last revised August 22, 2022.
- 10.12.** *Freshwater Wetlands Letter of Interpretation: Line Verification*, prepared by New Jersey Department of Environmental Protection, consisting of 3 pages, dated January 7, 2020.
- 10.13.** *Stormwater Management Measures Operation and Maintenance Manual*, prepared by Van Cleef Engineering Associates, LLC, consisting of 54 pages, dated January 17, 2023.

11.0 Applicant / Owner / Professionals

- 11.1.** **Applicant/Owner:** Harlingen Associates, LLC, 136 Brower Lane, Hillsborough, NJ, 08844. Telephone: 908.359.3276. Fax: 908.359.3998. Email: vscott@country-classics.com.
- 11.2.** **Attorney:** Richard Schatzman, Esq., Schatzman Baker, P.C., 215-216 Commons Way, Princeton, NJ, 08540. Telephone: 609.924.1199. Fax: 609.683.5251.
- 11.3.** **Engineer:** Michael K. Ford, PE, Van Cleef Engineering Associates, LLC, 32 Brower Lane, P.O. Box 5877, Hillsborough, NJ, 08844. Telephone: 908.359.8291. Fax: 908.359.1580. Email: mford@vancleefengineering.com.
- 11.4.** **Architect:** Scott Nehring, Holliday Architects, Inc., Jackson Commons, 30 Jackson Road, Suite A-4, Medford, NJ, 08055. Telephone: 609.953.5373. Fax: 609.953.5737. Email: snehring@hollidayarchitects.com.

12.0 Summary

The applicant is requesting preliminary and final subdivision and major site plan approval for the provision of inclusionary multi-family development. The proposed development includes a subdivision of the 22-acre tract into four parcels; one for townhouse development, one for multi-family apartment development, a parcel of environmentally constrained land dedicated to the Township, and a pump station facility.

The applicant is unable to obtain preliminary site plan approval at this time due to not having met the requirement for electric vehicle parking spaces. Additionally, the following relief is required:



Variances Required

- §16-4.14.c.5(b) – Accessory Building Height
- §16-4.14.c.8(c) – Roof Treatments
- §16-4.14.c.8(d) – Window Treatments

Design Exceptions:

- §16-5.6.d(15) – Street Trees
- §16-5.4.b.2(c) – Light Intensity
- §16-4.14.c.10(a) – Trash & Recycling Locations
- §16-4.14.c.10(b) – Trash Enclosures & Screening
- §16-4.14.c.10(d) – Trash Collection Accessibility
- §16-5.3.b – Dog Run Fencing
- §16-5.4.b.2(a) – Non Glare Lighting
- §16-5.4.b.2(b) – Light Shielding
- §16-5.4.b.2(c) – Light Intensity at Intersections
- §16-5.4.b.2(d) – Lighting Circuit Timers

This review is not exhaustive and may be augmented by analysis performed by other Board professionals.

Please do not hesitate to contact this office with any questions you may have.