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VOLUME 45, ISSUE 4

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## **RULE PROPOSALS**

### **OTHER AGENCIES**

#### **FORT MONMOUTH ECONOMIC REVITALIZATION AUTHORITY**

*45 N.J.R. 256(a)*

#### **Proposed New Rules: N.J.A.C. 19:31C-3**

##### **Land Use**

Authorized By: Fort Monmouth Economic Revitalization Authority, Bruce Steadman, Director.

Authority: *N.J.S.A. 52:27I-18* et seq., specifically *N.J.S.A. 52:27I-26kk*.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2013-034.

Submit written comments by April 20, 2013 to:

Bruce Steadman, Director  
Fort Monmouth Economic Revitalization Authority  
2-12 Corbett Way  
Suite C  
Eatontown, NJ 07724

The agency proposal follows:

##### **Summary**

The Fort Monmouth Economic Revitalization Authority ("FMERA" or "Authority"), pursuant to the Fort Monmouth Economic Revitalization Act ("the Act"), P.L. 2010, c. 51 (*N.J.S.A. 52:27I-18* et seq.), is proposing these rules consistent with, and in furtherance of, the Fort Monmouth Reuse and Redevelopment Plan ("Reuse Plan") - the comprehensive conversion and revitalization plan for Fort Monmouth developed by the former Fort Monmouth Economic Revitalization Planning Authority (FMERPA) "...to encourage enlightened land use and create employment and other business opportunities for the benefit of the three host municipalities."

Accordingly, the proposed new land use rules are intended to further the vision described in the Reuse Plan and, as proposed, are designed to promote flexibility in implementation of the Reuse Plan, where appropriate, so as to focus on the creation and replacement of new jobs and return the region to economic vitality as expeditiously as possible. The rules also provide procedures to be followed for amending or supplementing the Reuse Plan, when determined by FMERA to be necessary or appropriate, and as permitted pursuant to the Act.

The following summarizes the contents of each section of the proposal:

N.J.A.C. 19:31C-3.1, Applicability and scope, addresses the statutory authority and summarizes the scope and purpose of the subchapter;

N.J.A.C. 19:31C-3.2, Definitions, defines certain terms used in the subchapter, incorporates terms used in the Fort Monmouth Economic Revitalization Authority Act, and provides additional terms governing land use, development, and design at Fort Monmouth;

N.J.A.C. 19:31C-3.3, Development districts, identifies and describes the characteristics and locations of the three types of development districts found in the host municipalities, provides the location of the current version of the Official Zoning Map, presents the rule of interpretation of development district boundaries, and includes a figure of the Official Zoning Map;

N.J.A.C. 19:31C-3.4, Allowable uses, provides descriptions and tables of permitted principal land uses by municipality and development district, permitted accessory land uses by municipality and development district, and historic properties to be preserved at Fort Monmouth, and includes a figure of buildings to be preserved;

N.J.A.C. 19:31C-3.5, Yield, density, and bulk, defines the maximum reuse yield and maximum residential development yield by municipality, development district, and land use; maximum allowable densities for residential development by development type; maximum allowable FAR (floor area ratio) for non-residential development by development district; maximum allowable building height for adaptively reused buildings, new buildings, and rooftop appurtenances; minimum lot area; number of principal uses and buildings per lot; maximum lot coverage; lot frontage requirements; and building setback requirements;

N.J.A.C. 19:31C-3.6, Reuse plan amendments, lists amendments to the Fort Monmouth Reuse and Redevelopment Plan including amendments to the allowable principal and accessory land uses by development district tables; maximum residential yield by development district and use type table; and includes figure of alternative development scenario;

N.J.A.C. 19:31C-3.7, Parking and loading, lists required minimum parking ratios for adaptive reuse and new construction and the procedures for calculating parking requirements; provides procedures and shared parking ratios for a shared parking approach; and lists required minimum loading ratios and the procedures for calculating loading requirements;

N.J.A.C. 19:31C-3.8, Supplemental standards, includes standards for childcare centers, home occupations, and small wind and small solar energy systems;

N.J.A.C. 19:31C-3.9, Signage, outlines regulations for signage including general provisions, measurement of sign area and height, permitted types and dimensions of signs for each land use, and prohibited signs for all land uses;

N.J.A.C. 19:31C-3.10, Site plan; subdivision standards, provides standards for new streets, parking areas, utilities, fire protection, landscaping, walls and fences, storage and disposal of waste, easements, and outdoor lighting. The section also requires that certain provisions be made for fire hydrants and establishment of facilities to draft water for fire-fighting purposes as approved by the respective host municipality's fire marshal or engineer and in accordance with the Insurance Service Office of New Jersey (ISO) and incorporates, by reference, the Fire Suppression Rating Schedule (FSRS) - a manual containing the criteria ISO uses in reviewing the firefighting capabilities of individual communities, which measures the major elements of a community's fire-suppression system and develops a numerical grading called a Public Protection Classification (PPC(tm)). Information about the FSRS is available at <http://www.isomitigation.com/ppc/2000/ppc2001.html#UQlvTfLjF8E>; or ISO, Customer Service, 545 Washington Boulevard, Jersey City, NJ 07310-1686, 1-800-444-4554. Said fire hydrants shall be installed at locations shown on the approved preliminary plat;

N.J.A.C. 19:31C-3.11, Performance standards, outlines regulations for nuisance elements including smoke; air pollution; odors; liquid waste; solid waste; noise; vibration; glare; trespass lighting; temperature change - gas, liquid, or solid; fire and explosive hazards; and storage; and incorporates by reference certain enforcement standards for smoke in accordance with the Ringelmann Smoke Chart published by the U.S. Department of the Interior - Bureau of Mines, available at: [http://www.ntis.gov/search/index.aspx?frm\\_qry\\_Search=Bureau+of+Mines&SimpleSearch=no](http://www.ntis.gov/search/index.aspx?frm_qry_Search=Bureau+of+Mines&SimpleSearch=no);

N.J.A.C. 19:31C-3.12, Stormwater management and control, establishes minimum stormwater management requirements and controls for "major development" as defined in N.J.A.C. 19:31C-3.12(b). This section requires the retrofitting of existing storm drain inlets that are in direct contact with repaving, repairing, reconstruction, or resurfacing

or alterations of facilities within the Fort Monmouth Project Area, to prevent the discharge of solids and floatables (such as plastic bottles, cans, food wrappers and other litter) to sewer system(s) so as to protect public health, safety and welfare; and to prescribe penalties for the failure to comply. The section also incorporates by reference two methods for calculating stormwater runoff, as follows: (1) the USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook, Part 630: Hydrology (originally published as the National Engineering Handbook, Section 4: Hydrology) available at <http://www.nrcs.usda.gov/wps/portal/nrcs/detailfull/national/wntsc/?cid=stelprdb1043063>; or at USDA-NRCS, 220 Davidson Avenue, 4th Floor, Somerset, New Jersey, 08873; (732)-537-6040; and NRCS Technical Release 55: Urban Hydrology for Small Watersheds incorporated, available at <ftp://ftp.wcc.nrcs.usda.gov/wntsc/H&H/other/TR55documentation.pdf>; or at USDA-NRCS, 220 Davidson Avenue, 4th Floor, Somerset, New Jersey, 08873; (732)-537-6040; or (2) the Rational Method for peak flow and the Modified Rational Method for hydrograph computations described in "Appendix A-9 Modified Rational Method" in the Standards for Soil Erosion and Sediment Control in New Jersey, available from the Freehold Soil Conservation District, 4000 Kozloski Road, PO Box 5033, Freehold, New Jersey 07728; (732)-683-8500. The section also incorporates by reference methodology for calculating groundwater recharge pursuant to the New Jersey Geological Survey Report GSR-32 A Method for Evaluating Ground-Water Recharge Areas in New Jersey. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at <http://www.state.nj.us/dep/njgs/>; or at New Jersey Geological Survey, 29 Arctic Parkway, P.O. Box 427, Trenton, New Jersey 08625-0427; (609) 984-6587;

N.J.A.C. 19:31C-3.13, Flood damage prevention, establishes regulations to minimize public and private losses due to flood conditions by restricting or prohibiting uses that are dangerous to health, safety, and property due to water or erosion hazards, or that result in damaging increases in erosion or in flood heights or velocities; requiring that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction; controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters; controlling filling, grading, dredging, and other development that may increase flood damage; and preventing or regulating the construction of flood barriers that will unnaturally divert floodwaters or that may increase flood hazards in other areas; and incorporates by reference documents prepared by the Federal Emergency Management Agency necessary for establishing areas of special flood hazard, that is, a scientific and engineering report, Flood Insurance Study, Monmouth County, New Jersey (All Jurisdictions) dated September 25, 2009 and Flood Insurance Rate Map for Monmouth County, New Jersey (All Jurisdictions) as shown on Index and panel(s) 34025C0183F, 34025C0184F, 34025C0187F, 34025C0191F, the effective date of which is September 25, 2009 and maintained on file at the municipal buildings of the respective host municipalities;

N.J.A.C. 19:31C-3.14, Circulation network, includes development and design guidelines with recommendations for the following: removal of specific gates and opening of access points into Fort Monmouth; locations and design of a roadway network; design and dimensions of intersections; block size by development district; locations and design of a bicycle and pedestrian network consisting of sidewalks, multi-use trails, and bicycle lanes; descriptions and dimensions of various street typologies; locations and plantings of street trees and other streetscape furnishings; and a jitney bus service route; and includes figures of circulation elements and street typology sections;

N.J.A.C. 19:31C-3.15, Parking design, includes development and design guidelines with recommendations for the following: location of on-street parking; location of off-street parking; landscaping and setbacks for surface parking; location, design and screening of structured parking garages; and location of bicycle racks;

N.J.A.C. 19:31C-3.16, Open space network and landscaping, includes development and design guidelines with descriptions and recommendations for the location and dimensions of open spaces in each of the three host municipalities, as well as suggested landscaping including water conservation planting design and irrigation practices and tree preservation; and includes a figure of the open space network;

N.J.A.C. 19:31C-3.17, Building placement, includes development and design guidelines with recommendations for build-to lines ratios in certain locations, as well as for the location and dimension of buffers and other design techniques to use in the transition between different land uses;

N.J.A.C. 19:31C-3.18, Building design and sustainability, provides development and design guidelines with recommendations for building massing and articulation; building transparency; building architectural styles; building materials; screening of service, mechanical, and related areas of buildings; the design of private open space; and green design and sustainability;

N.J.A.C. 19:31C-3.19, Application of rules, addresses the relationship between the subchapter and the Reuse Plan; provides criteria for the Authority to consider in determining consistency of a proposed development project, redevelopment project, or Local Redevelopment and Housing Law (LRHL) redevelopment plan with the Reuse Plan; outlines procedures for the Authority if it determines that a development project, redevelopment project or LRHL redevelopment plan is inconsistent with the Reuse Plan; delineates the application and interpretation of the subchapter; lists exemptions to the subchapter; details procedures for the provision of zoning compliance letters; and includes requirements for the issuance of building permits and certificates of occupancy;

N.J.A.C. 19:31C-3.20, Site plan and subdivision applications; mandatory conceptual review, provides the procedures for site plan and subdivision application; describes the process and requirements of the mandatory conceptual review of site plan and subdivision applications by the Authority; and the roles, responsibilities, and procedures of the Historic Preservation Advisory Committee and Environmental Advisory Committee;

N.J.A.C. 19:31C-3.21, Variances and exceptions, addresses the authority of and provides criteria for the host municipality planning board to grant bulk and area-type variances from the subchapter or applicable LRHL redevelopment in connection with subdivision and site plan applications; and includes the role of the Authority in granting bulk and area-type variances; addresses the authority of and provides criteria for the Authority to grant use-type variances, other than density variances, from the Reuse Plan or the subchapter including the procedures for an applicant to apply and for the Authority to decide such a variance; addresses the requirements applicable to use-type variances for increased density including the role of the host municipality Zoning Board and the role and the procedures of the Authority in deciding such variances; and addresses the authority of and provides criteria for the host municipality Planning Board to grant design exceptions from N.J.A.C. 19:31C-3.10 through 3.12;

N.J.A.C. 19:31C-3.22, Nonconforming uses, lots, and structures; temporary uses, provides regulations applying to nonconforming uses and nonconforming lots and structures, as well as the authority of and procedures for a host municipality planning board to permit temporary uses and structures;

N.J.A.C. 19:31C-3.23, Affordable housing, addresses the requirements for all development within the Fort Monmouth Project Area to comply with applicable provisions of the Fair Housing Act of 1985 and implementing rules and guidelines; as well as the responsibility of the Authority to identify and coordinate regional affordable housing opportunities in cooperation with the host municipalities in areas with convenient access to infrastructure, employment opportunities, and public transportation;

N.J.A.C. 19:31C-3.24, Redevelopment agreements; designated redevelopment agreement, addresses when redevelopment agreements are required; exemptions from the requirements for a redevelopment agreement; the designation of the New Jersey Economic Development Authority (EDA) as redeveloper for any property acquired by the Authority; the contents and procedures for the designated redevelopment agreement between the Authority and EDA; required contents of Redevelopment Agreements; optional contents of a redevelopment agreement; and the requirements and procedures for the issuance of certificates of completion by the Authority or EDA for all redevelopment projects within the Fort Monmouth Project Area;

N.J.A.C. 19:31C-3.25, LRHL Redevelopment and redevelopment plans, addresses the procedures for the designation of LRHL areas in need of redevelopment or rehabilitation; explains the requirement for the Authority's consent to the host municipality's adoption of a redevelopment plan pursuant to LRHL and the application procedures to obtain the Authority's consent; and the criteria the Authority must consider and the procedures the Authority must follow in granting its consent;

N.J.A.C. 19:31C-3.26, Hearings, provides requirements for the notice of public hearings; provides requirements for minimum copies of applications, plans, reports, exhibits, or other data to be submitted during a public hearing; defines who or what is a party to a hearing; and provides the procedures for conducting the public hearing;

N.J.A.C. 19:31C-3.27, Administrative, includes the requirement that fees or escrow deposits accompany applications submitted to the Authority; provides procedures for Reuse Plan amendments appeals from Authority actions; and provisions for severability; and

N.J.A.C. 19:31C-3.28, Fee schedule, provides a fee schedule for all applications submitted to the Authority pursuant to the subchapter, unless waived.

As the Authority has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to *N.J.A.C. 1:30-3.3(a)5*.

## **Social Impact**

The proposed new rules are intended to facilitate the conversion and revitalization of Fort Monmouth and, in so doing, will have a positive social impact for the host communities and surrounding communities in Monmouth County.

The proposed rules will enable the redevelopment of 1,127 acres of land in three host municipalities: 419 acres in the Borough of Oceanport, 454 acres in the Borough of Eatontown, and 254 acres in the Borough of Tinton Falls. This land will be reincorporated into these communities for the first time in nearly 100 years.

It is estimated that, under the proposed rules, at full build-out the former Fort Monmouth properties will be home to an additional 1,585 housing units and 3,752 residents. As is discussed further below, at least 20 percent of the residential units constructed, or a total of 317 residential units, shall be required to be reserved for occupancy by low or moderate income households to the extent this is economically feasible.

It is expected that the proposed rules will result in a mixed-use development that will increase the tax-base of the host municipalities and increase the overall trade in the regional economy.

Furthermore, it is anticipated that the proposed rules will stimulate the creation of jobs in the local economy helping to replace the approximately 5,000 jobs that were lost when Fort Monmouth closed.

In accordance with the Defense Base Closure and Realignment Act of 1990, Pub. L. 101-510, *10 U.S.C. § 2687* note and the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, Pub.L. 103-421 and 32 CFR Part 176, the needs of the homeless must be considered with the reuse and redevelopment of Fort Monmouth. The Homeless Assistance Submission (HAS) submitted with the Fort Monmouth Reuse and Redevelopment Plan and approved by the United States Department of Housing and Urban Development contains agreements for the accommodation of the following homeless facilities: Building 270 as a permanent supportive housing single room occupancy facility; building 501 as a day center for a homeless family support organization; 40 units of single family permanent supportive housing; construction of a replacement facility for the existing single adult emergency shelter currently located on Fort Monmouth; and a \$ 4.5 million cash contribution for an off-site homeless residential emergency facility.

## **Economic Impact**

The proposed new rules will have a positive economic impact by advancing the goals of the Reuse Plan that provides for a total redevelopment that would accommodate 1,585 residential dwelling units, as well as commercial offices, retail use, hotel/conference space, and community buildings.

It is estimated that when Fort Monmouth was fully operational, it had a total economic impact of \$ 2.5 billion. Fort Monmouth Project Area buildings have been vacated as a result of Fort Monmouth's closure. If the present conditions are allowed to persist and the land and buildings continue to stay unproductive, it will hasten a process of economic decline in the host municipalities. The proposed new rules will permit new development in the Fort Monmouth Project Area resulting in the development and redevelopment of housing units and non-residential development. This development will increase the tax base of the host municipalities and increase the overall trade in the regional economy as new residents and employees locate in the Fort Monmouth Project Area.

The proposed new rules supersede, rather than augment, the zoning and land use ordinances and regulations, and the zoning maps, of the host municipalities except as to procedures for site plan and subdivision approval. Other than the mandatory conceptual review (MCR) by FMERA, developers or redevelopers of land and/or structures within the Fort Monmouth boundaries will be subject to land use and redevelopment rules and procedures similar to the land use rules and procedures of the host municipalities outside of the Fort boundaries. The MCR process allows for development review by FMERA of site plan applications to ensure that development on the former Fort Monmouth property, which is located in three separate host municipalities, is coordinated, cohesive, and mutually beneficial to the three communities; and furthers the vision described in the Reuse Plan.

The proposed new rules permit the Authority to charge fees related to applications submitted to the Authority. The fee may be waived by the Director of the Authority because of financial hardship, size and scope of the application or business entity; and general economic conditions in the region. The fees include escrow deposits used by the Authority to defray costs for professional fees incurred by or on behalf of the Authority; and application fees such as the uniform application fee, fee for mandatory conceptual review, and/or application fee for use type variances submitted separate from the mandatory conceptual review.

### **Federal Standards Statement**

A Federal standards analysis is not required because the new rules are not subject to any Federal requirements or standards.

### **Jobs Impact**

The proposed new rules will result in stimulating the creation of new private sector jobs and/or maintaining private sector jobs at Fort Monmouth and in the surrounding host municipalities.

Fort Monmouth directly employed more than 5,000 people including 4,652 civilians and 620 military personnel, many of whom lived in the host communities or nearby municipalities. The closure of Fort Monmouth resulted in the loss of these jobs.

The proposed new rules are designed to promote flexibility in implementation of the Fort Monmouth Reuse and Redevelopment Plan so as to focus on the creation and replacement of new jobs and return the Fort Monmouth region to economic vitality as expeditiously as possible. As such, these rules do not limit the total amount of non-residential square footage permitted in the Fort Monmouth Project Area but rather provide maximum floor area ratio requirements along with other bulk requirements for non-residential uses. The goal is to not restrict non-residential development while ensuring that any new development is compatible and contextual with existing development. Furthermore, these rules permit a variety of non-residential uses including retail, hospitality/lodging, office, research and development, and warehouse uses.

In addition, the proposed new rules divide the Fort Monmouth Project Area into a series of development districts including several devoted mainly to job creation including the Green Tech Campus in Oceanport intended to function as a hub for office/research and development uses; Route 35 Lifestyle/Tech Center in Eatontown, which seeks to take advantage of the exceptional visibility which this roadway affords to create large-scale retail development; and the Tech/Office/R&D Campus in Tinton Falls intended to accommodate office/research and institutional uses within a campus-like setting in order to take advantage of the district's access to the Garden State Parkway.

Furthermore, the proposed new rules permit an alternative development scenario in Parcel E of Tinton Falls that will allow the development of 650,000 square feet of office/research and development use on that parcel, which is anticipated to employ close to 1,000 people.

### **Agriculture Industry Impact**

The proposed new rules will have no impact on the agriculture industry of the State of New Jersey.

### **Regulatory Flexibility Analysis**

The proposed new rules are not anticipated to directly impact small businesses as defined under the Regulatory Flexibility Act, *N.J.S.A. 52:14B-16* et seq., where a small business means any business which is resident in this State, independently owned and operated and not dominant in its field, and which employs fewer than 100 full-time employees.

The proposed new rules are not expected to impose any reporting or recordkeeping requirements on small business or to require small businesses to engage any professional services they would not otherwise need to engage. The proposed new rules supersede, rather than augment, the zoning and land use ordinances and regulations, and the zoning maps of the host municipalities except as to procedures for site plan and subdivision approval. As such, small businesses within the Fort Monmouth boundaries will be subject to land use rules and procedures substantively similar to the land use and redevelopment rules and procedures of the respective host municipalities outside of the Fort boundaries. If a small business is required to go through the site plan approval process, the mandatory conceptual review (MCR) process will be the only significant procedural requirement that the business would not be subject to if it was located outside the Fort boundaries. The MCR process allows for development review by FMERA of site plan applications to ensure that development on the former Fort Monmouth property, which is located in three separate host municipalities, is coordinated, cohesive, and mutually beneficial to the three communities; and furthers the vision described in the Reuse Plan.

The proposed new rules do permit the Authority to charge fees related to applications submitted to the Authority. The fee may be waived by the Director of the Authority because of financial hardship, size and scope of the application or business entity; and general economic conditions in the region. The fees include escrow deposits used by the Authority to defray costs for professional fees incurred by or on behalf of the Authority; and application fees such as the uniform application fee, fee for mandatory conceptual review, and/or application fee for use type variances submitted separate from the mandatory conceptual review.

The proposed new rules permit a variety of non-residential uses. It is unknown how many small businesses will result because of the proposed new rules but it is expected that there will be many small businesses located in the Fort Monmouth Project Area including retail shop owners, restaurateurs, and small professional offices. The potential capital costs which may ensue shall apply to all potential purchasers regardless of size of business. Consequently, the proposed new rules do not allow for exceptions based on business size, particularly since the provisions contained therein are not excessively onerous to small businesses or unnecessary.

### **Housing Affordability Impact Analysis**

The proposed new rules allow for an increase of 1,585 housing units in the three host municipalities to be distributed as follows: 720 residential units in the Borough of Oceanport; 577 residential units in the Borough of Eatontown; and 288 residential units in the Borough of Tinton Falls. The rules permit a variety of housing types including a mix of low-density units which are defined as single-family detached, duplex (stacked vertically or side by side, in a detached structure), and townhouses (only one unit vertically, in attached structures providing up to eight units per structure); medium density units which are defined as stacked flats (two to three units stacked vertically, in attached structures providing up to eight horizontal stacks per structures, total of 16 to 24 units per structure) and apartment buildings with four or more units per building; and residential units in mixed-use buildings with ground-floor commercial uses. These rules do not make any requirements for tenancy, but it is expected that the residential units will consist of a mix of rental and ownership units.

The number of any housing units, as well as any increase or decrease in the average cost of housing affected by the new rules, may not be estimated, because the actual sale opportunities are not known.

All development within the Fort Monmouth Project Area is required to comply with the applicable provisions of the Fair Housing Act of 1985 and implementing rules and guidelines.

For developments consisting of newly-constructed residential units located, or to be located, within the Fort Monmouth Project Area, at least 20 percent of the residential units constructed shall be required to be reserved for occupancy by low or moderate income households to the extent this is economically feasible.

The rules require the Authority to identify and coordinate regional affordable housing opportunities in cooperation with the host municipalities in areas with convenient access to infrastructure, employment opportunities, and public transportation.

### **Smart Growth Development Impact Analysis**

The proposed new rules are intended to advance the Reuse Plan, which sets forth a 20-year vision for Fort Monmouth presenting a mix of uses that is ". . .deliberately broad to accelerate redevelopment and provide for the creation of a broad range of jobs and housing typologies to meet the needs of a demographically diverse population left behind by the relocation of the Fort."

Fort Monmouth is within Planning Area 1. The proposed new rules permit 1,585 housing units, and thus it is anticipated that the impact of the proposed new rules is to increase new construction within Planning Area 1. No designated center encompasses any portion of Fort Monmouth.

The proposed new rules promote "smart growth" principles such as encouraging development that is mixed-use and compact in form; offers a range of housing opportunities and choices; creates walkable neighborhoods; fosters distinctive, attractive communities with a strong sense of place; preserves open space; promotes historic preservation and adaptive reuse; and provides a variety of transportation choices.

Each of the three host municipalities is divided into three development districts including a "center" district which consists of a highly connected network of blocks where buildings are intended to be placed close to the street to create an intimate, comfortable walking environment and formal open spaces intended to serve as central gathering spaces.

The widest variety of land uses is permitted in center districts, including residential and mixed-use development. Further, the proposed new rules require the adaptive reuse of historic buildings and open spaces. The rules also provide guidelines for complete streets with bike lanes and pedestrian pathways, and a multi-use trail.

The proposed new rules permit an increase of 1,585 housing units in the three host municipalities and require that at least 20 percent of newly constructed residential units be affordable units in compliance with the Fair Housing Act, to the extent this is economically feasible. These housing units are permitted to take a variety of forms from single-family detached units to apartment buildings. The increase or decrease in the average cost of housing affected by the proposed new rules may not be estimated, because the actual uses are not known.

**Full text** of the proposed new rules follows:

## SUBCHAPTER 3. LAND USE

### 19:31C-3.1 Applicability and scope

(a) The Fort Monmouth Economic Revitalization Authority is promulgating these rules pursuant to authorization under the Fort Monmouth Economic Revitalization Authority Act, P.L. 2010, c. 51 et seq. (*N.J.S.A. 52:27I-18 et seq.*). The rules, comprising the land use regulations and development and design guidelines, shall govern all future development and redevelopment within the Fort Monmouth Project Area, that is, the area encompassed by the metes and bounds of Fort Monmouth (see Figure 1, Aerial Photograph of Fort Monmouth, below), and shall apply to the construction and uses of all buildings and structures and to the uses of land therein (see Figures 2a and 2b, Existing Fort Buildings and Streets, below).

1. N.J.A.C. 19:31C-3.3 through 3.13 include both traditional zoning standards (for example, use, bulk, density, floor area ratio, height, setbacks, lot coverage, signage, and related requirements), as well as site plan and subdivision standards (for example, design of streets, sidewalks and parking areas, walls and fences, utilities, lighting, etc.). Due to their historic significance, certain existing Fort Monmouth buildings are required to be preserved through adaptive reuse, with varying degrees of flexibility as to how each building may be reused.

2. N.J.A.C. 19:31C-3.14 through 3.18 include a series of development and design guidelines encompassing circulation, parking design, open space and landscaping, building placement, building design, and sustainability. Such guidelines are intended to foster development that is consistent with the overall vision spelled out in the Fort Monmouth Reuse and Redevelopment Plan (Reuse Plan), and also blend with the fabric of the host municipalities while also respecting existing neighborhood character. In order to promote flexibility, the guidelines contained in these sections are not deemed mandatory, but rather are intended to reflect the preferred form of development and design.

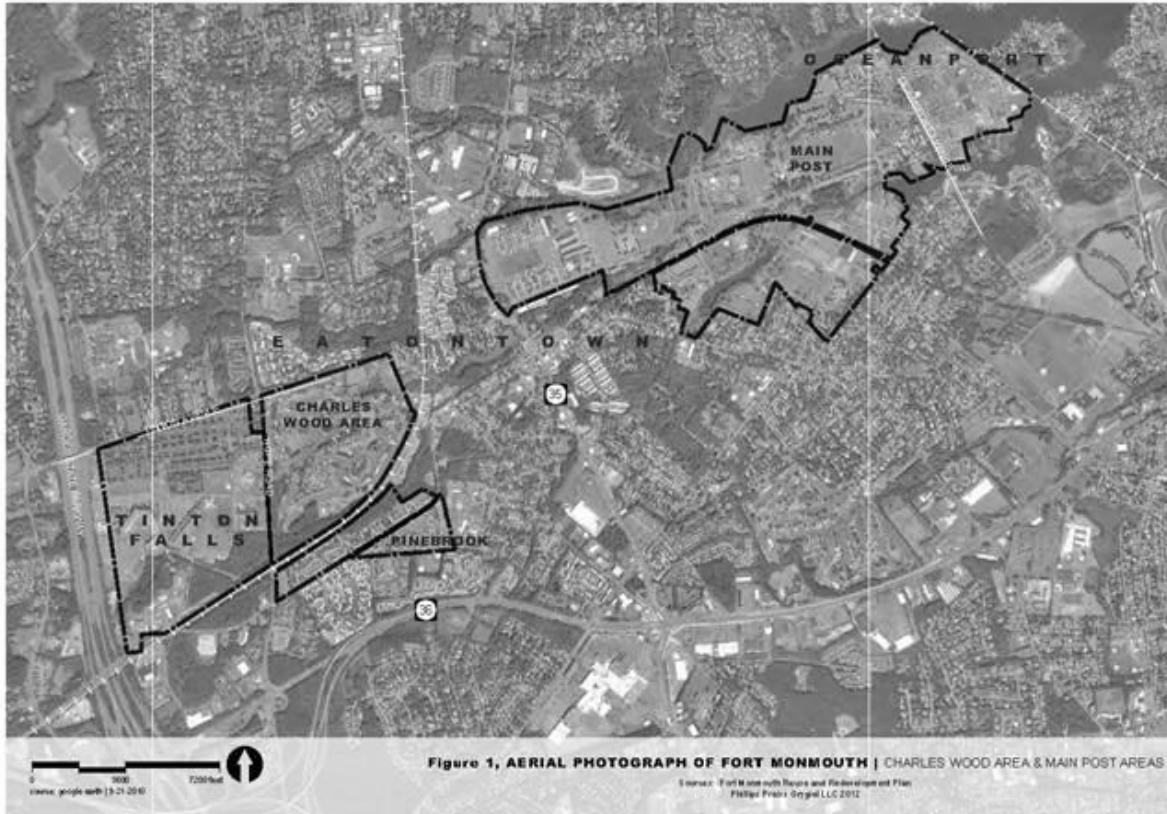
(b) The Reuse Plan and this subchapter supersede the master plans, the zoning and land use ordinances and regulations, and the zoning maps of the host municipalities adopted pursuant to the Municipal Land Use Law and county development regulations, except as to procedures for site plan and subdivision approval. Unless otherwise stated to the contrary or required by the context thereof, no word used in this subchapter shall be presumed to have the meaning set forth in the Municipal Land Use Law (MLUL), *N.J.S.A. 40:55D-1 et seq.*, and no process, procedure, decision, or other action required or occurring pursuant to this subchapter shall necessarily be interpreted to operate in the same manner set forth in the MLUL. Where such applications are required pursuant to this subchapter, applications for site plan or subdivision approval within the Fort Monmouth Project Area shall be submitted to the planning boards of the host municipalities, subject to the Authority's mandatory conceptual review and jurisdiction with respect to use-type variances as set forth in this subchapter. Except as augmented or otherwise required by the provisions of this subchapter pertaining to the Authority's mandatory conceptual review and jurisdiction with respect to use-type variances, the procedural requirements of the host municipalities' land use and zoning ordinances adopted pursuant to the MLUL shall apply to all applications for site plan and subdivision approval. Except as otherwise provided, the provisions of the land use and zoning ordinances of the host municipalities pertaining to filing procedures, subdivision and site plan application checklist requirements, application fees and escrow deposits, completeness review, time limitations, notice and publication requirements, hearing procedures, development fees, and performance guaranties of a host municipality shall apply to all applications for site plan or subdivision approval submitted to the host municipality's planning board.

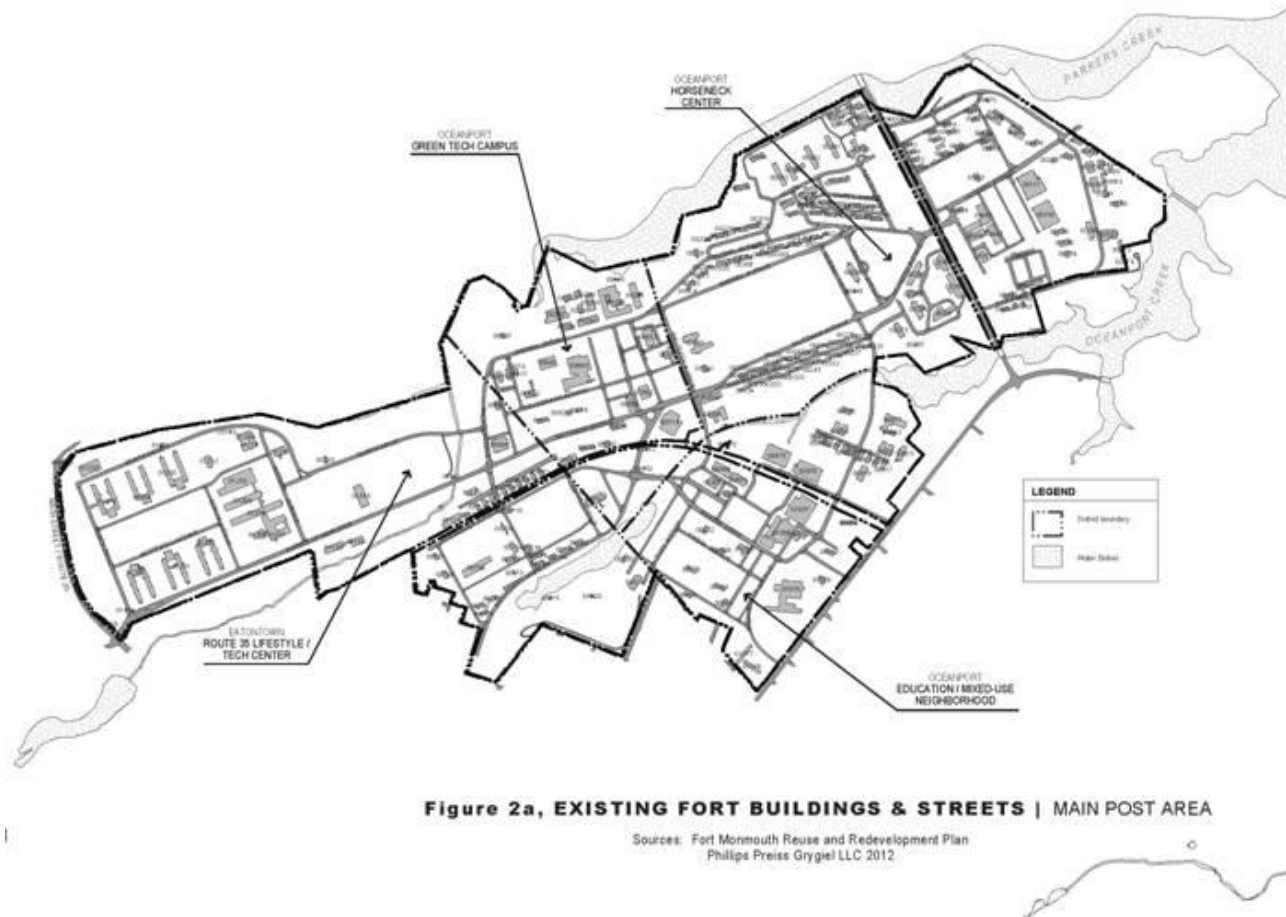
(c) The rules are designed to serve the following purposes:

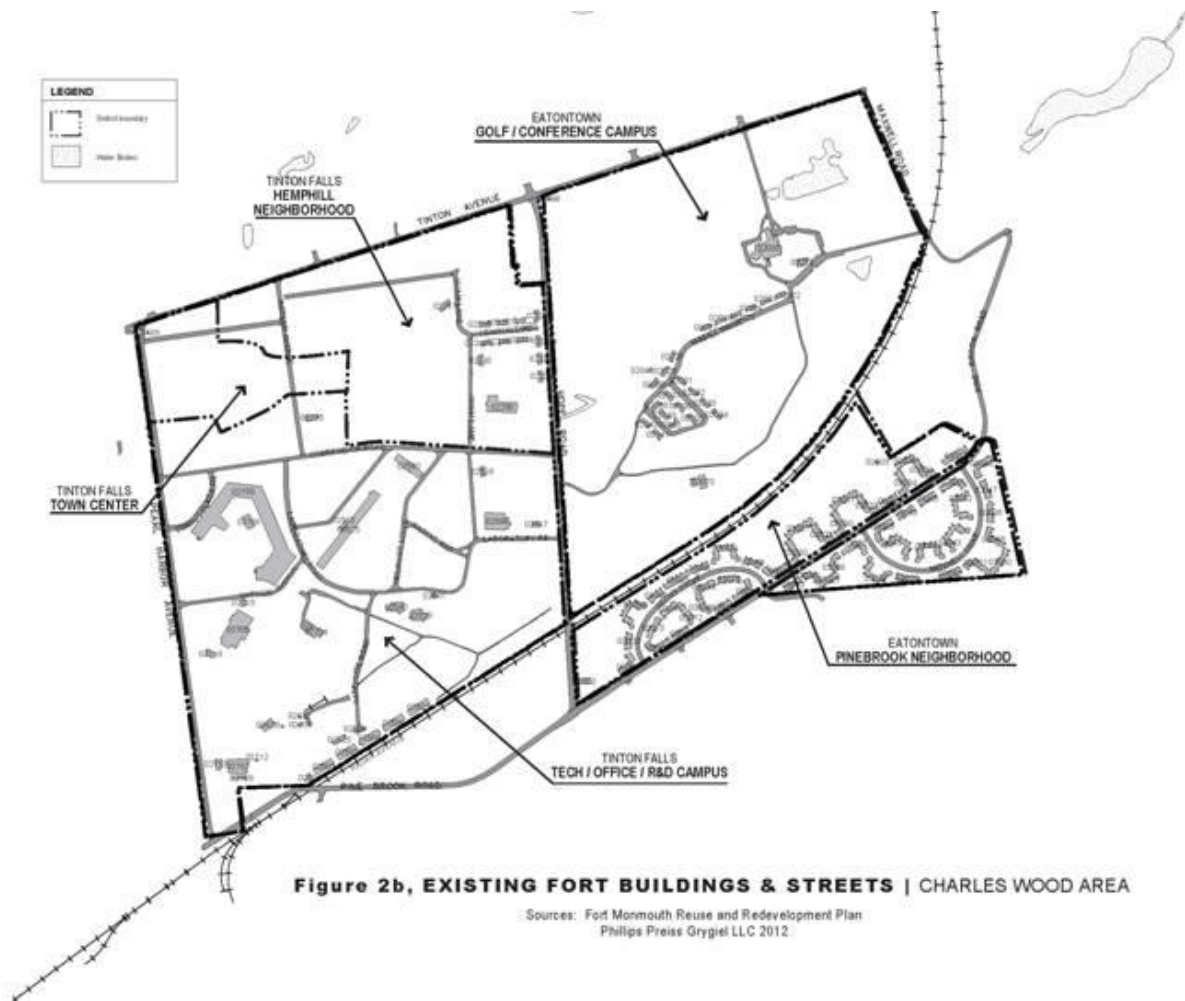


1. To provide for the orderly and comprehensive development of the Fort Monmouth Project Area, consistent with the planning objectives of the Fort Monmouth Economic Revitalization Authority Act and of the Reuse Plan;
2. To provide, promote, and encourage flexibility in implementation of the Reuse Plan and development within the Fort Monmouth Project Area;
3. To promote and encourage compatibility of development within the Fort Monmouth Project Area with the character of the host municipality within which the development is taking place;
4. To promote and encourage the creation of employment and other business opportunities within and around the Fort Monmouth Project Area;
5. To address regional affordable housing needs in accordance with the provisions of the Fair Housing Act, *N.J.S.A. 52:27D-301* et seq., and in collaboration with the host municipalities;
6. To provide housing for the homeless as and to the extent required pursuant to applicable Federal law;
7. To provide for the preservation of historic properties and structures within the Fort Monmouth Project Area required to be preserved under the Reuse Plan;
8. To preserve certain open spaces within the Fort Monmouth Project Area as and to the extent required by the Reuse Plan. These open spaces shall include active, passive or ecological areas;
9. To promote the establishment of appropriate population densities and concentrations in suitable locations that will contribute to the well-being of persons, neighborhoods, and communities;
10. To provide for uses that are suitably sited and placed in order to secure safety from fire, flood, and other natural and man-made disasters, provide adequate light and air, prevent the overcrowding of land and undue concentration of population, prevent traffic congestion, and, in general, relate buildings and uses to each other and to the environment so that aesthetic and use values are maximized;
11. To encourage development in accordance with sound planning principles that relates the type, design, and layout of such development to the site and Fort Monmouth Project Area;
12. To promote a desirable visual environment through building design and location;
13. To provide for infrastructure and utility improvements of the land adequate to serve the uses to be developed on that land and the redevelopment of the Fort Monmouth Project Area;
14. To encourage the location and design of transportation routes that will promote the adequate flow of traffic and minimize congestion;
15. To protect the Fort Monmouth Project Area from air, water, noise, and other types of pollution;
16. To control surface water runoff and prevent flooding and other damage to land and to encourage the control of soil erosion and sedimentation;
17. To encourage coordination of various public and private activities shaping land development with a view toward lessening the cost of such development and promoting the more efficient use of land; and
18. To promote sustainable green building practices in accordance with building guidelines such as the U.S. Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) guidelines, The National Association of Home Builders (NAHB) NAHB National Green Building Program, or similar green building practices guidelines.

(d) Notwithstanding the provisions of this subchapter, development within the Fort Monmouth Project Area shall be subject to all other applicable laws and regulations of the State of New Jersey.







### 19:31C-3.2 Definitions

(a) In the construction of this subchapter, the following shall apply, except where the context clearly requires otherwise:

1. Words used in the present tense shall include the future, and words and terms, when used in the future tense, shall include the present;
2. Words in the singular number shall include the plural number, and words in the plural number shall include the singular number;
3. The phrase "used for" shall include the phrases "employed for," "utilized for," "arranged for," "designed for," "intended for," "maintained for," and "occupied for";
4. The word "shall" is mandatory;
5. The words "may" or "should" are permissive;
6. The word "person" includes individuals, firms, corporations, associations, trusts, governmental bodies and agencies, and all other legal entities;

7. The masculine gender shall include the feminine and neuter;

8. Any word or phrase that is not defined in this section, or elsewhere in this subchapter, shall have the meaning as defined in the most recent edition of Merriam-Webster's Collegiate Dictionary;

9. In their interpretation and application, the provisions of this subchapter shall be held to be the minimum requirements for the promotion of the public health, safety, morals, and welfare; and

10. Where the conditions or requirements imposed by any provisions of this subchapter upon the use of land or structures are either more restrictive or less restrictive than comparable conditions or regulations imposed by any other provisions of this subchapter, the conditions or requirements which are more restrictive shall govern.

(b) The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise:

"Access" means a physical entrance to property.

"Accessory building or structure" means a building or structure, the use of which is customarily incidental and subordinate to that of the principal building located on the same lot. When an accessory building is attached in a substantial manner by a wall or roof to a principal building or structure, it shall be considered a part thereof.

"Accessory use" means as use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use.

"Active recreation" means ball fields, hard surface courts, tracks, golf courses, swimming pools, and other intensive recreational use.

"Adaptive reuse" means the development of a new use for an older building or for a building originally designed for a special or specific purpose.

"Addition" means a structure added to the original structure at some time after the completion of the original structure.

"Aisle" means the traveled way by which cars enter and depart parking spaces.

"Alley" means a service roadway providing a secondary means of access to abutting property and not intended for general traffic circulation.

"Alteration" means any change or rearrangement in the supporting members of an existing building such as bearing walls, columns, beams, girders, or interior partitions, as well as any change in doors or windows or any enlargement or diminution of a building or structure. "Alteration" shall also mean and include any conversion of a building or a part thereof from one use to another or the moving of a building or structure from one location to another. "Alteration" shall not be construed to mean any necessary repairs and renovation of an existing structure solely for the purpose of maintenance and/or improvements of the appearance.

"Applicant" means a person submitting an application for development.

"Application for development" means the application form and all accompanying documents required for approval of a subdivision plat, site plan, variance, or direction of the issuance of a permit.

"Authority" means the Fort Monmouth Economic Revitalization Authority established pursuant to *N.J.S.A. 52:27I-18* et seq.

"Balcony" means a platform projecting from the wall of a building, supported by columns or console brackets, and enclosed with a balustrade.

"Basement" means a floor partially below grade level having one-half or more of its floor-to-ceiling height above grade and with a floor-to-ceiling height of not less than 6 1/2 feet.

"Building" means a combination of materials to form a construction adapted to permanent, temporary, or continuous occupancy and having a roof.

"Building height" means the vertical distance as measured from the mean or average finished grade of the building to the highest point of the roof of the building but not including rooftop appurtenances. If the mean or average finished grade is three feet or more above existing grade then the measurement shall be taken from the existing grade.

"Build-to line" means the line at which construction of a building facade is to occur on a lot. A build-to line runs parallel to, and is measured from, the front property line and is established to create an even (or more or less even) building facade line on a street.

"Bulk and area-type variance" means variances other than use-type variances, described in *N.J.S.A. 52:27I-34.d*, to the extent permitted to be granted by planning boards pursuant to *N.J.S.A. 40:55D-70.c*.

"CAFRA" means the Coastal Area Facility Review Act, established pursuant to *N.J.S.A. 13:19-1* et seq.

"Canopy" means a self-supporting roof-like shelter or marquee without sides, permanently affixed to the wall of a building and providing overhead protection from the weather at an entrance to a building, which shall be construed to be a part of the building to which it is affixed.

"Cartway" means the hard or paved area of a street between the curbs, including travel lanes and parking areas, but not including curbs, sidewalks, or swales. Where there are no curbs, the cartway is that portion between the edges of the paved width.

"Cellar" means a space with less than one-half of its floor-to-ceiling height above grade or with a floor-to-ceiling height of less than 6 1/2 feet.

"Child care center" means an establishment providing for the care, supervision, and protection of children that is licensed by the State of New Jersey pursuant to *N.J.S.A. 30:5B-1* et seq.

"COAH" means the Council on Affordable Housing, established pursuant to the Fair Housing Act, *N.J.S.A. 52:27D-301* et seq., or such future entity that assumes the legal responsibilities of implementing the Fair Housing Act.

"Conference center" means facilities for conferences and seminars, with accommodations for sleeping, food preparation and eating, recreation, entertainment, resource facilities, meeting rooms, fitness and health centers, and retail stores and services primarily for conference center guests.

"Construction official" means a host municipality official who is charged with administering the Uniform Construction Code.

"County" means Monmouth County.

"Cul-de-sac" means the turnaround at the end of a dead-end street.

"Day care center, family" means a private residence in which child care services are provided for a fee to not less than three and no more than five children at any one time for no less than 15 hours per week. A child being cared for under the following circumstances is not included in the total number of children receiving child care services: the child being cared for is legally related to the provider; or the child is being cared for as part of a cooperative agreement between parents for the care of their children by one or more of the parents where no payment for the care is being provided.

"Dead-end street" means a street or portion of a street, which is accessible by a single means of ingress or egress.

"Density" means the permitted number of dwelling units per gross area of land to be developed.

"Design exception" means permission to depart from the requirements of the design standards set forth in N.J.A.C. 19:31C-3.10 through 3.12.

"Designated redevelopment agreement" means the redevelopment agreement to be entered into by and between the Authority and the EDA as provided in the Fort Monmouth Economic Revitalization Authority Act for properties within the Fort Monmouth Project Area acquired by the Authority.

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

"Development" or "redevelopment" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to this subchapter.

"Development and design guidelines" means the development and design guidelines, as set forth in this subchapter as N.J.A.C. 19:31C-3.14 through 3.18, which shall apply to all applications for subdivision or site plan approval within the Fort Monmouth Project Area.

"Driveway" means a paved or unpaved area used for ingress or egress of vehicles and allowing access from a street to a lot, building, or other structure or facility.

"Easement" means a grant of one or more property rights by the property owner to and/or for use by the public, a corporation or another person or entity.

"Ecological area" means a natural resource essential to the continued well-being of resident native wildlife such as wetlands and associated buffer areas, floodplains, vegetated riparian corridors, and forested areas.

"EDA" means the New Jersey Economic Development Authority, established pursuant to Section 4 of P.L. 1974, c. 80 (*N.J.S.A. 34:1B-1 et seq.*).

"Elevation" means a vertical distance above or below a fixed reference level; or a fully dimensioned drawing of the front, rear, or side of a building showing features such as windows, doors, and relationship of grade to floor level.

"Enlargement" means an increase in the size of an existing structure or use including physical size of the property, building, parking, and other improvements.

"Existing grade" means the vertical location of the ground surface prior to excavating or filling.

"Family day care home" means any private residence approved by the Division of Child Protection and Permanency or an organization with which the Division contracts for family day care in which child care services are regularly provided to no fewer than three and no more than five children for no fewer than 15 hours per week. A child being cared for under the following circumstances is not included in the total number of children receiving child-care services: the child being cared for is legally related to the provider; or the child is being cared for as part of a cooperative agreement between parents for the care of their children by one or more of the parents, where no payment for the care is being provided.

"Fence" means a structure made of posts or stakes, joined together by boards, wire, or rails, serving as an enclosure, a barrier, or as a boundary.

"Final approval" means the official action of the planning board taken on a preliminarily approved major subdivision or site plan after all conditions, engineering plans, and other requirements have been completed or fulfilled and the re-

quired improvements have been installed or guaranties properly posted for their completion, or approval conditioned upon the posting of such guaranties.

"Floor area, gross" means the sum of the gross horizontal areas of all floors of all enclosed floors of a building or structures, including cellars, basements, mezzanines, penthouses, corridors, lobbies, structured parking, and garages, measured from the exterior faces of exterior walls or from the centerline of party walls separating two buildings, but excluding any space with a floor-to-ceiling height of less than six feet six inches.

"Floor area ratio" or "FAR" means the sum of the gross floor area of all floors of buildings or structures on a lot divided by the total area of the site.

"FMERA" means the Fort Monmouth Economic Revitalization Authority established pursuant to *N.J.S.A. 52:27I-18* et seq.

"Fort Monmouth" means the Federally owned or operated military installation located in the municipalities of Eatontown, Oceanport, and Tinton Falls in the County that on May 13, 2005, was scheduled for closure by recommendation of the Federal Base Realignment and Closure Commission including any facilities, real property and improvements, infrastructure and appurtenances, and personal property. Fort Monmouth closed on September 15, 2011.

"Fort Monmouth Project Area" means the area encompassed by the metes and bounds of Fort Monmouth.

"Frontage" means that side of a lot abutting on a street; the front lot line.

"Garage" means a building or part thereof used as accessory to the main building, which provides for the storage of automobiles and in which no residential occupation, business, or service is carried on. A detached garage shall be defined as an accessory structure. An attached garage shall be part of the principal structure.

"Governing body" means the chief legislative body of a host municipality.

"Government agency" means any department, commission, independent agency, or instrumentality of the United States and of the State of New Jersey, including, but not limited to, FMERA and EDA, the County, and any Authority, district, or other governmental unit.

"Ground cover" means grasses or other plants and landscaping grown or placed to keep soil from being blown or washed away.

"Ground floor" means the first floor of a building other than a cellar or basement.

"Ground mounted solar array" means a solar energy system, as defined in this section that is mounted on armatures anchored to the ground with ground cover beneath.

"Health club" means establishments that provide facilities for aerobic exercises, running and jogging, exercise equipment, game courts, swimming facilities, and saunas, showers, massage rooms, and lockers.

"Historic structure" or "historic resource" means properties within the Fort Monmouth Project Area identified in the Programmatic Agreement between U.S. Army and NJSHPO as "Buildings Required for Preservation" or "Select Historic Properties."

"Home occupation" means any activity carried out for gain by a resident and conducted in the resident's dwelling unit.

"Hospital" means any building containing beds for four or more patients and used for the diagnosis, treatment, or other care of human ailments.

"Host municipality" means the following boroughs in Monmouth County, New Jersey: the Borough of Eatontown, the Borough of Oceanport, and the Borough of Tinton Falls.



"Hotel" means a building providing temporary lodging to the general public, and which may include additional facilities and services, such as restaurants, meeting rooms, entertainment facilities, personal services, health clubs, spas, and retail stores and services.

"Land" means ground, soil, or earth, including improvements and fixtures on, above, or below the surface thereof.

"Landscape" or "landscaping" means lawns, trees, plants, grass, and other natural materials such as rocks and wood-chips, and decorative features, including sculpture, patterned walks, fountains, and pools.

"Loading space" means an off-street space or berth used for the loading or unloading of cargo, products, or materials from vehicles.

"Lot" means a designated parcel, tract, or area of land established by plat, or otherwise as permitted by law, and to be used, developed, or built upon as a unit.

"Lot area" means the total area within the lot lines of a lot not including any street rights-of-way.

"Lot, corner" means a parcel of land, either at the junction of and abutting on two or more intersecting streets, or abutting a single street at the point where the road tangents deflect by more than 45 degrees.

"Lot coverage" means the amount of land that is covered by buildings and other structures, parking areas, driveways, sidewalks, paving, patios, and other impervious surfaces.

"Lot line" means a line of record bounding a lot that divides one lot from another lot or from a public or private street right-of-way or any other public space.

"Lot line, front" means the lot line separating a lot from a street right-of-way.

"Lot line, rear" means the lot line opposite and most distant from the front lot line. In the case of triangular or otherwise irregularly shaped lots, a line of 10 feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

"Lot line, side" means any lot line other than a front or rear lot line.

"LRHL" means the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1* et seq.

"Major site plan" means any site plan that is not exempt from the requirement for site plan review and that is not classified as a minor site plan pursuant to this subchapter.

"Major subdivision" means all subdivisions that are not exempt from the requirement for subdivision approval and are not classified as minor subdivisions pursuant to this subchapter.

"Minor site plan" means a development plan for which site plan approval is required that is not exempt from the requirement for site plan approval pursuant to this subchapter, and that meets all of the following conditions: the development does not involve any new street or road, or any off-tract improvements; the development does not require the construction of drainage facilities; only exterior facade alterations to an existing building are proposed; less than 1,000 square feet of additional floor area is proposed in connection with an existing building; and fewer than 10 parking spaces is proposed.

"Minor subdivision" means all subdivisions that are not exempt from the requirement for subdivision approval pursuant to this subchapter, and which meet all of the following conditions: the subdivision will not create more than three lots, all of which front on an existing improved street and are adequately drained; and the subdivision does not involve any new street or road, or any off-tract improvements.

"MLUL" means the Municipal Land Use Law, *N.J.S.A. 40:55D-1* et seq., as amended.

"Natural resources inventory" or "NRI" means FMERA's list of open spaces and other environmental features to be protected or preserved within the Fort Monmouth Project Area pursuant to the Reuse Plan, as such list may be modified or amended, pursuant to N.J.A.C. 19:31C-3.20(e).

"New street" means the construction of new street pavement and accompanying drainage facilities in locations where improved street(s) did not exist, including extended portion(s) of existing street(s). A "new street" does not include an existing street being widened, repaved, or undergoing other improvements or upgrading.

"NJDEP" means the New Jersey Department of Environmental Protection or its successor agency.

"NJSHPO" means the New Jersey State Historic Preservation Office within the State of New Jersey Department of Environmental Protection.

"Nonconforming structure/building" means a structure/building, the size, dimension, or location of which was lawful prior to the adoption, revision, or amendment of this subchapter, but fails to conform to the requirements of the development district in which it is located by reason of such adoption, revision, or amendment.

"Nonconforming use" means a use or activity which was lawful prior to the adoption, revision, or amendment of this subchapter, but which fails to conform to the requirements of the development district in which it is located by reasons of such adoption, revision, or amendment.

"Office" means a room, group of rooms, or building used for conducting the affairs of a business, profession, service, industry, or government and generally furnished with desks, tables, files, and communication equipment and where no manufacturing, assembling, or fabricating takes place.

"Office, medical" means offices including, but not limited to, medical, dental, and veterinary offices and clinics.

"Office, research and development" means an establishment engaged in industrial or scientific research and product design that primarily involves the use of computers and other related office equipment in an office setting. The facility may also include administrative services related to product design or sales. Such facilities may include "wet" labs or places with running water, gases, special ventilation devices, chemicals, special heating, and electrical or electronic equipment, or use of animals or human subjects under controlled conditions.

"Official zoning map" means the map or maps shown in Figures 3a and 3b in N.J.A.C. 19:31C-3.3 that delineate the boundaries of development districts and areas subject to a redevelopment plan duly adopted by a host municipality pursuant to the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1* et seq., with the Authority's consent.

"On-site" means located on the lot in question and excluding any abutting street or right-of-way.

"Open space" means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space; provided that such areas may be improved with only those buildings, structures, streets, and off-street parking, and other improvements that are designed to be incidental to the natural openness of the land.

"Outdoor dining" means any part of a food establishment located outdoors, not used for any other purposes, and open to the sky, with the exception that it may have a retractable awning or umbrellas, and may contain furniture, including tables, chairs, railings, and planters that are readily movable.

"Outdoor storage" means the keeping in an unenclosed area of any goods, material, merchandise, or vehicles in the same place for more than 24 hours.

"Parcel" means a piece or area of land formally described and recorded with block and lot numbers, by metes and bounds, by ownership, or in such a manner as to specifically identify the dimensions and/or boundaries.

"Park, formal" means landscaped open spaces such as greens, squares, and linear parks.

"Parking area" or "surface parking" means any public or private area, under or outside of a building or structure, designed and used for parking motor vehicles, including parking lots, garages, private driveways, and legally designated areas of streets.

"Parking, shared" means joint utilization of a parking area for more than one use.

"Parking space" means a space for the off-street parking of one operable, licensed motor vehicle within a public or private parking area.

"Parking, structured" means a building or structure which may be located above or below ground, with stalls accessed via interior aisles, and used for temporary storage of motor vehicles. Structured parking can be a stand-alone use or a part of a building containing other uses.

"Passive open space" means open space areas consisting primarily of lawns, meadows, and other unstructured open space, and parade grounds.

"Patio" or "terrace" means a surface structure affixed to the ground throughout its area (such as poured concrete, brick, or flagstone) and having no portion supported by piers, columns, or posts and having no portion used for a parking space. A structure that is supported by piers, columns, or posts in any manner shall be considered a deck. Patios may abut a building or may be located separate from a building.

"Permit" means a building permit or other permit or certificate issued to perform work pursuant to approvals obtained pursuant to this subchapter.

"Permitted use" means any use which shall be allowed, subject to the provisions of this subchapter.

"Places of religious worship" means a building or structure, or groups of buildings or structures, that by design and construction is primarily intended for conducting organized religious services and associated accessory uses.

"Planning board" means the planning board of a host municipality.

"Porch" means a roofed open area that may be screened, attached to, or part of a building with direct access to or from it. A porch shall not be considered open if enclosed by either a permanent or detachable glass sash.

"Principal building" means a building in which is conducted the main use of the lot.

"Principal use" means the main purpose for which any lot, structure, and/or building is used.

"Programmatic Agreement" means the "Programmatic Agreement among the United States Army and the New Jersey State Historic Preservation Officer for the Closure and Disposal of Fort Monmouth, New Jersey" dated as of October 2009, as the same may be modified or amended.

"Prohibited use" means a use which is not permitted in this subchapter.

"Property" means a lot, parcel, or tract of land together with the building and structures located thereon.

"Recreation facility" means a place designed and equipped for the conduct of sports and leisure-time activities.

"Redevelopment" means the clearance, re-planning, development, and redevelopment; the conservation and rehabilitation of any structure or improvement; the construction and provision for construction of residential, commercial, industrial, public, or other structures or infrastructure; and the grant or dedication of spaces as may be appropriate or necessary in the interest of the general welfare for streets, utilities, parks, playgrounds, or other public purposes, including

recreational and other facilities incidental or appurtenant thereto, in accordance with the approved Fort Monmouth Reuse and Redevelopment Plan submitted to the Federal government, with the intent of supporting the economic revitalization of the region.

"Redevelopment agreement" means agreement regarding redevelopment within the Fort Monmouth Project Area between the Authority and the redeveloper or between the EDA as designated redeveloper and the redeveloper. The redevelopment agreement between the host municipality and the redeveloper pursuant to the LRHL may also be the Redevelopment Agreement provided that the Authority or the EDA as designated redeveloper has entered into it. Unless otherwise stated in this subchapter, the term Redevelopment Agreement shall not include the designated redevelopment agreement between the EDA as designated redeveloper and the Authority.

"Residential, low density" means single-family detached, duplex (stacked vertically or side by side, in a detached structure), and townhouses (only one unit vertically, in attached structures providing up to eight units per structure).

"Residential, medium density" means stacked flats (two to three units stacked vertically, in attached structures providing up to eight horizontal stacks per structure, total of 16 to 24 units per structure). Apartment buildings with four or more units/building and with at least four units sharing each ground-level entrance.

"Residential, mixed-use" means dwelling units located in multi-story buildings, but only above the ground floor office or commercial uses.

"Residential Site Improvement Standards" or "RSIS" means the Statewide requirements for improvements made in connection with residential development, including streets and parking, water supply, sanitary sewers and stormwater management, set forth at *N.J.A.C. 5:21*.

"Restaurant, drive-thru" means any restaurant designed to permit or facilitate the serving of food or beverages directly to, or permitted to be consumed by, patrons in or on motor vehicles parking or stopped on the premises.

"Restaurant, fast food" means an establishment in which food is pre-prepared and sold over a counter in disposable containers or wrappers selected from a limited menu for consumption on or off the premises.

"Restaurant, full service" means an establishment in which the principal use is the service of preparing food and/or beverages for consumption on the premises. All service of prepared food and/or beverages for consumption shall require customers to order at a table, booth, or dining counter with service by the waiter or waitress at said table, booth, or dining counter. Restaurants may have a combination of seating options, including indoor, outdoor, both indoor/outdoor, or no seating. The establishment may have a separate area, or lounge, where alcoholic beverages are served without full food service, provided the area is accessory to the primary use in square feet or sales.

"Retail, convenience" means smaller-scale businesses selling primarily food products, household items, newspapers and magazines, candy, and beverages, and a limited amount of freshly prepared foods such as sandwiches and salads for off-premises consumption.

"Retail, entertainment" means uses including bowling alleys, cinemas, and live performance theaters.

"Retail, lifestyle" means an unenclosed retail center featuring national specialty stores and restaurants (not drive-thru), with convenient and easily accessible parking and a pedestrian-friendly ambiance.

"Retail, specialty" means businesses selling a single category of merchandise or a number of closely related categories.

"Reuse Plan" means the Fort Monmouth Reuse and Redevelopment Plan, a comprehensive conversion and revitalization plan and the homeless assistance submission prepared and adopted by the Fort Monmouth Economic Revitalization Planning Authority and submitted to the United States Department of Defense and the United States Department of Housing and Urban Development on September 4, 2008 pursuant to section 14 of P.L. 2006, c. 16 (*N.J.S.A. 52:27I-14*), as accepted by the Federal government, and as may be amended, revised, or modified pursuant to the Fort Monmouth Economic Revitalization Authority Act, *N.J.S.A. 52:27I-18 et seq.*

"Right-of-way" means a strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by a street, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, or other similar uses.

"Rooftop appurtenances" means the visible, functional, or ornamental objects accessory to and part of a building's rooftop including, but not limited to, chimneys; parapets or other ornamental features; and elevator equipment and mechanical utility equipment, and any associated screening or enclosures.

"Rooftop solar array" means a solar energy system, as defined in this section that is mounted to the roof of a building or structure.

"School" means any building or part thereof which is designed, constructed, or used for education of students up to and through the secondary level and licensed by the State of New Jersey.

"Screening" means a method of visually shielding or buffering one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

"Setback" means the required yard or distance between buildings and any lot line.

"Sidewalk" means a way for carrying pedestrian traffic located within the right-of-way provided for a street, or may be located along a primary entry drive.

"Sight triangle" means a triangular shaped portion of land established at intersections in accordance with the requirements of this subchapter in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct sight distance of motorists entering or leaving the intersection.

"Sign" means any device, fixture, placard, or structure that uses color, form, picture, display, graphic, illumination, symbol, or writing to advertise, attract attention to, announce the purpose of, or identify a person, entity, or thing, or to communicate any information to the public.

"Sign, awning" means a sign that is mounted, painted, or attached to an awning or other window or door canopy.

"Sign, billboard" means a commercial sign that directs attention to a business, commodity, service, or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

"Sign, directional" means signs limited to directional messages, principally for pedestrian or vehicular traffic, such as "one-way," "entrance," and "exit."

"Sign, directory" means a sign listing the tenants or occupants of a building or group of buildings and that may also indicate their respective professions or business activities.

"Sign, freestanding" means any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

"Sign, ground-mounted" means any sign in which the entire bottom is in contact with the ground.

"Sign, identification" means a sign giving the nature, logo, trademark, or other identifying symbol; address; or any combination of the name, symbol, and address of a building, business, development, or establishment on the premises where it is located.

"Sign, nameplate" means a sign, located on the premises, giving the name or address, or both, of the owner or occupant of a building or premises.

"Sign, permanent" means any sign that is painted directly on the window glass with permanent paint or that is mounted by bolts or screws, or otherwise in a permanent fashion, on a permanent structure.

"Sign, political" means a temporary sign announcing or supporting political candidates or issues in connection with any national, State, or local election.

"Sign, real estate" means a sign pertaining to the sale or lease of the premises, or a portion of the premises, on which the sign is located.

"Sign, roof" means a sign that is mounted on the roof of a building or that is wholly dependent upon a building for support and that projects above the top edge or roof line of a building with a flat roof, the eave line of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.

"Sign, temporary" means any sign designed or intended to be displayed for a short period of time.

"Sign, wall" means any sign attached parallel to, but within 15 inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building.

"Sign, window" means any sign that is placed within 24 inches of a window or upon the window panes or glass and is visible from the exterior of the window.

"Site" means any lot or parcel of land or combination of contiguous lots or parcels of land.

"Site plan" means a development plan of one or more lots on which is shown: the existing and proposed conditions of the lot, including, but not necessarily limited to, topography, vegetation, drainage, floodplains, marshes, and waterways; the location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, and screening devices; and any other information that may be reasonably required in order to make an informed determination pursuant to these rules or an ordinance requiring review and approval of site plans by a host municipality's planning board.

"Slope" means deviation of a surface from the horizontal, usually expressed in percent or degree.

"Small solar energy system" means a solar energy system, as defined in this section that is used to generate electricity, and has a nameplate capacity of 100 kilowatts or less.

"Small wind energy system" means a wind energy system, as defined in this section that is used to generate electricity; and has a nameplate capacity of 100 kilowatts or less.

"Solar energy system" means a solar energy system and all associated equipment which converts solar energy into a usable electrical energy, heats water, or produces hot air or other similar function through the use of solar panels.

"Solar plates" means a structure containing one or more receptive cells, the purpose of which is to convert solar energy into usable electrical energy by way of a solar energy system.

"Story" means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

"Story, half" means the area under a sloping roof where the possible floor area with head room of five feet or more occupies no more than one-third of the floor area of the floor immediately below. Where the floor area with a floor to ceiling height in excess of five feet is more than one-third of the floor area immediately below, it shall count as a full story.

"Street" means any street, avenue, boulevard, road, parkway, viaduct, drive, or other way that is an existing State, county, or municipal roadway, or that is shown upon a plat heretofore approved pursuant to law, or that is approved by

official action, or that is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a planning board and the grant to such board of the power to review plats; and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas, and other areas within the street lines.

"Street-facing setback" means a setback measured from a lot line that is shared with a street right-of-way.

"Structure" means a combination of materials to form a construction for occupancy, use, or ornamentation whether installed on, above, or below the surface of a parcel of land.

"Subdivision" means the division of a lot, tract, or parcel of land into two or more lots, tracts, parcels, or other divisions of land for sale or development. The term "subdivision" shall also include the term "resubdivision." The following shall not be considered subdivisions if no new streets are created: divisions of property by testamentary or intestate provisions; divisions of property upon court order, including, but not limited to, judgments of foreclosure; consolidation of existing lots by deed or other recorded instrument; or the conveyance of one or more adjoining lots, tracts, or parcels of land, owned by the same person or persons, and all of which are found and certified by the zoning officer identified by law for this function, to conform to the requirements of these rules and are shown and designated as separate lots, tracts, or parcels on the tax map or atlas of the host municipality.

"Trespass light" means lighting from an adjacent property which exceeds 0.1 footcandle.

"Use" means the purpose or activity for which land or buildings are arranged, designed, or intended or for which land or buildings are occupied or maintained.

"Use-type variance" means the types of variances enumerated in *N.J.S.A. 52:27I-34.e(1)*.

"Utility, private or public" means any agency that, under public franchise or ownership, or under certificate of convenience and necessity, or by grant of Authority by a governmental agency, provides the public with electricity, gas, heat, steam, communication, transportation, water, sewage collection, or other similar service.

"Variance" means permission to depart from the literal requirements of N.J.A.C. 19:31C-3.3 through 3.9 adopted by the Authority.

"Warehouse" means any structure designed for, or used permanently for, the storage of goods and materials, light assembly, and distribution of materials.

"Wetlands" means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

"Wind turbine" means equipment that converts energy from the wind into electricity. This term includes the rotor, blades, and associated mechanical and electrical conversion components necessary to generate, store, and/or transfer energy.

"Yard, front" means a space extending the full width of the lot between any building and the front lot line.

"Zoning board" means the zoning board of adjustment of a host municipality.

"Zoning officer" means the individual(s) employed by a host municipality who is responsible for reviewing applications for development for compliance with relevant development regulations.

#### 19:31C-3.3 Development districts

(a) The Fort Monmouth Project Area is divided into a series of development districts as depicted on the official zoning map (see Figures 3a and 3b, Official Zoning Map, below). The current version of the official zoning map with notations

is available at the offices of the Authority. There shall be three types of development districts at Fort Monmouth: neighborhoods, centers, and campuses. Each of the three boroughs includes one of each of the three types of districts:

1. Neighborhood districts are residentially-focused, with the smallest block sizes as may be appropriate for low- and medium-density residential development. Where allowable, non-residential development within neighborhood districts is intended as a complementary use;
2. Center districts consist of a highly connected network of blocks. Buildings are intended to be placed close to the street to create an intimate, comfortable walking environment and formal open spaces are intended to serve as central gathering spaces. The widest variety of land uses is permitted in center districts, including residential and mixed-use development; and
3. Campus districts are characterized by large block sizes, low lot coverage limits, and a focus on office/research facilities, hotels, and institutional uses.

(b) Borough of Oceanport development districts are as follows:

1. Horseneck Center: This district is the most diverse district within Fort Monmouth. In addition to encouraging a variety of residential housing types and mixed-use development, a substantial amount of civic/institutional use is envisioned. This district includes the Fort Monmouth Historic District, and, thus, has the largest number of historic buildings that are required to be adaptively reused.
2. Education/Mixed-use Neighborhood: This district lies apart from the Oceanport Horseneck Center south of the tributary to Oceanport Creek and west of Main Street. It is intended primarily as a residential district, with low- to medium-density housing and some supporting retail, office, and civic/institutional uses.
3. Green Tech Campus: This district is intended to function as a hub for office/research and development (R&D) uses, with additional civic/institutional buildings, within a campus-like setting.

(c) Borough of Eatontown development districts are as follows:

1. Route 35 Lifestyle/Tech Center: This district lies just east of Route 35, and seeks to take advantage of the exceptional visibility which this roadway affords. Large-scale retail development near Route 35, together with residential, mixed-use, office, and institutional development further east, is envisioned.
2. Pinebrook Neighborhood: This district, located in what was known as the Howard Commons area adjacent to Pinebrook Road, is intended for medium-density residential housing. A small amount of retail use is slated for the western end of this district.
3. Golf/Conference Campus: The Suneagles Golf Course provides the central organizing element for this district. The historic Gibbs Hall, along with ancillary related features (a stone wall and outdoor swimming pool), is required to be reused as a public clubhouse, pro shop, and conference/banquet facility. A hotel and conference center is anticipated along Megill Drive, either through reuse of existing residential buildings, or new construction. The vast bulk of this district's land area is to remain as open space.

(d) Borough of Tinton Falls development districts are as follows:

1. Town Center: This district is geographically the smallest district within Fort Monmouth. It is intended as a compact, neighborhood-oriented, mixed-use district centered around a civic green. This district will complement the existing Borough Hall that is located on the west side of Municipal Drive.
2. Hemphill Neighborhood: This district is envisioned as primarily a residential neighborhood, with civic/institutional uses also permitted. Residential development will be low-scale along Tinton Avenue, creating a transition to the existing neighborhoods to the north.



3. Tech/Office/R&D Campus: This district is intended to accommodate office/research and institutional uses within a campus-like setting. The district seeks to take advantage of its access to the Garden State Parkway.

(e) The following concern the interpretation of development district boundaries:

1. In the event uncertainty exists with respect to the intended boundaries of development districts as shown on the official zoning map, the following shall apply:

i. Boundaries indicated as approximately following the center lines of streets, roads, or alleys shall be construed to follow such center lines;

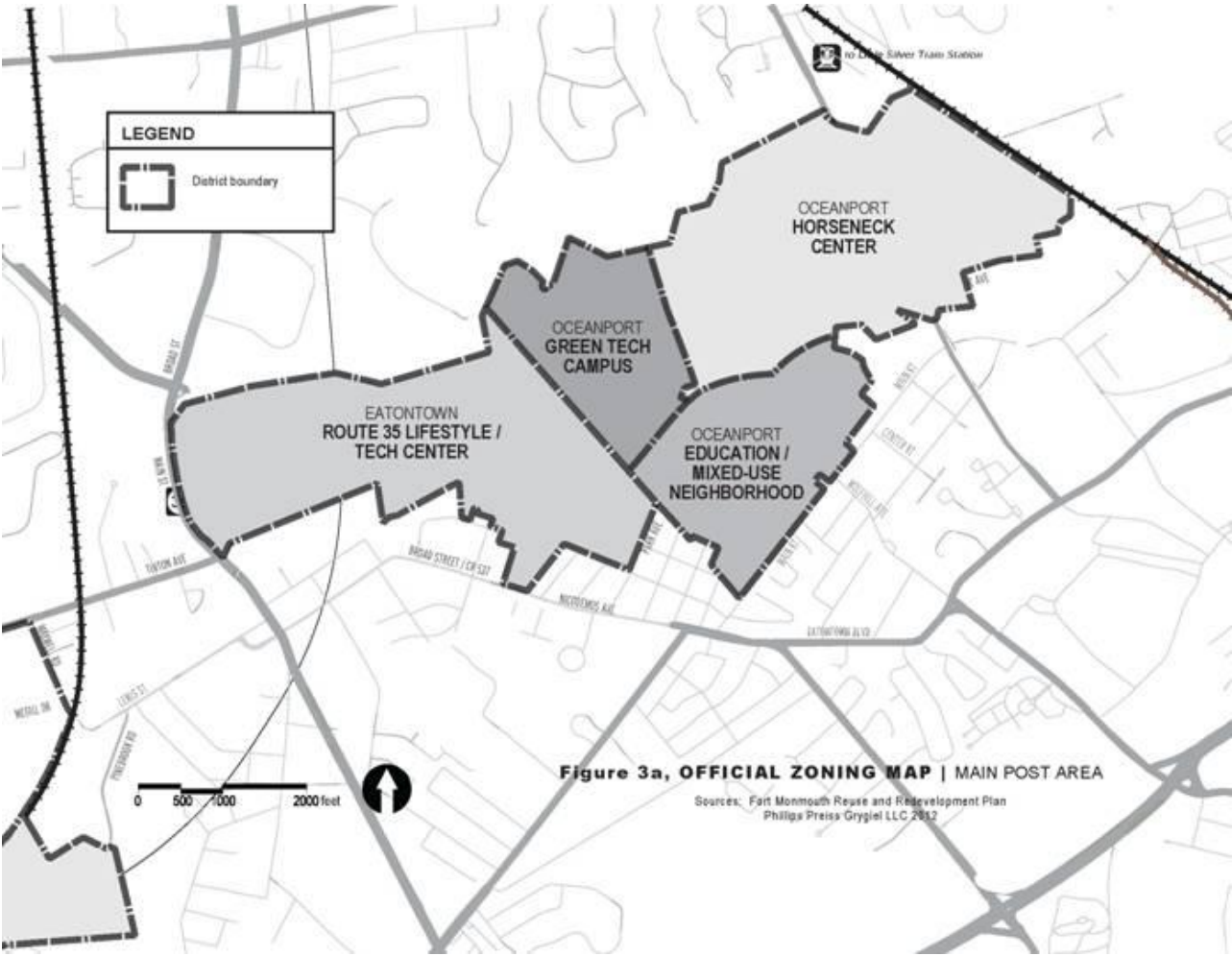
ii. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

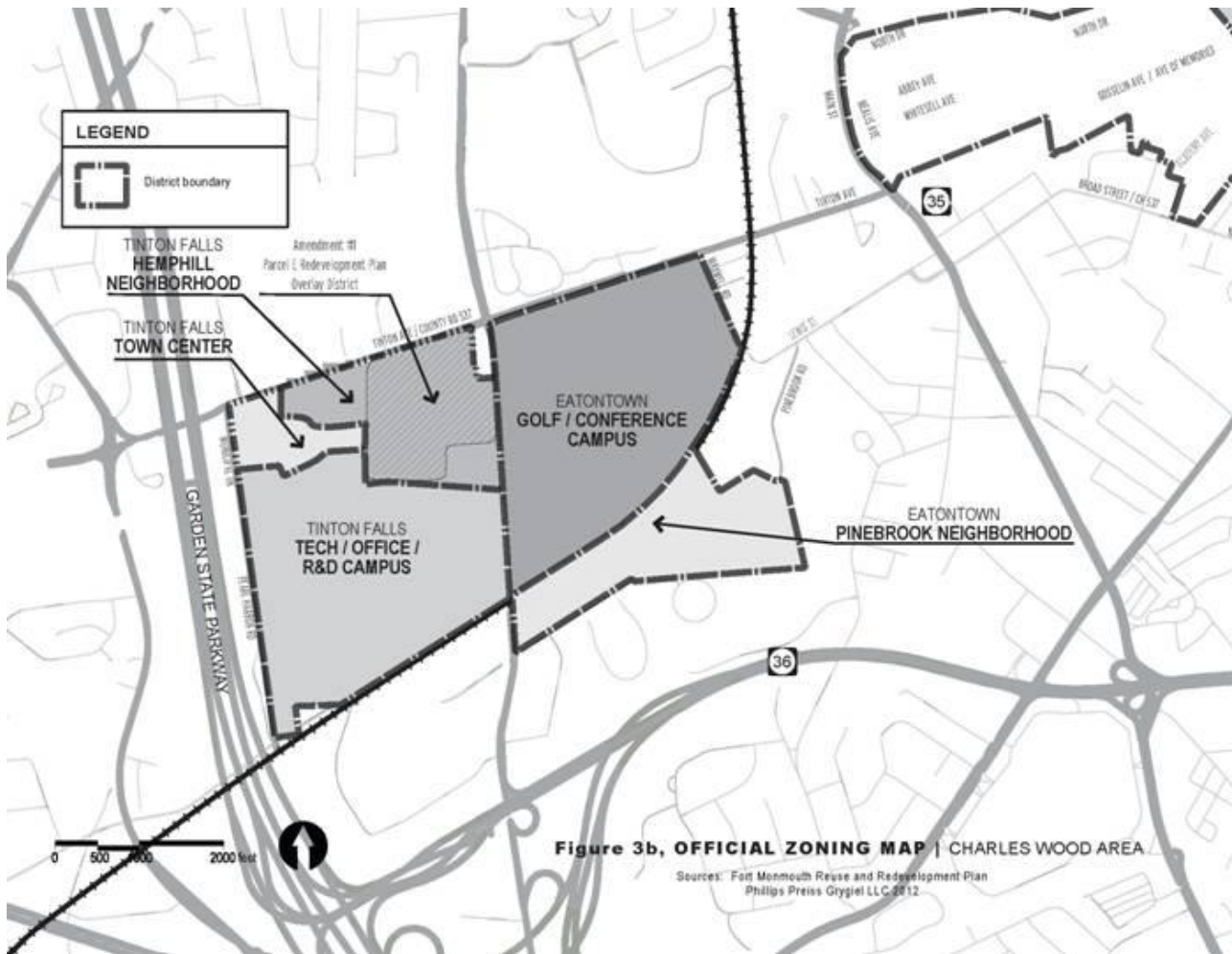
iii. Boundaries indicated as approximately following boundary lines of constituent municipalities shall be construed as following such boundary lines;

iv. Boundaries indicated as following railroad lines shall be construed to be the midpoint of the railroad right-of-way, unless otherwise indicated;

v. Boundaries indicated as following shore or bank lines shall be construed to follow such shore or bank lines, and in the event of change in the shore or bank line shall be construed as moving with the actual line; boundaries indicated as approximately following the center lines of streams, rivers, creeks, or other bodies of water shall be construed to follow such center lines. Boundaries indicated as parallel to or extensions of features indicated on the official zoning map shall be so construed; and

vi. Where the boundaries do not coincide with any of the features enumerated above, or where the exact location of any boundary line is unclear or is in dispute, the boundary shall be determined by the use of the scale shown on the official zoning map.





#### 19:31C-3.4 Allowable land uses

(a) The following concern land uses by municipality and development district:

1. Permitted principal uses shall be those specified below in Table 1, Permitted Principal Land Uses by Municipality and Development District:

##### i. Residential:

(1) Low density: Single-family detached, duplex (stacked vertically or side by side, in a detached structure), and town-houses (only one unit vertically, in attached structures providing up to eight units per structure). Each low-density unit shall have its own private entrance at the first level;

(2) Medium density: Stacked flats (two to three units stacked vertically, in attached structures providing up to eight horizontal stacks per structure, total of 16 to 24 units per structure). Up to three stacked flat units may share one entrance at the first level. Apartment buildings with four or more units/building and with at least four units sharing each ground-level entrance; and

ii. Mixed-use: Buildings or structures with a variety of complementary and integrated uses, such as, but not limited to, residential, office, retail, public, and recreation, in a compact form. The majority of the ground-floor area of vertically

mixed-use structures should be retail use. Upper stories should be residential or office use, as permitted within each development district.

iii. Retail:

- (1) Convenience retail :Smaller-scale businesses selling primarily food products, household items, newspapers and magazines, candy, and beverages, and a limited amount of freshly prepared foods such as sandwiches and salads for off-premises consumption;
- (2) Specialty retail: Businesses selling a single category of merchandise or a number of closely related categories;
- (3) Lifestyle retail: An unenclosed retail center featuring national specialty stores and restaurants (not drive-thru), with convenient and easily accessible parking and a pedestrian-friendly ambiance;
- (4) Entertainment retail: Uses including bowling alleys, cinemas, and live performance theaters;
- (5) Health clubs: Establishments that provide facilities for aerobic exercises, running and jogging, exercise equipment, game courts, swimming facilities, and saunas, showers, massage rooms, and lockers; and
- (6) Restaurants, cafes, and other dining establishments but not including drive-thru restaurants.

iv. Hospitality/lodging:

- (1) Hotels providing temporary lodging to the general public, and that may include additional facilities and services, such as restaurants, meeting rooms, entertainment facilities, personal services, health clubs, spas, and retail stores and services; and
- (2) Conference centers providing facilities for conferences and seminars, with accommodations for sleeping, food preparation and eating, recreation, entertainment, resource facilities, meeting rooms, fitness and health centers, and retail stores and services primarily for conference center guests.

v. Office/research:

- (1) Offices for conducting the affairs of a business, profession, service, industry, or government and generally furnished with desks, tables, files, and communication equipment and where no manufacturing, assembling; or fabricating takes place;
- (2) Medical offices, including, but not limited to, medical, dental, and veterinary offices and clinics, and including hospitals;
- (3) Research and development (R&D) uses, including, but not limited to, facilities such as "wet" labs or places with running water, gases, special ventilation devices, chemicals, special heating, and electrical or electronic equipment, or use of animals or human subjects under controlled conditions; and
- (4) Warehouse uses including storage of goods and materials, light assembly, and distribution of materials.

vi. Institutional/civic: Non-profit, religious, or public uses, such as a place of worship, museum, library, public or private school, child care centers, family day care homes, recreational/community center, recreation facilities, hospital, homeless shelter, or governmental use.

vii. Open space/recreation:

- (1) Formal parks: Landscaped open spaces such as greens, squares, and linear parks;

(2) Active recreation areas: Ball fields, hard surface courts, tracks, golf courses, playgrounds, swimming pools, recreation facilities, and other intensive recreational use;

(3) Passive open space: Open space areas consisting primarily of lawns, meadows, and other unstructured open space, and parade grounds. Sculpture, memorials, and art installations are permitted uses within passive open spaces; and

(4) Ecological area: Wetlands and associated buffer areas, floodplains, vegetated riparian corridors, and forested areas.

2. Permitted accessory uses shall be those specified below in Table 2, Permitted Accessory Land Uses by Municipality and Development District:

i. Parking (surface and structured): Any parking area for the exclusive use of the owners of the lot on which the parking area is located or whoever else is allowed to use the parking area;

ii. Outdoor storage: The keeping, in an unenclosed area, of any goods, material, merchandise, or vehicles in the same place for more than 24 hours. Any outdoor storage should be on the same lot as the establishment or use for which it is providing the storage;

iii. Home occupations (residential uses only): A home occupation is any lawful occupation performed in a dwelling and clearly incidental and secondary to the use of the dwelling for dwelling purposes. Activities that shall not be considered a home occupation shall include, but are not limited to, operating a beauty parlor, barbershop, automobile repair servicing or body shop, convalescent or nursing home, insurance or real estate agency, boarding house, kennel or stable, restaurants, stores, trades or similar establishments, drug counseling centers, tourist homes, or massage or similar establishments, offering services to the general public;

iv. Renewable energy systems: Small wind and small energy systems are permitted as accessory uses to provide power for the principal use of the property;

v. Outdoor dining: Any part of a food establishment located outdoors, not used for any other purposes, and open to the sky, with the exception that it may have a retractable awning or umbrellas, and may contain furniture, including tables, chairs, railings, and planters that are readily movable;

vi. Accessory structures in open space/recreation areas;

(1) Structures used to house maintenance and recreational equipment provided such structure does not exceed 250 square feet total floor area; and

(2) Kiosks for retail vendors of snacks, coffee, and light meals, with or without dining areas, are permitted provided each structure shall not exceed 1,000 square feet total floor area. Gazebo-type structures for seating, general use, or small performances are permitted provided such structures shall not exceed 2,400 square feet total floor area; and

vii. Other: Any other use customarily incidental to a principal use.

Table 1. Permitted Principal Land Uses by  
Municipality and Development District

	<b>Residential Low Density</b>	<b>Residential Medium Density</b>	<b>Mixed-Use</b>	<b>Retail</b>
<b>Oceanport</b>				
<b>Horseneck Center</b>	<b>YES</b> , via adaptive reuse of buildings north & south	<b>YES</b>	<b>YES</b> , within 500' of Ocean-port Ave	<b>YES</b> , within 500' of Ocean-port Ave

Table 1. Permitted Principal Land Uses by  
Municipality and Development District

	of Parade Ground			
<b>Education/ Mixed-Use Neighborhood</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Green Tech Campus</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>
<b>Eatontown</b>				
<b>Route 35 Lifestyle/Tech Center</b>	<b>NO</b>	<b>YES</b>	<b>YES</b>	<b>YES</b> , within 1500' of Rte 35
<b>Pinebrook Neighborhood</b>	<b>NO</b>	<b>YES</b>	<b>YES</b> , mixed-use and/or retail uses are limited to 15,000 s.f. along Pinebrook Road	
<b>Golf/ Conference Campus</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>
<b>Tinton Falls</b>				
<b>Town Center</b>	<b>NO</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Hemphill Neighborhood</b>	<b>YES</b>	<b>YES</b>	<b>NO</b>	<b>NO</b>
<b>Tech/Office Campus</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>

Table 1. Permitted Principal Land Uses by  
Municipality and Development District

	<b>Hospitality</b>	<b>Office/ Research</b>	<b>Institutional Civic</b>	<b>Open Space/ Recreation</b>
<b>Oceanport</b>				
<b>Horseneck Center</b>	<b>YES</b> , limited to the area north of Allen Ave	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Education/ Mixed-Use Neighborhood</b>	<b>NO</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>

Table 1. Permitted Principal Land Uses by Municipality and Development District

	<b>NO</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Green Tech Campus</b>				
<b>Eatontown</b>				
<b>Route 35 Lifestyle/ Tech Center</b>	<b>NO</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Pinebrook Neighborhood</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>	<b>YES</b>
<b>Golf/ Conference Campus</b>	<b>YES</b>	<b>NO</b>	<b>NO</b>	<b>YES</b>
<b>Tinton Falls</b>				
<b>Town Center Center</b>	<b>NO</b>	<b>NO</b>	<b>YES</b>	<b>YES</b>
<b>Hemphill Neighborhood</b>	<b>NO</b>	<b>NO</b>	<b>YES</b>	<b>YES</b>
<b>Tech/Office Campus</b>	<b>NO</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>

Table 2. Permitted Accessory Land Uses by Municipality and Development District

	<b>Parking (Surface and Structured)</b>	<b>Outdoor Storage</b>	<b>Home Occupations</b>	<b>Renewable Energy Systems</b>
<b>Oceanport</b>				
<b>Horseneck Center</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Education/ Mixed-Use Neighborhood</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Green Tech Campus</b>	<b>YES</b>	<b>YES</b>	<b>NO</b>	<b>YES</b>
<b>Eatontown</b>				

Table 2. Permitted Accessory Land Uses by Municipality  
and Development District

<b>Route 35 Lifestyle/ Tech Center</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Pinebrook Neighborhood</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Golf/ Conference Campus</b>	<b>YES</b>	<b>YES</b>	<b>NO</b>	<b>YES</b>
<b>Tinton Falls</b>				
<b>Town Center</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Hemphill Neighborhood</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Tech/Office Campus</b>	<b>YES</b>	<b>YES</b>	<b>NO</b>	<b>YES</b>

Table 2. Permitted Accessory Land Uses by Municipality  
and Development District

	<b>Outdoor Dining</b>	<b>Accessory Structures in Open Space/ Recreation Areas</b>	<b>Other</b>
<b>Oceanport</b>	<b>Oceanport</b>		
<b>Horseneck Center</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Education/ Mixed-Use Neighborhood</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Green Tech Campus</b>	<b>NO</b>	<b>YES</b>	<b>YES</b>
<b>Eatontown</b>	<b>Eatontown</b>		
<b>Route 35 Lifestyle/ Tech Center</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Pinebrook Neighborhood</b>	<b>NO</b>	<b>YES</b>	<b>YES</b>



Table 2. Permitted Accessory Land Uses by Municipality and Development District

<b>Golf/ Conference Campus</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Tinton Falls</b>	<b>Tinton Falls</b>		
<b>Town Center</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Hemphill Neighborhood</b>	<b>NO</b>	<b>YES</b>	<b>YES</b>
<b>Tech/Office Campus</b>	<b>NO</b>	<b>YES</b>	<b>YES</b>

(b) Buildings required for preservation: The historic buildings and resources identified in the Programmatic Agreement, including the parade ground with the triangular landscaped area in front of Building 286 and select areas of the Suneagles Golf Course, which are required to be preserved are specified below in Figures 4a and 4b, Buildings to be Preserved, and also in Table 3, Historic Properties to be Preserved at Fort Monmouth. Table 4, Maximum Reuse Yield by Municipality, Development District, and Land Use, in N.J.A.C. 19:31C-3.5 specifies the maximum allowable yield for each adaptively reused building. Preservation/adaptive reuse of other buildings at Fort Monmouth is optional.

1. Oceanport Horseneck Center: Fort Monmouth Historic District: The Parade Ground (and associated World War II Memorial) is required to be preserved. The existing single-family and duplex residential historic buildings to the north and south of the Parade Ground in the Fort Monmouth Historic District shall be reused for low-density residential use. The Allison Hall office building (#209) shall be adaptively reused for office/R&D uses. Other buildings requiring adaptive reuse in the Fort Monmouth Historic District, including those in the Barker Circle (buildings 205 - 208, 282, and 287), shall be used for any land use permitted in this development district.

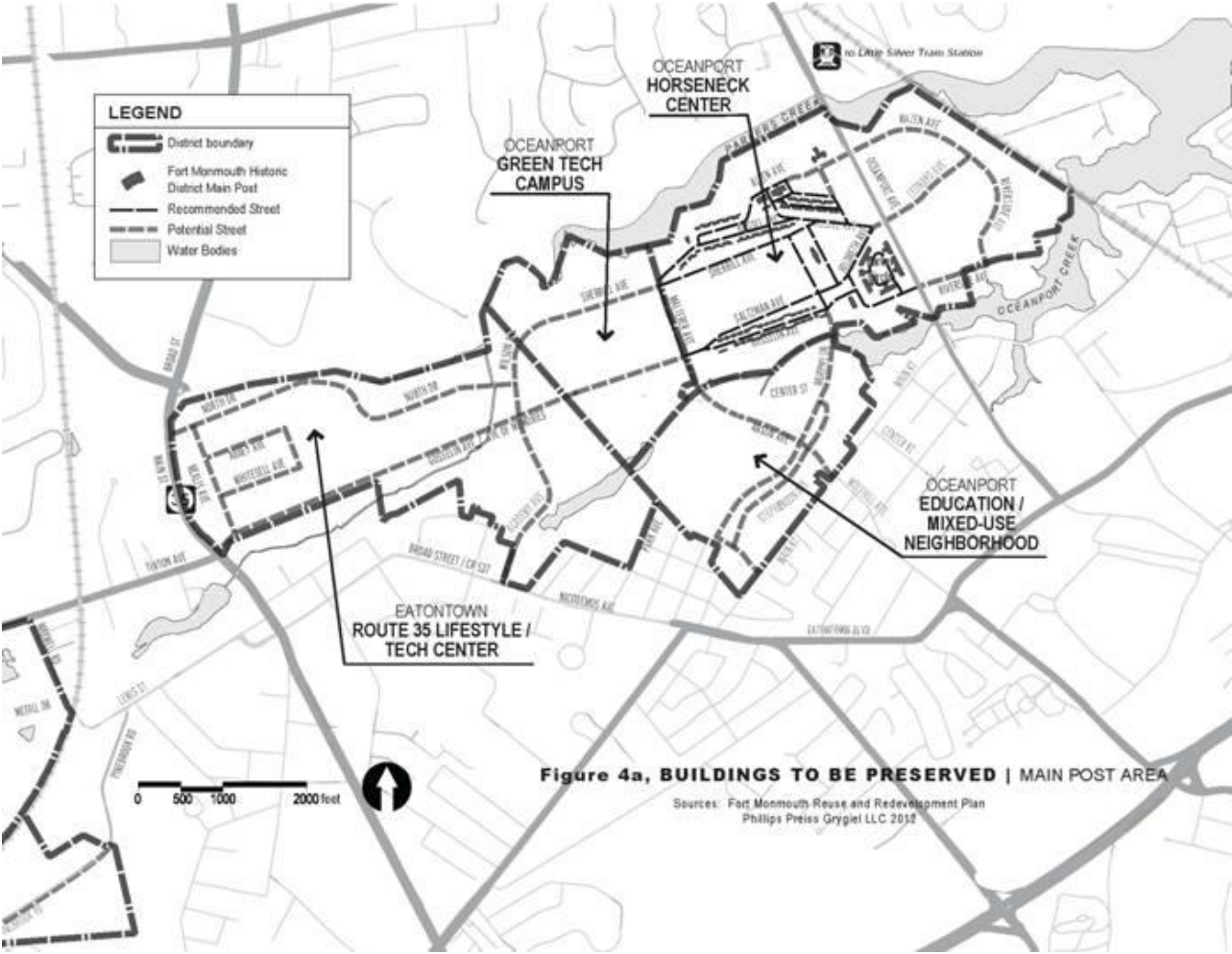
2. Eatontown Golf/Conference Campus: Historic resources required for preservation are part of the Suneagles Country Club, including Gibbs Hall (Building 2000), a 1926, Tudor Revival style golf clubhouse that shall be retained as a clubhouse/pro-shop with renovated dining/catering facilities, the associated golf course, and the stone wall and swimming pool (Building 2020) to the south of Gibbs Hall.

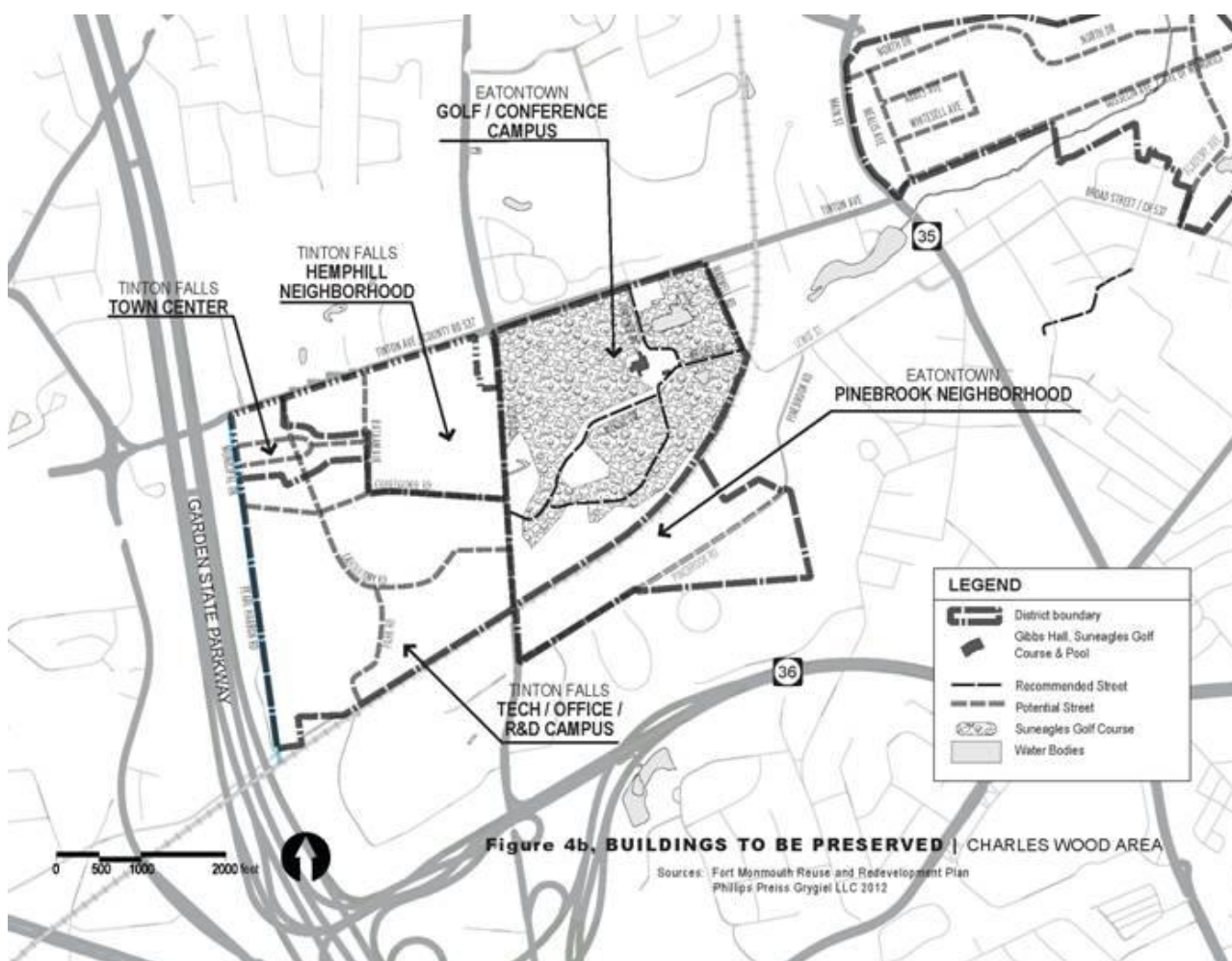
3. Tinton Falls: No buildings are required to be adaptively reused in Tinton Falls.

Table 3. Historic Properties to be Preserved at Fort Monmouth

<b>Building Number</b>	<b>Description of Prior Use</b>	<b>Year Built</b>
<b>Oceanport</b>		
<b>Fort Monmouth Historic District: Contributing Elements</b>		
115	WWII Monument/Memorial	1952
Parade Ground	Parade Ground, including the triangular landscaped area in front of Building 226	1927

Table 3. Historic Properties to be Preserved at Fort Monmouth		
206,	Administrative General Purpose	1927
209		1928
286 (Russell Hall)		1936
207-208, 287	Enlisted Unaccompanied Personnel Housing	1927
211-216; 218-220	Family Housing for Colonels	1929-1935
222-223; 225-229	"Russel/Allen Avenue Housing"	
230	Family Housing General Officers	1936
233-256 and 258	Family Housing for Non-Commissioned Officers	1929-1934
	"Gosslin Housing"	
260	Sewage Station	1930
261-269	Family Housing for Lieutenant Colonels/Majors	1930-1932
	"Russel/Carty Avenue Apartments"	
270	Army Lodging, Administrative General Purpose	1930
271	UOQ Military "Gardner Hall Residential"	1934
275	Museum Superintendent Building	1934
282	Fire Station	1935
301-310; 312-328	Family Housing Garage	1932-1937
<b>Eatontown</b>		
2000	Gibbs Hall: Officers Open Dining Room at Suneagles Golf Club	1926
2020	Swimming Pool at Suneagles Golf Club	1935
	Select Areas of the Suneagle Golf Course Required for "Archaeological Preservation."	





### 19:31C-3.5 Yield, density, and bulk

(a) Maximum reuse yield: - Table 4, Maximum Reuse Yield by Municipality, Development District, and Land Use, below shows the maximum yield permitted for certain existing Fort Monmouth buildings that are required to be adaptively reused per the Programmatic Agreement pursuant to N.J.A.C. 19:31C-3.4(b).

(b) The following concern maximum yield:

1. Residential development shall not exceed the total number of units listed in Table 5, Maximum Residential Yield by Municipality, District, and Use Type.

2. Residential (maximum number of dwelling units per acre): No application for residential development shall exceed the allowable densities provided below in relation to the total tract area for such development:

- i. Low-density residential: Shall not exceed six units per acre;
- ii. Medium-density residential: Shall not exceed 12 units per acre; and
- iii. Residential in mixed-use buildings: Shall not exceed eight units per acre.

3. Non-residential (maximum floor area ratio): The maximum allowable FAR for non-residential development by development district is provided below. As with the calculation of residential density, the computation of FAR for a development application shall be in relation to the total tract area for such development:

- i. Center districts: Shall not exceed FAR of .25;
- ii. Neighborhood districts: Shall not exceed FAR of .20; and
- iii. Campus districts: Shall not exceed FAR of .30.

Table 4. Maximum Reuse Yield by Municipality, Development District, and Land Use

<b>Residential Low Density</b>	<b>Residential Medium Density</b>	<b>Mixed-Use</b>	<b>Retail</b>
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**Oceanport (required reuse only in the Horseneck Center)**

Horseneck Center

Existing Residential Buildings	81 Units<1>	51 Units<2>
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Buildings #205 207, 287, Barker Circle		75 units
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Buildings # 206, 208 Barker Circle Muni Complex		
--	--	--

Building # 209, Allison Hall		
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Building # 270, Lodge (homeless shelter)		
--	--	--

Building #275, Kaplan Hall Museum		
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Building #282 Fire Station		
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Building # 286, Russel Hall, Office/R&D		
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<b>TOTAL</b>	81 Units	126 Units
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**Eatontown (only 1 building required for reuse)**

Table 4. Maximum Reuse Yield by Municipality, Development District, and Land Use

Golf/Conference Campus

Building #2000,  
Gibbs Hall**Tinton Falls (no required building reuse)**

Table 4. Maximum Reuse Yield by Municipality, Development District, and Land Use

	<b>Hospitality</b>	<b>Office</b>	<b>Institutional Civic</b>
<b>Oceanport (required reuse only in the Horseneck Center)</b>			
Horseneck Center			
Existing Residential Buildings			
Buildings #205 207, 287, Barker Circle			
Buildings # 206, 208 Barker Circle Muni Complex			68,000 s.f.
Building # 209, Allison Hall		37,000 s.f.	
Building # 270, Lodge (homeless shelter)			11,000 s.f.
Building #275, Kaplan Hall Museum			7,400 s.f.
Building #282 Fire Station			6,100 s.f.
Building # 286, Russel Hall, Office/R&D			42,000 s.f.
<b>TOTAL</b>		37,000 s.f.	134,500 s.f.

Table 4. Maximum Reuse Yield by Municipality, Development  
District, and Land Use

**Eatontown (only 1 building required for reuse)**

Golf/Conference Campus

Building #2000, 37,100 s.f.  
Gibbs Hall

**Tinton Falls (no required building reuse)**

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<1> "Russel/Allen Ave Housing" and "Gosslin Housing" in Oceanport Main Post. Russel/Allen Ave Housing includes Buildings 211-216, 233, 218-230, 302, 305, 309, 314, 319. Gosslin Housing includes Buildings 234-256, 258.

<2> "Russell/Carty Avenue Apts" and "Gardner Hall Residential" in Oceanport Main Post.

Table 5. Maximum Residential Yield by Municipality, Development  
District, and Use Type\*

<b>Residential Low Density (DU= Dwelling Units/Acre)</b>	<b>Residential Medium Density (DU= Dwelling Units/Acre)</b>
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**Oceanport= 720 Residential Units**

**Horseneck Center**

**Yield** 561 DU  
*(includes 207 units to be reused per Table  
4)*

**Education/Mixed-Use Neighborhood**

**Yield** 159 DU

**Green Tech Campus**

**Yield**

**Eatontown= 577 Total Residential Units**

**Route 35 Lifestyle/Tech Center**

**Yield** 302 DU

**Pinebrook Neighborhood**

**Yield** 275 DU

Table 5. Maximum Residential Yield by Municipality, Development District, and Use Type\*

**Golf/Conference Campus**

**Yield**

**Tinton Falls= 288 Total Residential Units**

**Town Center**

**Yield** 158 DU

**Hemphill Neighborhood**

**Yield** 130 DU

**Tech/Office/R&D Campus**

**Yield**

\*Includes new and reused residential units.

(c) The following concern building height:

1. Adaptively reused buildings: The height of existing buildings that are preserved through adaptive reuse, whether a required reuse or optional, are exempt from all height requirements. However, no additional stories or height shall be added to existing buildings unless it would comply with the height requirements for new development. Existing buildings are subject to the restrictions on rooftop appurtenances pursuant to (c)3 below.

2. New buildings: New buildings shall not exceed the heights limits provided below:

- i. Two and one-half stories/35 feet for single-family detached, duplex, and townhouse units;
- ii. Three stories/45 feet for multi-family stacked flats, apartment, and mixed-use buildings;
- iii. Two stories/30 feet for retail buildings;
- iv. Three stories/45 feet for buildings containing hospitality, office, or institutional uses; and
- v. Three stories/45 feet for structured parking.

3. Rooftop appurtenances may exceed the permitted building height by up to 15 percent above the permitted building height.

(d) Lot area: No minimum lot area is required for development within any of the development districts established herein.

(e) Number of principal uses and buildings per lot: Except for detached single-family and duplex housing units, multiple principal uses and/or buildings are permitted on a lot provided that all other requirements of this subchapter are met.

(f) Lot coverage: The maximum permitted lot coverage for development shall be as follows:

- 1. Center districts: 75 percent;



2. Neighborhood districts: 60 percent; and

3. Campus districts: 45 percent.

(g) Lot frontage: All lots shall have frontage on a street, rather than a rear parking lot or an open space with no intervening street.

(h) Building setbacks: Street-facing setbacks apply to any portion of a parcel's perimeter that adjoins a street, whether it is considered a front street or a side street. Both minimum and maximum setbacks are recommended for these street-facing locations. For interior lot line setbacks (side and rear lot lines), minimum setbacks are required.

1. Street-facing building setbacks: Street-facing building setbacks depend on the type of street on which a building has frontage. N.J.A.C. 19:31C-3.14(d) specifies recommended minimum and maximum setbacks for each street type;

2. Side lot line setbacks: Required minimum side lot line setbacks depend on land use type, as shown below. These setbacks do not apply to existing buildings that are adaptively reused. The side lot line setback between two attached structures constructed on individual lots shall be zero:

i. Residential low density: Minimum 10 feet on each side;

ii. Residential medium density: Minimum 10 feet on each side;

iii. Mixed use: Minimum zero feet on each side;

iv. Convenience and lifestyle, retail: Minimum seven feet on each side;

v. Hospitality: Minimum 20 feet on each side;

vi. Office/research: Minimum 15 feet on each side; and

vii. Institutional: Minimum 20 feet on each side; and

3. Rear lot line setbacks: No rear lot line shall be located adjacent to a street. Required minimum rear lot line setbacks depend on land use type, as shown below. These setbacks do not apply to existing buildings that are adaptively reused:

i. Residential low density: Minimum 25 feet; however, garages may be located within the rear setback area if they open onto a rear alley;

ii. Residential medium density: Minimum 20 feet; however, garages may be located within the rear setback area if they open onto a rear alley;

iii. Mixed-use: Minimum 20 feet;

iv. Convenience and lifestyle, retail: Minimum 25 feet;

v. Hospitality: Minimum 30 feet;

vi. Office/research: Minimum 25 feet; and

vii. Institutional: Minimum 30 feet.

19:31C-3.6 Reuse Plan amendments

(a) Amendment No. 1 to the Reuse Plan is hereby incorporated into this subchapter as an overlay district, whereby an additional set of requirements are superimposed on the development districts in Tinton Falls, allowing for the alternative development scenario shown below in Figure 5, Alternative Development Scenario in the Tinton Falls Reuse Area, to be realized.

1. Parcel E: Parcel E is the subject of a Redevelopment Plan for a Portion of Block 101, Lot 1 that was adopted by the Borough of Tinton Falls Council on May 15, 2012. If the alternative development scenario described in Amendment No. 1 is pursued, the land use requirements and design standards for Parcel E contained in the redevelopment plan shall apply pursuant to N.J.A.C. 19:31C-3.25(b)12; and

2. The following apply to the remainder of the Tinton Falls Reuse Area:

i. Allowable land uses: If development under Amendment No. 1 is pursued, the allowable principal and accessory land uses by development district in the Borough of Tinton Falls shall be as shown below in Tables 6a and 6b, Allowable Principal Land Uses by Development District, Amendment No. 1, and Permitted Accessory Land Uses by Development District, Amendment No. 1, respectively; and

Table 6a. Allowable Principal Land Uses by Development District, Amendment No. 1

	<b>Residential Low Density</b>	<b>Residential Medium Density</b>	<b>Mixed-Use</b>	<b>Retail</b>
<b>Tinton Falls</b>				
<b>Town Center</b>	<b>NO</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Hemphill Neighborhood</b>	<b>YES</b>	<b>YES</b>	<b>NO</b>	<b>NO</b>
<b>Tech/Office/ R&amp;D Campus</b>	<b>YES</b>	<b>YES</b>	<b>NO</b>	<b>NO</b>

Table 6a. Allowable Principal Land Uses by Development District, Amendment No. 1

	<b>Hospitality</b>	<b>Office /Research</b>	<b>Institutional Civic</b>	<b>Open Space/ Recreation</b>
<b>Tinton Falls</b>				
<b>Town Center</b>	<b>NO</b>	<b>NO</b>	<b>YES</b>	<b>YES</b>
<b>Hemphill Neighborhood</b>	<b>NO</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Tech/Office/ R&amp;D Campus</b>	<b>NO</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>

Table 6b. Permitted Accessory Land Uses by Development  
District, Amendment No. 1

	<b>Parking- Surface/ Structured</b>	<b>Outdoor Storage</b>	<b>Home Occupations</b>	<b>Renewable Energy Systems</b>
<b>Tinton Falls</b>				
<b>Town Center</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Hemphill Neighborhood</b>	<b>YES</b>	<b>YES</b>	<b>NO</b>	<b>YES</b>
<b>Tech/Office Campus</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>

Table 6b. Permitted Accessory Land Uses by Development  
District, Amendment No. 1

	<b>Outdoor Dining</b>	<b>Accessory Structures - Open Space/ Recreation Areas</b>	<b>Other</b>
<b>Tinton Falls</b>			
<b>Town Center</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Hemphill Neighborhood</b>	<b>NO</b>	<b>YES</b>	<b>YES</b>
<b>Tech/Office Campus</b>	<b>NO</b>	<b>YES</b>	<b>YES</b>

ii. If development under Amendment No. 1 is pursued, maximum new residential yield by development district and use type in the Borough of Tinton Falls shall be as shown below in Table 7, Maximum Residential Yield by, Development District and Use Type, Amendment No. 1.

Table 7. Maximum Residential Yield by Development District and Use Type, Amendment No. 1

	<b>Residential Low Density (DU= Dwelling Units/ Acre)</b>	<b>Residential Medium Density (DU= Dwelling Units/ Acre)</b>
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**Tinton Falls= 288 Total Residential Units**

**Town Center**

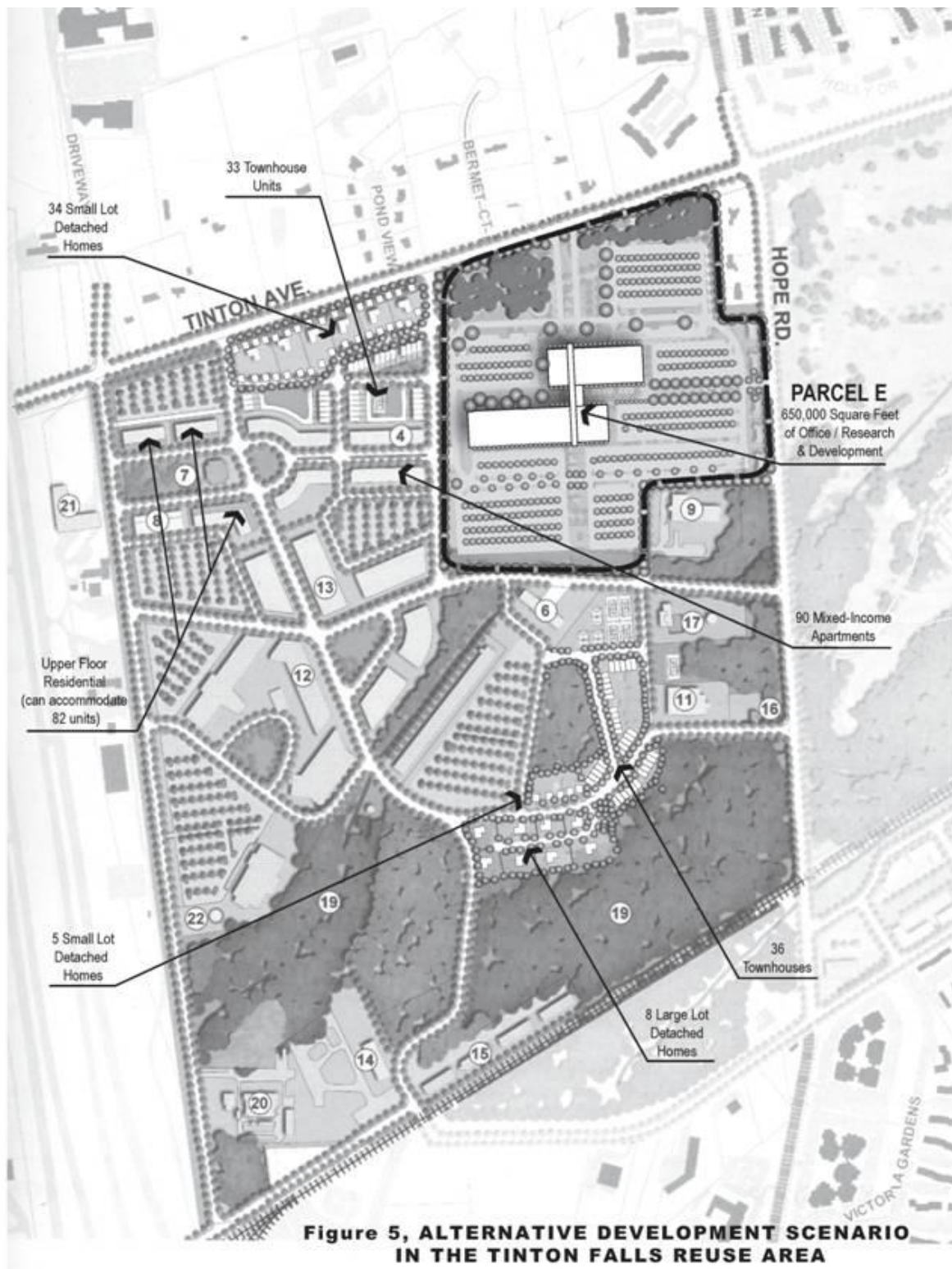
<b>Yield</b>	172 DU
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**Hemphill Neighborhood**

<b>Yield</b>	67 DU
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**Tech/Office/R&D Campus**

<b>Yield</b>	49 DU
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Sources: Fort Monmouth Reuse and Redevelopment Plan  
Phillips Preiss Grygiel LLC 2012

## 19:31C-3.7 Parking and loading

(a) Parking ratios; Table 8 below shows required minimum parking ratios for adaptive reuse and new construction within Fort Monmouth.

Table 8. Base Required Parking Ratios.

<b>Land Use</b>	<b>Base Required Parking Ratio</b>
Single-Family Residential	1.5 to 3.0 spaces/unit (see RSIS* for details)
Townhouses/Duplexes	2.3 for two-bedroom, 2.4 for three-bedroom (see RSIS for details)
Stacked Flats	1.8 for one-bedroom, 2.0 for two-bedroom, 2.1 for three-bedroom (see RSIS for details)
Apartments	1.8 for one-bedroom, 2.0 for two-bedroom, 2.1 for three-bedroom (see RSIS for details)
Retail Component of Mixed-Use Buildings	One per 250 square feet of Gross Floor Area (GFA)
Convenience Retail	One per 250 square feet of GFA
Specialty Retail	One per 250 square feet of GFA
Lifestyle Center	One per 250 square feet of GFA
Performance Theater	One space per three seats
Movie Theater	One space per three seats
Bowling Alley	Five spaces per lane
Health Club	Eight spaces per 1,000 square feet of GFA
Restaurants (not drive-thru) and Cafes	One space per three seats
Offices, R&D	Four spaces per 1,000 square feet of GFA
Medical Offices	Six spaces per 1,000 square feet of GFA
Hotel	One space per sleeping room or suite
Conference Center	One space per 250 square feet of GFA
Place of Worship	One space per three seats

Table 8. Base Required Parking Ratios.

Museum	Four spaces per 1,000 square feet of GFA
Library	Four spaces per 1,000 square feet of GFA
Recreation Community Center	Four spaces per 1,000 square feet of GFA
Public Swimming Pool	One space per 30 square feet of water surface
Government Office Building	Four spaces per 1,000 square feet of GFA
Hospital	Eight spaces per bed
Golf Course	Nine spaces per hole
Home Occupation	Three spaces per home
Warehouses	One space per 5,000 square feet of GFA
Light Industrial/Fabrication/Assembly	One space/800 square feet of GFA
Childcare Center	Four spaces, plus one space for each school vehicle, but in any event not less than either two spaces per teacher and teacher's aide, or 0.2 space per student based on the State's approved capacity of the facility, whichever is less.
Family Day Care Homes	Two spaces for the dwelling unit plus two for clients
Schools Elementary (Pre-K thru 8)	1.2 spaces/classroom; min. one/staff
Middle (5-8) High School (9-12)	2 spaces/classroom; min. one/staff 2.0 spaces/classroom; min. two/staff

\* Residential Site Improvement Standards (RSIS).

1. Where a specific use is not listed above, the general parking requirements for a similar use shall be applicable subject to the approval by the zoning officer in consultation and cooperation with the Authority. Unless a shared parking approach is used pursuant to (b) below, lots containing more than one principal use must provide parking in an amount equal to the total of the requirements for all principal uses. In the case of a mixed-use development, the off-street parking requirement shall consist of the sum of the parking spaces required for each component use.

2. No parking is required for accessory uses unless otherwise expressly stated.

3. When measurements of the number of required spaces result in a fractional number, any fractional result of .5 or more shall be rounded up to the next consecutive whole number. Any fractional result of less than .5 shall be rounded down to the previous consecutive whole number. For example, if a minimum ratio of two spaces per 1,000 square feet is applied to a use with 1,900 square feet of floor area, the result, 3.8, must be rounded up to four spaces.

4. Parking for the handicapped shall be provided in number, design, and location as required by the Americans with Disabilities Act, 42 U.S.C. §§ 12111 et seq., and New Jersey's Barrier Free Subcode, N.J.A.C. 5:23-7. These wider spaces shall be located in areas conveniently related to major entrances, located so that access does not require wheeling or walking behind parked cars, and be designated as parking for the handicapped.

(b) Shared parking: A shared parking approach may be pursued to lower total number of parking spaces required. The minimum number of on-site parking spaces required through a shared parking approach shall be determined by calculating the aggregate parking required for weekday and weekend conditions for each use, and then selecting the maximum number, as follows:

1. Calculate the minimum number of base parking spaces that would be required for each component according to the base required parking ratios in Table 8, Base Required Parking Ratios, above;

2. Multiply the number of base required parking spaces required for each use by the occupancy rate (percent of Base Required Parking needed during each time period) in Table 9, Shared Parking Rates, below for each use for the weekday daytime, evening, and nighttime, and for the weekend daytime, evening, and nighttime periods, respectively. The resulting numbers of parking spaces shall be referred to as the adjusted parking numbers;

3. The adjusted parking numbers for each of the component uses, including each component use in a mixed-use building, for each time period shall be added to produce the aggregate gross number of parking spaces for each time period; and

4. The largest of the aggregate gross number of parking spaces for each time period shall be identified and used to determine the minimum required parking spaces for the development.

Table 9. Shared Parking Rates

Time Periods	Component Use				
	Residential	Retail	Hospitality	Office	Institutional /Civic
<b>Weekday Rates</b>					
Daytime (8 AM-6 PM)	80 percent	90 percent	80 percent	100 percent	100 percent
Evening (6 PM-Midnight)	100 percent	80 percent	100 percent	20 percent	20 percent
Nighttime (Midnight-8 AM)	100 percent	5 percent	100 percent	5 percent	5 percent
<b>Weekend Rates</b>					
Daytime (8 AM-6 PM)	80 percent	100 percent	80 percent	5 percent	5 percent
Evening (6 PM-Midnight)	100 percent	70 percent	100 percent	5 percent	5 percent



Table 9. Shared Parking Rates

Nighttime (Midnight-8 AM)	100 percent	5 percent	100 percent	5 percent	5 percent
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(c) The following concern loading:

1. All uses other than residential uses shall provide screened areas for truck loading and unloading of sufficient size to permit the transfer of goods and products in other than a street, parking area, or any area designated as fulfillment of the off-street parking requirements. The access to and egress from such areas shall be so designed as to avoid the backup of vehicles waiting to load or unload and to minimize interruption of traffic flow on adjacent streets.

2. All loading areas shall be on the same lot as the use which is to be served. Such areas shall be located only in a side or rear yard. Where located adjacent to any residential use or development district, they shall be set back a minimum of 25 feet from such property line.

3. In the case of mixed-use development, the off-street loading requirement shall consist of the sum of the loading spaces required for each component use.

4. Table 10, Required Off-Street Loading Schedule for Nonresidential Uses, below establishes required loading spaces for non-residential uses.

Table 10. Required Off-Street Loading Schedule for Nonresidential Uses.

<b>Land Use</b>	<b>Minimum Number of Loading Spaces</b>	<b>At Which 1st Berth Required</b>	<b>Number Additional Square Feet for Each Additional Berth</b>
Retail Component of Mixed-Use Buildings	One	10,000	100,000
Convenience Retail	One	10,000	100,000
Specialty Retail	One	10,000	100,000
Lifestyle Center	One	10,000	100,000
Performance Theater	One	10,000	---
Movie Theater	One	10,000	---
Bowling Alley	One	---	---
Health Club	One	---	---
Restaurants (not drive-thru) and Cafes	One	10,000	25,000
Offices, R&D	One	10,000	100,000
Medical Offices	One	10,000	40,000
Hotel	One	10,000	100,000

Table 10. Required Off-Street Loading Schedule for Nonresidential Uses.

Conference Center	One	10,000	---
Place of Worship	Zero	---	---
Museum	One	10,000	---
Library	Zero	10,000	100,000
Recreation Community Center	Zero	---	---
Government Office Building	One	10,000	100,000
Hospital	One	10,000	100,000
Golf Course	One	---	---
Home Occupation	Zero	---	---
Warehouses	One	5,000	40,000
Light Industrial/Fabrication/Assembly	One	5,000	40,000
Childcare Center	Zero	---	---
Family Day Care Home	Zero	---	---
Schools Elementary (Pre-K thru 8) Middle (5-8) High School (9-12)	One One One	--- --- ---	--- --- ---

4. Where a specific use is not listed in this subsection, the general loading requirement for a similar use shall be applicable subject to the approval by the zoning officer in consultation and cooperation with the Authority.

#### 19:31C-3.8 Supplemental standards

(a) Childcare centers: Childcare centers are permitted uses as part of all non-residential or mixed-use development and shall be licensed by the New Jersey Department of Human Services. The floor area occupied in any building or structure as a child care center shall be excluded in calculating any parking requirement otherwise applicable to that number of units or amount of floor space, as appropriate, under State or local laws or regulations adopted thereunder; and the permitted density allowable for that building or structure. New buildings shall comply with parking standards contained at N.J.A.C. 19:31C-3.7.

1. Minimum drop-off area: An on-site area shall be provided separate from the parking spaces for temporary parking so students leaving vehicles have access to a sidewalk leading into the school without the child having to cross a street, parking lot, loading area, driveway or aisle.

2. Minimum recreation area: All outdoor recreation areas shall be fenced and no closer to any lot line than 20 feet. All recreation areas shall be screened from adjoining lots by massed evergreens spaced so as to provide a dense visual screen to buffer the center's activities from adjacent development. The amount of outdoor recreation area shall be based on the requirements of the New Jersey Department of Human Services.

(b) Family day care homes: Family day care homes licensed by the New Jersey Department of Human Services are permitted as an accessory use to residential uses provided that a family day care home is operating in a detached single-family dwelling; and is limited to no more than five children in addition to the children of the residents of the home.

(c) The following concern home occupation:

1. Home occupations are permitted as an accessory use to residential uses provided that:

i. The home occupation shall occupy no more than 900 square feet;

ii. The activity must be conducted in the primary dwelling unit and not conducted in a garage or other accessory structure;

iii. No employee may work at the dwelling, other than the resident(s) of the dwelling;

iv. No sign shall be visible from the exterior of the dwelling;

v. No activity shall be visible from a property line or the street; and

vi. There shall be no delivery of bulk raw materials to, or shipment of finished goods from, the site and there shall be no on-site sales or visitations by customers or clients.

(d) The following concern small wind and small solar energy systems:

1. General applicable standards are as follows:

i. The primary purpose of a small wind or small solar energy system shall be to provide power for the principal use of the property whereon said system is to be located and shall not be for the generation of power for commercial purposes, although this provision shall not be interpreted to prohibit the sale of excess power generated from a small wind or small solar system to a supplier/provider. For the purposes of this subchapter, the generation of power shall be limited to 110 percent of the average annual energy consumed for the principal use of the subject property.

ii. Small wind energy systems are permitted as an accessory use on the same lot as the principal use. Small solar energy systems are permitted as an accessory use on the same lot as the principal use. Applications for an energy system shall include information demonstrating compliance with the provisions of this section. All applications for small wind or small solar energy systems shall be subject to site plan review.

2. Small wind energy systems: Small wind energy systems are permitted as an accessory use subject to the following requirements:

i. Minimum lot size: Three acres for all residential uses; and five acres for all commercial uses;

ii. Maximum height: System height shall not exceed 125 feet, measured from the existing grade to the height of the blades at its highest point;

iii. Minimum setbacks: Wind energy systems shall be set back from all property lines a distance equal to 100 percent of the system height including the blades of the turbine at their highest point;

iv. Wind energy systems shall not be permitted in any front yard and no more than one wind energy system shall be permitted per property. Wind energy systems shall not be permitted as a rooftop installation;

v. All moving parts of the wind energy system shall be a minimum of 30 feet above ground level. Any tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of eight feet above the ground. All guy wires or any part of the wind energy system shall be located on the same lot as the wind energy system;

vi. Noise: All applications shall comply with the provisions of *N.J.A.C. 7:29*; and

vii. Wind energy systems shall not be artificially lit, except to the extent required by the Federal Aviation Administration or other applicable authority. Wind turbines shall be designed with an automatic brake or other similar device to prevent over-speeding and excessive pressure on the tower structure. The blades on the wind energy system shall be constructed of a corrosive resistant material.

3. The following concern small solar energy systems:

i. The following concern rooftop solar arrays:

(1) Rooftop solar arrays for small solar energy systems are permitted as an accessory use provided the arrays shall exceed a height of 12 inches from the existing roof surface of a peaked roof and shall not exceed a height of four feet from the existing roof surface of a flat roof; and

(2) In no event shall the placement of the solar energy system result in a total building height including panels and mounting equipment, in excess of what is permitted for the use on which the subject energy system is located.

ii. Ground mounted solar arrays for small solar energy systems are permitted as an accessory use subject to the following:

(1) The following concern maximum size:

(A) No more than 10 percent of a lot may be devoted to a ground mounted solar energy system; however, in no case shall a ground mounted solar energy system exceed 2,500 square feet;

(B) Ground mounted solar energy systems shall not exceed a height of 10 feet as measured from the existing grade to the highest point of the mounting equipment and/or panel(s), whichever is higher; and

(C) Minimum setback: All ground mounted solar energy systems shall be set back a minimum of 25 feet from all property lines and shall be screened from the street and adjacent properties by evergreen landscaping to create a continuous buffer. Ground arrays shall not contribute to lot coverage calculations, unless installed above an impervious surface. Ground mounted solar energy systems shall not be permitted in any front yard.

4. Additional requirements are as follows:

i. Small wind and small energy systems shall not be used for displaying any advertising except for reasonable identification of the manufacture or operator of the system. In no case shall any identification be visible from a property line. The natural grade of the lot shall not be changed to increase the elevation of any wind turbine or solar array. Wires, cables and transmission lines running between the device and any other structure shall be installed underground. All ground mounted electrical and control equipment shall be secured to prevent unauthorized access.

ii. The design of small wind and small solar energy systems shall, to the extent reasonably possible, use materials, colors, textures, screening, and landscaping that will blend the facility into the natural setting and existing environment. The installation of a small wind and small solar energy systems shall conform to the National Electric Code as adopted by the New Jersey Department of Community Affairs. The installation of a small wind and small solar energy systems is subject to all local electric company requirements for interconnections.

5. The following concern abandonment:

- i. In the event any small wind or small solar energy system is out of service for a continuous 12-month period, it shall be deemed to have been abandoned.
- ii. Any abandoned small wind or small solar energy system shall be removed at the owner's sole expense within six months after the owner receives a "Notice of Abandonment" from the host municipality. If the system is not removed within six months of receipt of notice from the host municipality notifying the owner of such abandonment, the host municipality may remove the system as set forth in (d)5iii below.
- iii. When an owner of a small energy system has been notified to remove same and has not done so six months after receiving said notice, then the host municipality may remove such system and place a lien upon the property for the cost of the removal. If removed by the owner, a demolition permit shall be obtained and the facility shall be removed. Upon removal, the site shall be cleaned, restored, and re-vegetated to blend with the existing surrounding vegetation at the time of abandonment.

#### 19:31C-3.9 Signage

(a) General provisions concerning signage are as follows:

1. Signs permitted for all uses: Signs permitted for all uses shall include signs containing street number designations, postal boxes, historical markers, and advisory signs, such as, but not limited to, "private property," "no soliciting," and "no trespassing," provided that no such sign exceeds two square feet in size. In addition, any public notice or warning required by a valid and applicable Federal, State, county, or local law, regulation, or ordinance shall be permitted for all uses.
2. Parking area signs: Directional and traffic control signs in parking areas for the purpose of directing patrons to entrances and exits shall be permitted signs. Each such directional sign shall not exceed three square feet in size. The number and location of such signs shall be approved by the respective host municipality planning board.
3. Construction area signs: Temporary signs directing vehicular and pedestrian traffic around construction areas may be erected as needed on a construction site. Such signs shall not exceed 15 square feet in area.

(b) Measurement of sign area shall be as follows:

1. A sign shall be measured at the outer edges of the sign structure. For a sign of irregular shape, the smallest regular rectangle encompassing all component parts of the sign shall be the area of the sign. The area of the sign does not include any supporting framework, bracing, or decorative fence or wall when such fence or wall is clearly incidental to the sign itself.
2. No sign shall have more than two display faces. The sign area for a sign with two faces shall be computed by the measurement of the larger of the two faces.

(c) Measurement of height: The height of a ground sign shall be computed as the distance from the base of the sign at grade to the top of the highest attached component of the sign. Grade shall be construed to be the lower of existing grade prior to construction or the newly established grade after construction, exclusive of any filling, berming, mounding, or excavation solely for the purpose of locating the sign.

(d) Permitted signs are as follows:

1. Residential uses: Townhouses and medium-density residential uses are permitted one ground identification sign which shall not exceed 25 square feet in area nor shall be greater than six feet above grade. The information contained in any such residential use sign shall be limited to the name of the development. Said sign, if permanent, shall be either located on a brick wall and landscaped, or set in a landscaped island.

2. Mixed use: For a mixed-use development, the sign requirements for each component use as provided herein shall be calculated separately.

3. Institutional/civic uses are permitted one ground sign per premises provided such sign does not exceed 48 square feet in size; and one wall sign not to exceed 24 square feet in size. Ground signs shall be located a minimum of 20 feet from all property lines. The maximum sign height shall be four feet above existing grade. If lighted, the sign shall be lit by direct, external light sources, internally illuminated letters/logos or back-lit raised letters/logos.

4. Hospitality/lodging uses: The permitted signs for hospital/lodging uses shall be the same as for retail uses.

5. Office/research uses as follows:

i. Wall signs: Office/research uses are permitted one wall sign per street frontage, which shall comply with the standards below in Table 11, Permitted Wall Sign Dimensions for Office/Research Uses. No wall signs are permitted above the roofline. Wall signs may be internally lit raised letters with concealed ballast, back-lit raised letters with concealed ballast, signage board with gooseneck lighting, or individual cut letters with gooseneck lighting. No sign shall project more than 15 inches from the wall of any building;

Table 11. Permitted Wall Sign Dimensions for Office/Research Uses

<b>Setback of the Building from the Street Right-of-Way</b>	<b>Percentage of Wall Area</b>	<b>Sign Height</b>	<b>Sign Area</b>
<b>Within 50 feet of street right-of-way</b>	Five percent	Four feet	40 square feet
<b>51 feet to 100 feet</b>	Seven percent	Five feet	60 square feet
<b>101 feet to 200 feet</b>	Nine percent	Six feet	80 square feet
<b>201 feet to 300 feet</b>	11 percent	Seven feet	100 square feet
<b>More than 300 feet</b>	12 percent	Eight feet	120 square feet

ii. Ground signs: Office/research uses are permitted one ground sign. The maximum sign area shall be 48 square feet. The maximum sign height shall be six feet above grade. If lighted, the sign shall be lit by direct, external light sources, internally illuminated letters/logos, or back-lit raised letters/logos. Ground signs shall be constructed so that no void is present between the sign and the ground. Ground signs shall be located a minimum of 20 feet from all property lines; and

iii. Directory signs: Office/research structures having more than two tenants may have tenants' names aggregated into one directory sign located at or near the main entrance into the building and be either attached to the building or be freestanding. Directory signs shall not be more than 10 feet from the entrance to the buildings provided the resulting directory sign does not exceed two square feet per business or 32 square feet in aggregate, whichever is less.

6. Retail uses as follows:

## i. The following concern wall signs:

(1) Retail uses are permitted one wall sign per street frontage, which shall comply with the standards below in Table 12, Permitted Wall Sign Dimensions for Retail Uses.

Table 12. Permitted Wall Sign Dimensions for Retail Uses

<b>Setback of the Building from Street Right-of-Way</b>	<b>Percentage of Wall Area</b>	<b>Sign Height</b>	<b>Sign Area</b>
Within 50 feet of street right-of-way	Five Percent	Four feet	40 square feet
51 feet to 100 feet	Seven Percent	Five feet	60 square feet
101 feet to 200 feet	Nine Percent	Six feet	80 square feet
201 feet to 300 feet	11 Percent	Seven feet	100 square feet
More than 300 feet	12 Percent	Eight feet	120 square feet

(2) Wall signs shall be located between the top line of display windows or doors on the first floor, and the bottom line of the second floor windows, roof, or cornice above, in an area that is uninterrupted by windows, architectural details, or openings. Wall signs shall not project beyond the roof or sides of the building. No sign shall project more than 15 inches from the wall of any building;

## ii. The following concern window signs:

(1) Retail window signs are permitted provided that the aggregate sign area of window signs shall not exceed 15 percent of the glazed area of the ground-floor retail window in which the sign is placed. Retail window signs shall be affixed flush with or inside the glazing, and letters and graphics may only be opaque. No portion of any retail window sign shall be located higher than 15 feet above grade.

(2) Temporary window signs shall be permitted to be displayed on or inside the glazed portion of ground-floor retail windows. No such sign shall be permitted on solid portions of facades. Signs are permitted for a period not to exceed 14 consecutive days every three months. Such signs may be constructed of paper, cardboard, or other material. No such sign shall be handwritten. Temporary window signs shall not exceed 30 percent of the total area of the window to which they are placed or affixed;

## iii. The following concern awning signs:

(1) Retail uses are permitted one awning sign. No sign shall be placed on any portion of an awning except the valance. The sign area shall be less than 30 percent of the surface area of the valance. Such sign copy may be non-illuminated or indirectly illuminated.

(2) The horizontal projection of any awning shall not exceed four feet from the face of a building. The vertical distance from the top to the bottom of any awning shall not exceed four feet, including any valance; and

iv. The following concern canopy signs:

(1) Sign copy may be located on permitted canopies in lieu of projecting signs. A canopy must not display any graphic other than the name of the business, the logo, and the street number. Sign copy may be placed on the valance of a canopy. The sign area shall be less than 30 percent of the surface area of the valance. In lieu of copy on a valance, channel letter may extend up to a maximum height of 24 inches from the top surface of the canopy at its edge closest to the sidewalk provided that the canopy does not exceed 15 feet as measured horizontally.

(A) Such sign copy may be non-illuminated, illuminated, or indirectly illuminated.

(2) The horizontal projection of any canopy may extend to a point two feet from the back of the curb. The outer column support shall be located in the outer one-third of the sidewalk and shall be no less than four feet from the building face to ensure adequate clear space along the sidewalk. The vertical distance from the top to the bottom of the canopy shall not exceed two feet, including any valance.

(e) The following concern temporary signs:

1. Sale or rental signs: Not more than one temporary sign shall be permitted advertising the sale or rental of the premises upon which said sign has been erected. The area of such sign shall not exceed six square feet and three feet in height. Such temporary signs shall be removed promptly within 10 days after an agreement of sale or rental has been entered into. A "sold" or "rented" sign may be then located on the site for a period not to exceed 15 days;

2. Political signs: Signs for political parties, propositions, referendums or candidates for election may be erected and maintained, provided that the size of any such sign is not in excess of six square feet in size and three feet in height. Political signs may be posted 30 days prior to Election Day and must be removed within seven days after Election Day. All political signs must be located so as not to obstruct sight triangles. Political signs are not permitted on publicly owned property;

3. Grand opening signs: One temporary sign announcing the future opening of a retail use shall be permitted, provided the sign not exceed 100 square feet nor shall any portion of the sign be greater than eight feet in height or closer than 10 feet to any property line for a period not to exceed six months preceding the opening of the business. Opening of the retail use shall be deemed the anticipated date of issuance of a certificate of occupancy. No such sign shall be allowed after the issuance of a certificate of occupancy;

4. Special event signs: Special events signs may be displayed to announce coming events, grand openings or change of ownership, civic activities, or not-for-profit events such as picnics, sporting events, carnivals, bazaars, game nights, and similar events. No more than one special event sign may be erected per property. Such sign shall not exceed 24 square feet in size. The sign may be erected for a period not to exceed 21 days;

5. Contractors signs: Contractors performing a service on site shall be permitted to place a temporary sign on the property during the time their work is actively being performed at the site. Said contractors shall include, but not limited to, painters, carpenters, electricians, remodelers, and roofers. The sign shall not be lighted, shall not exceed 16 square feet, and shall not be located in a sight triangle or on any part of a public right-of-way;

6. Future development signs: In conjunction with site plan approval, the planning board of the respective host municipality may permit a temporary sign indicating the future development of the property under construction or alteration. The size, design, and location of the temporary sign shall be determined by the planning board and may be erected and maintained by the applicant on the property during construction. The sign shall be removed, however, upon the issuance to the applicant of a permanent certificate of occupancy, but in no event later than one year from the date that the permit to erect said temporary sign was issued; and

7. Prohibited signs for all land uses: The following signs shall be prohibited for all land uses:

i. Billboards;



- ii. Signs attached to trees, fence posts, stumps, utility poles, water towers, storage tanks, chimneys, smoke stacks, radio towers, antennae, or similar structures;
- iii. Roof signs;
- iv. Signs that include any flashing, blinking, or series light, or any rotating or moving parts;
- v. Signs that emit sounds;
- vi. Commercial signs in a window that serves a residential use;
- vii. Signs on street furniture;
- viii. Windsocks, kites, banners, strings, streamers, flags, pennants, or spinners or similar objects and devices as part of any sign or for advertising or public attraction;
- ix. Signs on parked trucks, vans, trailers, and similar vehicles in locations other than the loading or parking spaces intended for those vehicles;
- x. Signs that obstruct any window or door opening used as a means of egress, interfere with an opening required for legal ventilation, or are attached to or obstruct any standpipe, fire escape, or fire hydrant;
- xi. Any sign having a message which in and of itself is lewd or licentious, or advocates an act in violation of any municipal, county, State, or Federal law; and
- xii. Any sign mounted, erected, or maintained on a utility pole.

19:31C-3.10 Site plan; subdivision standards

(a) Unless otherwise established in this subchapter, the Residential Site Improvement Standards (RSIS) shall be applicable in relation to residential development within the project area.

(b) The following concern new streets:

1. General requirements are as follows:

i. All developments shall be served by paved streets with an all-weather base and pavement with an adequate crown. All new streets shall be constructed in accordance with the standard specifications of the New Jersey Department of Transportation. Pavement thicknesses shall be not less than the following:

(1) Arterial and collector streets: bituminous stabilized base course, six inches compacted thickness;

(2) Fine aggregate bituminous concrete (FABC), two-surface course, two inches compacted thickness; and

(3) Local streets: bituminous stabilized base course, five inches compacted thickness; FABC, one-surface course, 1 1/2 inches compacted thickness; and

ii. Where subbase conditions are wet, springy, or of such nature that surfacing would be inadvisable without first treating the subbase, these areas shall be excavated to a depth of at least six to 12 inches below the proposed subgrade and filled with a suitable subbase material as determined by the borough engineer of the respective host municipality. Where required by the borough engineer, a system of porous pipe, subsurface drains shall be constructed beneath the surface of the paving and connected to a suitable drain. After the subbase material has been properly placed and compacted, the surfacing material shall be applied.

2. The following concern intersection spacing and design:

- i. For safety, new street intersections shall be located at least 200 feet from other new or existing intersections.
- ii. At new or reconfigured intersections, roadways should intersect at right angles (90 degrees), or as close as possible to a right angle. Where three or more streets intersect, roundabouts or traffic circles should be considered. Approaches to all intersections shall follow a straight line for at least 100 feet measured from the curblane of the intersecting street to the beginning of the curve. No more than two street center lines shall meet or intersect at any one point. Collector and arterial streets intersecting another street from opposite sides shall be either directly opposite each other without offset or have an offset distance between center lines of at least 250 feet.
- iii. Access driveways to parking lots and parking garages for medium-density residential and all non-residential development should either align with new or existing drives across the street, share curb cuts with adjacent driveways where possible, or be offset at least 150 feet from nearby driveways.
- iv. Crosswalks should be provided at all intersections with recommended streets, and optionally at all other intersections. Brightly-contrasting paint or textured paving should be used for crosswalks with higher pedestrian volumes, while paint or vinyl striping may be used elsewhere.

3. The following concern sight triangles:

- i. Sight triangles shall be required at each quadrant of an intersection of streets and at intersections of streets and driveways. The area within sight triangles shall be either dedicated as part of the street right-of-way or maintained as part of the lot adjoining the street and set aside on any subdivision or site plan as a sight triangle easement. Within a sight triangle, no grading, planting, or structure shall be erected or maintained more than 24 inches above the center line grade of either intersecting street or driveway, or lower than eight feet above the same centerlines, excluding street name signs and official traffic regulation signs.
- ii. For an intersection that is not controlled by stop signs or traffic signals, the sight triangle is that area bounded by the intersecting street center lines and a straight line that connects sight points located on each of the two intersecting center lines the following distances away from the intersecting center lines:
  - (1) Arterial streets at 300 feet;
  - (2) Collector streets at 200 feet; and
  - (3) Primary and secondary local streets and driveways at 90 feet.
- iii. Where the intersecting streets are both arterials, both collectors, or one arterial and one collector, two overlapping sight triangles shall be required, formed by connecting the sight points noted above with a sight point 90 feet on the intersecting street. Where there is a traffic signal, no sight triangles are required.
- iv. Where minor streets or driveways are controlled by a stop sign, then the sight triangle shall be established from a point 15 feet back from the edge of pavement of the through street to a point measured to the center of the oncoming traffic lane for a distance equivalent to 10 times the speed limit. Any proposed development requiring site plan approval shall provide sight triangle easements at each driveway with the driveway classified as a local street for purposes of establishing distances.

4. The following concern street lighting:

- i. Street lighting shall be provided by the developer at street intersections, designated street curves, and other areas determined by the respective planning board to be necessary for vehicular and/or pedestrian safety with the advice of the respective host municipality's police department's traffic safety officer. Consideration shall be given to driver visibility and sight distance when exiting driveways and entering street intersections.

ii. Electrical service for streetlights shall be by underground and streetlights installed as part of development applications shall be at the sole expense of the developer.

iii. Numbers, locations, and types of street lighting standards and luminaries shall be determined by the host municipality planning board upon the advice of the board engineer.

5. The following concern curbs and gutters:

i. Monolithic concrete curb and gutter, or concrete curb, as directed by the respective planning board, shall be installed along every street and along the front and side of all lots abutting existing roadways where curbing does not exist.

ii. Curbs shall be set in accordance with approved lines and grades and radial curbs shall be formed in an arc segment, on a smooth curve. Chord segments are prohibited. Standard curb, or curb and gutter, sections shall be 10 feet in length with preformed expansion joint material on not more than 20-foot centers. The exposed curb face on local roads shall be six inches and on county and State roads shall be the dimension set by the county or State engineer.

iii. Concrete for curbing shall be made with air-entrained cement, Class B, having a compressive strength in 28 days of 4,500 pounds per square inch, or better. Ramps for bicycles and/or wheelchairs shall be provided in accordance with the Design Standards for Curb Ramps for the Physically Handicapped, prepared by the New Jersey Department of Transportation.

6. Sidewalks: All public sidewalks shall be constructed of concrete, be at least four inches thick except at points of vehicular crossing where they shall be at least six inches thick, of Class B concrete having a 28 day compressive strength of 4,500 pounds per square inch, and shall be air-entrained. Where any sidewalk crosses curbs, curb ramps shall be provided. Preformed expansion joint material shall be placed on concrete sidewalks at maximum 20-foot intervals and where sidewalks abut either curbing or a structure.

(c) The following concern parking areas:

1. Access drives: Access driveways within parking areas shall be of the minimum widths shown below in Table 13, Access Driveway Widths within Parking Areas.

Table 13. Access Driveway Widths within Parking Areas  
**Width of Aisle**

<b>Angle of Parking</b>	<b>One-Way</b>	<b>Two-Way</b>
90 degrees	22 feet	25 feet
60 degrees	18 feet	20 feet
45 degrees	12 feet	18 feet
30 degrees	12 feet	18 feet

2. Parking space dimensions: Parking spaces shall be a minimum of 18 feet in length. Parking spaces around the perimeter of a parking lot or parking spaces that face an open space, may be paved 16 1/2 feet in length provided there is a curb at the end of the parking space and at least 1 1/2 feet of open space beyond the curb to allow for the overhang of the vehicle. Said area for vehicle overhang shall not overhang the minimum width of a sidewalk nor shall it be planted with anything other than low ground cover in order to assure the space for the vehicle overhang.

3. The following concern driveways:

- i. One combined ingress and egress driveway is permitted on all frontages of less than 100 feet. Frontages of at least 100 feet but less than 300 feet shall be permitted two driveways for ingress and two driveways for egress either individually or in combination if the driveways are at least 200 feet apart and the required setbacks from intersecting streets and adjacent property lines can be met. Frontages of at least 300 feet but less than 500 feet shall be permitted three driveways for each ingress and egress, either individually or in combination if the driveways are at least 200 feet apart and the required setbacks from intersecting streets and adjacent property lines can be met. Frontages of 500 feet or more shall be permitted four driveways for each ingress and egress either individually or in combination.
- ii. Driveways or curb cuts shall be not less than 20 feet or more than 36 feet in width except in conjunction with single-family homes. This requirement shall not be applied, however, to preclude the provision of adequate curb radii.
- iii. The entrance to the street shall be at an angle of 75 degrees to 105 degrees with the intersecting street. The portion of the driveway where it meets the street right-of-way (including the apron and sidewalk) shall be paved with concrete (4,500 pounds per square inch (p.s.i.) strength and six inches thick).
- iv. No driveway shall be closer than 50 feet to the intersection of streets, measured from nearest curbline of driveway to nearest curbline of intersecting street, extended as necessary for measurement purposes.
- v. Curbing shall be either depressed at the driveway or have the curbing rounded at the corners with the driveway connected to the street in the same manner as another street.
- vi. The grade of a driveway shall not exceed 10 percent.
- vii. The placement and design of driveways shall not create a hazardous condition and shall minimize conflict with the flow of traffic on adjoining streets. Driveways shall be subject to approval by State and county authorities when affecting roads under their jurisdiction.
- viii. Driveway pavement widths shall be as shown below in Table 14, Driveway Pavement Widths (Exclusive of Any Parking Bay, Turnaround, and Curb Return).

Table 14. Driveway Pavement Widths (Exclusive of Any Parking Bay, Turnaround, and Curb Return)

	Minimum (feet)	Maximum (feet)
Institutional/Civic	25	40
Office/Research	25	40
Hospitality	25	40
Retail	25	40
Mixed-Use	25	40
Residential Medium Density	25	35
Residential Low Density	10	20
Open Space/Recreation	25	35

ix. Driveways shall be located at the following distances from lot lines other than street rights-of-way, except that where two lots share a driveway, the driveway may either abut or overlap the common lot line:

- (1) Single family lots: Five feet;
- (2) Other residential: 20 feet; and
- (3) Nonresidential: 20 feet.

x. Driveways shall be a durable, dust free, all weather proof surface, such as concrete, asphalt, or closed cell pavers.

xi. Lots with frontage on more than one street shall have driveway access to the street with the lower, or lowest, street function.

(d) The following concern utilities:

1. All utilities lines shall be placed underground or in rear alleys away from view of other types of streets.

2. A developer shall submit to the reviewing planning board, prior to the granting of final approval, a written instrument from each serving utility that shall evidence full compliance, or intended full compliance, with the applicable provisions of this section. Subdivisions of three or more lots, or developments resulting in more than 15,000 square feet of new floor area, which developments abut existing overhead electric, telephone, or cable TV distribution supply lines, shall have the existing overhead facilities and all service connections from these facilities placed underground.

3. Where natural foliage is not sufficient to provide year-round screening of any utility apparatus appearing above the surface of the ground, other than utility poles, the applicant shall provide sufficient live screening to conceal such apparatus year-round.

(e) The following concern fire protection:

1. Provision shall be made for fire hydrants along streets and/or on the walls of nonresidential structures as approved by the respective host municipality's fire marshal or engineer and in accordance with the Insurance Service Office of New Jersey (ISO). The Fire Suppression Rating Schedule (FSRS) is a manual containing the criteria ISO uses in reviewing the firefighting capabilities of individual communities. The schedule measures the major elements of a community's fire-suppression system and develops a numerical grading called a Public Protection Classification (PPC(tm)). Information about the FSRS is available at <http://www.isomitigation.com/ppc/2000/ppc2001.html#UQIvTfLjF8E>; or ISO, Customer Service, 545 Washington Boulevard, Jersey City, NJ 07310-1686, 1-800-444-4554. Said fire hydrants shall be installed at locations shown on the approved preliminary plat.

2. Where streams or ponds exist, or are proposed, and there is no central water supply, facilities shall be provided to draft water for fire-fighting purposes, including access suitable for fire-fighting equipment and construction of, or improvements to, ponds, dams, or similar on-site or off-site facilities. Such facilities shall be constructed to the satisfaction of the host municipality engineer and fire marshal and in accordance with the Insurance Service Office of New Jersey as referenced in (e)1 above. Their location shall be constructed in locations as shown and approved on the preliminary plat.

(f) Landscaping: Landscaping shall be provided as part of any overall site plan design and integrated into building arrangements, parking, and buffering requirements. The existing sense and appearance of any natural scenic qualities on a tract shall be retained by the careful placement of buildings and improvements.

(g) The following concern walls and fences:

1. The height of any fence or wall shall be measured from the adjacent finished grade. All fences must be constructed with the face or finished side away from the property and the structural side toward the interior. No fence or wall shall

exceed six feet in height, except in the front yard where the height shall not exceed four feet and the fence shall be 50 percent open.

2. All fences on a parcel shall be consistent in size, texture, and design and shall be compatible with the materials, scale, and building arrangement of principal and accessory structures on the site. Chain link fences are not allowed in the front yard. Free-standing walls shall be constructed of brick or decorative stone only. Retaining walls required to implement grading plans may be constructed of treated lumber, or synthetic, or masonry products meeting nationally recognized engineering standards for retaining wall purposes.

3. All fences and walls shall be constructed for permanency. No temporary fences or walls are permitted except for construction fences or walls (such as when used as a soil erosion control method), but only with the prior approval of the planning board. Snow fences are also permitted as a temporary fence. Fences and walls topped with barbed wire, razor wire, broken glass, or similar materials, or that are electrically charged, are prohibited. Fences and walls shall not contain signage or other displays unless otherwise permitted herein.

(h) The following concern storage and disposal of waste:

1. For all nonresidential and multi-family development, outdoor refuse and recycling containers shall be visually screened within a durable enclosure. Enclosures shall be designed of durable materials with finishes and colors which are unified and harmonious with the overall architectural theme.

2. No refuse and recycling storage areas shall be permitted in the front yard or between the street and front of any building; nor shall be located so as to prevent natural runoff from such areas or impair the existing water quality of any stream, watercourse, or aquifer.

3. All materials or wastes that might cause fumes, dust, or odor, or that constitute a fire hazard, or that may be edible or otherwise attractive to rodents or insects shall be stored outdoors only if enclosed in sealed and covered containers that are adequate to eliminate such hazards. Refuse and recycling collection areas shall be effectively designed to contain all refuse generated on site and deposited between collections.

4. Refuse and recycling collection areas shall be located to provide clear and convenient access to refuse collection vehicles.

5. Medical, hazardous, or other regulated waste shall meet the State and Federal standards for such materials.

(i) Easements: Easements, if required to be provided, shall be identified on a site plan plat. These may include, but are not limited to, easements for shade trees, wetlands, wetlands transition areas, conservation, cross-easements for access, utilities, sight triangles, and stormwater management. All easements shall be dimensioned as to permit the accurate location of the easement and the appropriate location of improvements, if any, therein. Each type of easement shall be identified in a note on the plat as to the purposes, restrictions, and conditions applicable within the easement, which language shall be placed in each property deed as appropriate.

(j) The following concern lighting:

1. All outdoor light fixtures installed and thereafter maintained, other than those serving single-family dwellings, shall be shielded. Where used for commercial purposes or for sports or recreational facilities, all light fixtures shall be equipped with automatic timing devices. In addition, light fixtures used to illuminate flags, statues, or other objects mounted on a pole, pedestal, or platform shall use a narrow column beam of light that will not extend beyond the maximum extensions of the illuminated object. Other upward directed architectural, landscape, or decorative direct-light emissions shall have at least 90 percent of their total distribution pattern within the profile of the illuminated structure. Externally illuminated building identification or other signs shall only use shielded light fixtures mounted on top of the sign structure.

2. All outdoor lighting during non-operating hours of the business on site, not necessary for safety and security purposes, shall be reduced, activated by motion-sensor devices, or turned off. All lighting shall be designed to prevent misdi-

rected or excessive artificial light and to maximize energy efficiency. All lighting shall be designed, constructed, and maintained in such a manner as not to be a nuisance to surrounding uses. No lighting shall be of a yellow, red, green, or blue beam nor be a rotating, pulsating, or other intermittent frequency. All light fixtures shall be designed, installed, and maintained to prevent trespass light.

3. The maximum height of freestanding lights shall not exceed the height of the principal building, or 18 feet, whichever is less. The style of the light and light standards shall be consistent with the architectural style of the principal building or surrounding area. Freestanding lights shall be so located and protected to avoid being damaged by vehicles.

4. The maximum illumination at property lines shall be .1 footcandle. All wiring shall be laid underground.

5. For all nonresidential uses the light intensity provided at the ground level shall be as shown below in Table 15, Light Intensity of Nonresidential Uses.

Table 15. Light Intensity of Nonresidential Uses  
**Footcandles**

Minimum	0.5
Maximum on any location	4.0
Maximum average entire area	2.0
Uniformity ratio - Not greater than	4:1

#### 19:31C-3.11 Performance standards

(a) General applications: As a condition of approval and the continuance of any use, occupancy of any structure, and operation of any process or equipment, an applicant shall certify compliance with the performance standards contained in this section. Permits and certificates required by other government agencies shall be submitted with a development application as proof of compliance with applicable codes.

(b) The following concern regulation of nuisance elements:

1. The determination of the existence of nuisance elements shall be made to the following locations:

<b>Nuisance Characteristic</b>	<b>Location of Tests</b>
Smoke	Vent or smokestack
Air pollution including solid particles or fly ash	Vent or smokestack
Odors	Property line
Liquid waste	Property line
Solid waste	Property line
Noise	Property line
Vibration	Building wall
Glare	Property line

Trespass Lighting

Property line

Temperature change: Gas, Liquid or Solid

Vent or smokestack

Storage

Tank or drum

2. Continued compliance with the performance standards stated in this section shall be a requirement for the continued occupancy of any structure or the operation of any process or equipment.

(c) The following concern standards to be enforced:

1. The following concern smoke:

i. In any nonresidential area, no smoke, the shade or appearance of which is darker than No. 1 on the Ringelmann Smoke Chart, incorporated herein by reference and published by the U.S. Department of the Interior - Bureau of Mines, available at: [http://www.ntis.gov/search/index.aspx?frm\\_qry\\_Search=Bureau+of+Mines&SimpleSearch=no](http://www.ntis.gov/search/index.aspx?frm_qry_Search=Bureau+of+Mines&SimpleSearch=no), shall be emitted into the open air from any fuel-burning equipment; provide, however, that smoke emitted during the cleaning of a firebox or the building of a new fire, the shade or appearance of which is not darker than No. 2 on the Ringelmann Smoke Chart, incorporated herein by reference and published by the U.S. Department of the Interior - Bureau of Mines, available at: [http://www.ntis.gov/search/index.aspx?frm\\_qry\\_Search=Bureau+of+Mines&SimpleSearch=no](http://www.ntis.gov/search/index.aspx?frm_qry_Search=Bureau+of+Mines&SimpleSearch=no), may be permitted for a period or periods aggregating no more than three minutes in any 15 consecutive minutes. Smoke emissions from the combustion of fuel and mobile sources and from stationary internal combustion engines shall not exceed the limits set forth in *N.J.A.C. 7:27*.

ii. No open burning shall be permitted in any area.

2. Air pollution: No substance shall be emitted into the atmosphere in quantities that are injurious to human, plant, or animal life or to property or that interfere unreasonably with the comfortable enjoyment of life and property anywhere within the Fort Monmouth Project Area. All provisions of *N.J.A.C. 7:27*, or the provisions contained in this subchapter, whichever shall be more stringent, shall apply.

3. Odors: No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detectable, at the property line from which they are emitted, without instruments.

4. The following concern wastes:

i. Liquid wastes: No liquid waste shall be discharged into any watercourse within the Fort Monmouth Project Area without all necessary permits from the New Jersey Department of Environmental Protection (NJDEP). No liquid waste shall be discharged into the public sewage collection and disposal system unless the appropriate host municipality official shall have first investigated the character and volume of such wastes and shall have certified that the municipality will accept the discharge of such waste material into the system. An applicant shall comply with any requirements of said host municipality, including the pre-treating of such wastes, the installation of processing methods, separation or screening of wastes, control of pH, and other methods of improving such wastes prior to discharge, as a condition of approval of such facilities.

ii. The following concern solid waste:

(1) Each property owner shall be responsible for:

(A) Adequate and regular collection and removal of all refuse, except where the host municipality assumes such responsibility;



(B) Compliance with all applicable provisions of the NJDEP;

(C) Compliance with all provisions of *N.J.A.C. 7:26*, where applicable; and

(D) No accumulation on the property of any junk or other objectionable materials except in designated trash receptacles.

5. Noise: All applications shall comply with the provisions of *N.J.A.C. 7:29*.

6. Vibration: In any area, vibrations discernible without instruments at the measuring location shall not be permitted.

7. Glare: No single standard for glare is promulgated due to the impracticality of establishing such standards. It is the intent of these performance standards to ensure that both direct and indirect glare, to the extent possible, are eliminated or that activities producing such glare are carried on within a structure or are designed, constructed, and maintained in such a manner as not to be a nuisance to surrounding uses.

8. Trespass lighting: All applications shall comply with the provisions of *N.J.A.C. 19:31C-3.10(i)*.

9. Temperature change: Any use or process shall not produce a temperature change greater than three degrees Celsius at the measuring location.

10. The following concern fire and explosive hazards:

i. If it appears that any proposed use, structure, process, or resulting product or material may constitute a fire or explosion hazard, the planning board may require the applicant to supply proof of:

(1) Approval of the use, structure, process, or resulting product or material from the New Jersey Department of Labor and Workforce Development indicating that adequate safeguards against fire and explosion have been taken or installed; and

(2) Approval from the respective host municipality fire department that the applicant has complied with all applicable fire prevention regulations.

11. The following concern storage:

i. No highly flammable or explosive liquids, solids, or gases shall be stored in bulk above ground, with the exception of tanks or drums of fuel directly connecting with energy devices, heating devices, or appliances located on the same lot as the tanks or drums of fuel.

ii. All outdoor storage facilities for fuel shall be enclosed by a fence adequate to conceal the facilities from the adjacent properties.

iii. No materials or wastes shall be deposited upon a lot in such form or manner that they may be transferred off the lot by natural causes or forces, nor shall any substance which can contaminate a stream or watercourse or otherwise render such stream or watercourse undesirable as a source of water supply or which will destroy aquatic life, be allowed to enter any stream or watercourse.

iv. All materials or wastes that might cause fumes or dust or that constitute a fire hazard or that may be edible or otherwise attractive to rodents or insects shall be stored outdoors only if enclosed in containers which are adequate to eliminate such hazards.

19:31C-3.12 Stormwater management and control

(a) The scope and purpose of this section are as follows:

1. It is the purpose of this section to establish minimum stormwater management requirements and controls for "major development" as defined in (b) below. This section requires the retrofitting of existing storm drain inlets that are in direct contact with repaving, repairing, reconstruction, or resurfacing or alterations of facilities within the Fort Monmouth Project Area, to prevent the discharge of solids and floatables (such as plastic bottles, cans, food wrappers, and other litter) to sewer system(s) so as to protect public health, safety, and welfare, and to prescribe penalties for the failure to comply.

2. The applicability of this section is as follows:

i. This section shall be applicable to all site plans and subdivisions for the following major developments that require preliminary or final site plan or subdivision review:

(1) Nonresidential major developments; and

(2) Aspects of residential major developments that are not addressed by the Residential Site Improvement Standards at *N.J.A.C. 5:21*;

ii. This section shall also be applicable to all major developments undertaken by one of the host municipalities; and

iii. Subsections (b) and (d) below shall also be applicable to property that is not owned or operated by the host municipality, with the exception of single-family homes.

3. Development approvals issued pursuant to this section are to be considered an integral part of development approvals under the development permit, subdivision, and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this section shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This section is not intended to interfere with, abrogate, or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this section imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.

(b) The following definitions apply to this section:

"CAFRA planning map" means the geographic depiction of the boundaries for coastal Planning Areas, CAFRA Centers, CAFRA Cores, and CAFRA Nodes pursuant to *N.J.A.C. 7:7E-5B.3*.

"CAFRA Centers, Cores, or Nodes" means those areas within boundaries accepted by the NJDEP pursuant to *N.J.A.C. 7:8E-5B*.

"Compaction" means the increase in soil bulk density.

"Core" means a pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

"County review agency" means the Monmouth County Board of Chosen Freeholders designated the Monmouth County Planning Board as the County Review Agency on February 11, 2004. The Monmouth County Planning Board created their Stormwater Technical Advisory Committee by resolution 04-08 on February 17, 2004 to review municipal stormwater management plans and implementing ordinance(s).

"Designated center" means a State Development and Redevelopment Plan Center as designated by the State Planning Commission, such as urban, regional, town, village, or hamlet.

"Design engineer" means a person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design, and preparation of drawings and specifications.

"Development" means the division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or structure; any mining excavation or landfill; and any use or change in the use of any building or other structure, or land or extension of use of land, by any person, for which permission is required as established in this section.

"Drainage area" means a geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving water body or to a particular point along a receiving water body.

"Empowerment Neighborhood" means a neighborhood designated by the Urban Coordinating Council in consultation and conjunction with the New Jersey Redevelopment Authority pursuant to *N.J.S.A. 55:19-69*.

"Environmentally critical areas" means an area or feature which is of significant environmental value, including, but not limited to: stream corridors; natural heritage priority sites; habitat of endangered or threatened species; large areas of contiguous open space or upland forest; steep slopes; and wellhead protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the NJDEP's Landscape Project as approved by the NJDEP's Endangered and Non-game Species Program.

"Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

"Impervious surface" means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

"Infiltration" means the process by which water seeps into the soil from precipitation.

"Major development" means any development that provides for ultimately disturbing one or more acres of land. Disturbance for the purpose of this section is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation.

"Municipality" means the Borough of Eatontown, Oceanport, or Tinton Falls, whichever is applicable.

"Municipal separate storm sewer system" (MS4) means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by FMERA or other public body, and is designed and used for collecting and conveying stormwater. MS4s do not include combined sewer systems, which are sewer systems that are designed to carry sanitary sewage at all times and to collect and transport stormwater from streets and other sources.

"Node" means an area designated by the State Planning Commission concentrating facilities and activities that are not organized in a compact form.

"Nutrient" means a chemical element or compound, such as nitrogen or phosphorus, that is essential to and promotes the development of organisms.

"Person" means any individual, corporation, company, partnership, firm, association, host municipality, or political subdivision of this State subject to this subchapter pursuant to the Fort Monmouth Economic Revitalization Authority Act, *N.J.S.A. 52:271-18 et seq.*

"Pollutant" means any dredged spoil; solid waste; incinerator residue; filter backwash; sewage; garbage; refuse; oil; grease; sewage sludge; munitions; chemical wastes; biological materials; medical wastes; radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended, *42 U.S.C. §§ 2011 et seq.*); thermal waste; wrecked or discarded equipment; rock; sand; cellar dirt; industrial, municipal, agricultural, and construction waste or runoff; or other residue discharged directly or indirectly to the land, ground waters, or surface waters of the State, or to a domestic treatment works. "Pollutant" includes both hazardous and nonhazardous pollutants.

"Recharge" means the amount of water from precipitation that infiltrates into the ground and is not evapotranspired.

"Sediment" means solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, or gravity as a product of erosion.

"Site" means the lot or lots upon which a development is to occur or has occurred.

"Soil" means all unconsolidated mineral and organic material of any origin.

"State Development and Redevelopment Plan Metropolitan Planning Area (PA1)" or "Metropolitan Planning Area (PA1)" means an area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the State's future redevelopment and revitalization efforts.

"State Plan Policy Map" or "SPPM" means the geographic application of the State Development and Redevelopment Plan's goals and Statewide policies, and the official map of these goals and policies.

"Storm drain inlet" means an opening in a storm drain used to collect stormwater runoff and includes, but is not limited to, a grate inlet, curb-opening inlet, slotted inlet, and combination inlet.

"Stormwater" means water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.

"Stormwater management basin" means an excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management basin may either be normally dry (that is, a detention basin or infiltration basin), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

"Stormwater management measure" means any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal nonstormwater discharges into stormwater conveyances.

"Stormwater runoff" means water flow on the surface of the ground or in storm sewers, resulting from precipitation.

"Tidal flood hazard area" means a flood hazard area, which may be influenced by stormwater runoff from inland areas, but that is primarily caused by the Atlantic Ocean.

"Urban Coordinating Council Empowerment Neighborhood" means a neighborhood given priority access to State resources through the New Jersey Redevelopment Authority.

"Urban Neighborhood Zones" means a zone designated by the New Jersey Enterprise Zone Authority pursuant to the New Jersey Urban Enterprise Zones Act, *N.J.S.A. 52:27H-60* et seq.

"Urban redevelopment area" means previously developed portions of areas delineated on the SPPM as the Metropolitan Planning Area (PA1), designated centers, cores, or nodes; designated as CAFRA Centers, Cores, or Nodes; designated as Urban Enterprise Zones; or designated as Urban Coordinating Council Empowerment Neighborhoods.

"Waters of the State" means the Atlantic Ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

"Wetlands" or "wetland" means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

(c) Design and performance standards for stormwater management measures are as follows:

1. Stormwater management measures for major development shall be developed to meet the erosion control, groundwater recharge, stormwater runoff quantity, and stormwater runoff quality standards in (d) below. To the maximum extent practicable, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural stormwater management measures necessary to meet these standards shall be incorporated into the design.

2. The standards in this section apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or water quality management plan adopted in accordance with NJDEP's rules.

(d) General stormwater management requirements for major development are as follows:

1. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with (j) below.

2. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the NJDEP's Landscape Project or Natural Heritage Database established under *N.J.S.A. 13:1B-15.147* through 15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlenbergi* (bog turtle).

3. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of (d)6 and 7 below:

i. The construction of an underground utility line, provided that the disturbed areas are revegetated upon completion;

ii. The construction of an aboveground utility line, provided that the existing conditions are maintained to the maximum extent practicable; and

iii. The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14 feet, provided that the access is made of permeable material.

4. The host municipality may provide a waiver from strict compliance from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of (d)6 and 7 below for the enlargement of an existing public roadway or railroad, or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:

i. The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;

ii. The applicant demonstrates, through an alternatives analysis, that through the use of nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of (d)6 and 7 below to the maximum extent practicable;

iii. The applicant demonstrates that, in order to meet the requirements of (d)6 and 7 below, existing structures currently in use, such as homes and buildings, would need to be condemned; and

iv. The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under (d)4iii above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of (d)6 and 7 below that were not achievable on-site.

5. Nonstructural stormwater management strategies are as follows:

i. To the maximum extent practicable, the standards in (d)6 and 7 below shall be met by incorporating nonstructural stormwater management strategies set forth in this paragraph into the design. The applicant shall identify the nonstructural measures incorporated into the design of the project. If the applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any nonstructural stormwater management measures identified in (d)5ii below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.

ii. Nonstructural stormwater management strategies incorporated into site design shall:

- (1) Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;
- (2) Minimize impervious surfaces and break up or disconnect the flow of runoff over impervious surfaces;
- (3) Maximize the protection of natural drainage features and vegetation;
- (4) Minimize the decrease in the "time of concentration" from pre-construction to post-construction. "Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the point of interest within a watershed;
- (5) Minimize land disturbance including clearing and grading;
- (6) Minimize soil compaction;
- (7) Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers, and pesticides;
- (8) Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas; and
- (9) Provide other source controls to prevent or minimize the use or exposure of pollutants at the site, in order to prevent or minimize the release of those pollutants into stormwater runoff. Such source controls include, but are not limited to:
  - (A) Site design features that help to prevent accumulation of trash and debris in drainage systems, including features that satisfy (d)5iii below;
  - (B) Site design features that help to prevent discharge of trash and debris from drainage systems;
  - (C) Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and
  - (D) When establishing vegetation after land disturbance, applying fertilizer in accordance with the requirements established under the Soil Erosion and Sediment Control Act, *N.J.S.A. 4:24-39 et seq.*, and implementing rules.

iii. Site design features identified under (d)5ii(9)(B) above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this subsection, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. Exemptions to this standard are provided at (d)5iii(3) below.

(1) The following concern grates:

(A) Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:

I. The New Jersey Department of Transportation (NJDOT) bicycle-safe grate, which is described in chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or

II. A different grate, if each individual clear space in that grate has an area of no more than seven square inches, or is no greater than .5 inch across the smallest dimension.

(B) Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

(2) Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven square inches, or be no greater than two inches across the smallest dimension.

(3) This standard does not apply:

(A) Where the review agency determines that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;

(B) Where flows from the water quality design storm as specified in (d)7i below are conveyed through any device (for example, end-of-pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:

I. A rectangular space 4 5/8 inches long and 1 1/2 inches wide (this option does not apply for outfall netting facilities); or

II. A bar screen having a bar spacing of .5 inch;

(C) Where flows are conveyed through a trash rack that has parallel bars with one-inch spacing between the bars, to the elevation of the water quality design storm as specified in (d)7i below; or

(D) Where the NJDEP determines, pursuant to the New Jersey Register of Historic Places Rules at *N.J.A.C. 7:4-7.2(c)*, that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy properties within the Fort Monmouth Project Area identified in the Programmatic Agreement as "Buildings Required for Preservation" or "Select Historic Properties."

iv. Any land area used as a nonstructural stormwater management measure to meet the performance standards in (d)6 and 7 below shall be dedicated to a government agency, subjected to a conservation restriction filed with the appropriate County Clerk's office, or subject to an approved equivalent restriction that ensures that measure or an equivalent stormwater management measure approved by the reviewing agency is maintained in perpetuity.

v. Guidance for nonstructural stormwater management strategies is available in the New Jersey Stormwater Best Management Practices (BMP) Manual. The BMP Manual may be obtained from the address identified in (g) below, concerning sources for technical guidance, or found on the NJDEP's website at [www.njstormwater.org](http://www.njstormwater.org).

6. Erosion control, groundwater recharge and runoff quantity standards are as follows:

i. This paragraph contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge, and control stormwater runoff quantity impacts of major development.

(1) The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, *N.J.S.A. 4:24-39* et seq., and implementing rules.

(2) The minimum design and performance standards for groundwater recharge are as follows:

(A) The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at (e) below, concerning calculation of stormwater runoff and groundwater recharge, either:

I. Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100 percent of the average annual pre-construction groundwater recharge volume for the site; or

II. Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the two-year storm is infiltrated.

(B) This groundwater recharge requirement does not apply to projects within the urban redevelopment area, or to projects subject to (d)6i(2)(C) below.

(C) The following types of stormwater shall not be recharged:

I. Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied; areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the United States Environmental Protection Agency (EPA) at *40 CFR 302.4*; areas where recharge would be inconsistent with NJDEP-approved remedial action work plan or landfill closure plan; and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and

II. Industrial stormwater exposed to "source material." "Source material" means any material(s) or machinery, located at an industrial facility that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels; and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

(D) The design engineer shall assess the hydraulic impact on the groundwater table and design the site so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems and other subsurface structures in the vicinity or down gradient of the groundwater recharge area.

(3) In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at (e) below, complete one of the following:

(A) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the two-, 10-, and 100-year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;

(B) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the two-, 10-, and 100-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;

(C) Design stormwater management measures so that the post-construction peak runoff rates for the two-, 10- and 100-year storm events are 50 percent, 75 percent, and 80 percent, respectively, of the preconstruction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed. The percentages shall not be applied to post-construction stormwater runoff into tidal flood hazard areas if the increased volume of stormwater runoff will not increase flood damages below the point of discharge; or

(D) In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with (d)6i(3)(A), (B), and (C) above shall only be applied if the increased volume of stormwater runoff could increase flood damages below the point of discharge.



ii. Any application for a new agricultural development that meets the definition of major development in (b) above shall be submitted to the appropriate Soil Conservation District for review and approval in accordance with the requirements of this section and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For the purposes of this section, "agricultural development" means land uses normally associated with the production of food, fiber, and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacturing of agriculturally related products.

7. Stormwater runoff quality standards are as follows:

i. Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff by 80 percent of the anticipated load from the developed site, expressed as an annual average. Stormwater management measures shall only be required for water quality control if an additional one-quarter acre of impervious surface is being proposed on a development site. The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollution Discharge Elimination System (NJPDES) rules, *N.J.A.C. 7:14A*, or in a discharge specifically exempt under a NJPDES permit from this requirement. The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected below in Table 16, Water Quality Design Storm Distribution. The calculation of the volume of runoff may take into account the implementation of nonstructural and structural stormwater management measures.

Table 16. Water Quality Design Storm Distribution

<b>Time (Minutes)</b>	<b>Cumulative Rainfall (Inches)</b>
0	0.0000
5	0.0083
10	0.0166
15	0.0250
20	0.0500
25	0.0750
30	0.1000
35	0.1330
40	0.1660
45	0.2000
50	0.2583
55	0.3583
60	0.6250
65	0.8917
70	0.9917
75	1.0500

Table 16. Water Quality Design Storm Distribution

80	1.0840
85	1.1170
90	1.1500
95	1.1750
100	1.2000
105	1.2250
110	1.2334
115	1.2417
120	1.2500

ii. For purposes of TSS reduction calculations, Table 17, TSS Removal Rates for BMPs, below presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address identified in (g) below, concerning sources for technical guidance, or found on the NJDEP's website at [www.njstormwater.org](http://www.njstormwater.org). The BMP Manual and other sources of technical guidance are listed in (g) below. Total suspended solids (TSS) reduction shall be calculated based on the removal rates for the BMPs in Table 17 below. Alternative removal rates and methods of calculating removal rates may be used if the design engineer provides documentation demonstrating the capability of these alternative rates and methods to the review agency. A copy of any approved alternative rate or method of calculating the removal rate shall be provided to the NJDEP at the following address: Division of Watershed Management, New Jersey Department of Environmental Protection, P.O. Box 418, Trenton, New Jersey, 08625-0418.

iii. If more than one BMP in series is necessary to achieve the required 80-percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (A \times B)/100$$

Where

R = total TSS percent load removal from application of both BMPs

A = TSS percent removal rate applicable to the first BMP

B = TSS percent removal rate applicable to the second BMP

Table 17. TSS Removal Rates for BMPs

Best Management Practice	TSS Percent Removal Rate
Bioretention Systems	90 percent
Constructed Stormwater Wetland	90 percent

Table 17. TSS Removal Rates for BMPS

Extended Detention Basin	40 to 60 percent
Infiltration Structure	80 percent
Manufactured Treatment Device	See subsection (f) below
Sand Filter	80 percent
Vegetative Filter Strip	60 to 80 percent
Wet Pond	50 to 90 percent

iv. If there is more than one on-site drainage area, the 80-percent TSS removal rate shall apply to each drainage area, unless the runoff from the sub-areas converge on site in which case the removal rate can be demonstrated through a calculation using a weighted average.

v. Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include nonstructural strategies and structural measures that optimize nutrient removal while still achieving the performance standards in (d)6 above and this paragraph.

vi. Additional information and examples are contained in the New Jersey Stormwater Best Management Practices Manual, which may be obtained from the address identified in (g) below.

vii. In accordance with the definition of FW1 at *N.J.A.C. 7:9B-1.4*, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.

viii. Special water resource protection areas shall be established along all waters designated Category One at *N.J.A.C. 7:9B*, and perennial or intermittent streams that drain into or upstream of the Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys, within the associated HUC14 drainage area. These areas shall be established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, and exceptional fisheries significance of those established Category One waters. These areas shall be designated and protected as follows:

(1) The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:

(A) A 300-foot special water resource protection area shall be provided on each side of the waterway, measured perpendicular to the waterway from the top of the bank outwards or from the center line of the waterway where the bank is not defined, consisting of existing vegetation or vegetation allowed to follow natural succession.

(B) Encroachment within the designated special water resource protection area under (d)7viii(1)(A) above shall only be allowed where previous development or disturbance has occurred (for example, active agricultural use, parking area, or maintained lawn area). The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable. In no case shall the remaining special water resource protection area be reduced to less than 150 feet as measured perpendicular to the top of bank of the waterway or center line of the waterway where the bank is undefined. All encroachments proposed under this subsection shall be subject to review and approval by the NJDEP.

(2) All stormwater shall be discharged outside of and flow through the special water resource protection area and shall comply with the Standard for Off-Site Stability in the Standards for Soil Erosion and Sediment Control in New Jersey, established under the Soil Erosion and Sediment Control Act, *N.J.S.A. 4:24-39* et seq.

(3) If stormwater discharged outside of and flowing through the special water resource protection area cannot comply with the Standard for Off-Site Stability in the Standards for Soil Erosion and Sediment Control in New Jersey, established under the Soil Erosion and Sediment Control Act, *N.J.S.A. 4:24-39* et seq., then the stabilization measures in accordance with the requirements of the above standards may be placed within the special water resource protection area, provided that:

(A) Stabilization measures shall not be placed within 150 feet of the Category One waterway;

(B) Stormwater associated with discharges allowed by this section shall achieve a 95 percent TSS post-construction removal rate;

(C) Temperature shall be addressed to ensure no impact on the receiving waterway;

(D) The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable;

(E) A conceptual project design meeting shall be held with the appropriate NJDEP staff and Soil Conservation District staff to identify necessary stabilization measures; and

(F) All encroachments proposed under this section shall be subject to review and approval by the NJDEP.

(4) A stream corridor protection plan may be developed by a regional stormwater management planning committee as an element of a regional stormwater management plan, or by a municipality through an adopted municipal stormwater management plan. If a stream corridor protection plan for a waterway subject to this subparagraph has been approved by the NJDEP, then the provisions of the plan shall be the applicable special water resource protection area requirements for that waterway. A stream corridor protection plan for a waterway subject to this subparagraph shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in (d)7viii(1)(A) above. In no case shall a stream corridor protection plan allow the reduction of the Special Water Resource Protection Area to less than 150 feet as measured perpendicular to the waterway subject to this subsection.

(5) This subparagraph does not apply to the construction of one individual single-family dwelling that is not part of a larger development on a lot receiving preliminary or final subdivision approval on or before February 2, 2004, provided that the construction begins on or before February 2, 2009.

(e) Calculation of stormwater runoff and groundwater recharge shall be as follows:

1. Stormwater runoff shall be calculated in accordance with the following:

i. The design engineer shall calculate runoff using one of the following methods:

(1) The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook, Part 630: Hydrology (originally published as the National Engineering Handbook, Section 4: Hydrology) incorporated herein by reference and available at <http://www.nrcs.usda.gov/wps/portal/nrcs/detailfull/national/wntsc/?cid=stelprdb1043063>; or at USDA-NRCS, 220 Davidson Avenue, 4th Floor, Somerset, New Jersey, 08873; (732)-537-6040; and NRCS Technical Release 55: Urban Hydrology for Small Watersheds, incorporated herein by reference and available at <ftp://ftp.wcc.nrcs.usda.gov/wntsc/H&H/other/TR55documentation.pdf>; or at USDA-NRCS, 220 Davidson Avenue, 4th Floor, Somerset, New Jersey, 08873; (732)-537-6040; or

(2) The Rational Method for peak flow and the Modified Rational Method for hydrograph computations. The Rational Method and the Modified Rational Method are described in "Appendix A-9 Modified Rational Method" in the Stan-

dards for Soil Erosion and Sediment Control in New Jersey, incorporated herein by reference and available from the Freehold Soil Conservation District, 4000 Kozloski Road, PO Box 5033, Freehold, New Jersey 07728; (732)-683-8500.

ii. For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term "runoff coefficient" applies to both the NRCS methodology at (e)1i(1) above and the Rational and Modified Rational Methods at (e)1i(2) above. A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover has existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).

iii. In computing pre-construction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts that may reduce pre-construction stormwater runoff rates and volumes.

iv. In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release 55 - Urban Hydrology for Small Watersheds and other methods may be employed.

v. If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at *N.J.A.C. 7:13*, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.

2. Groundwater recharge may be calculated in accordance with the following: The New Jersey Geological Survey Report GSR-32 A Method for Evaluating Ground-Water Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual, at <http://www.state.nj.us/dep/njgs/> or at New Jersey Geological Survey, 29 Arctic Parkway, P.O. Box 427, Trenton, New Jersey 08625-0427; (609) 984-6587.

(f) The following concern standards for structural stormwater management measures:

1. Standards for structural stormwater management measures are as follows:

i. Structural stormwater management measures shall be designed to take into account the existing site conditions, including, for example, environmentally critical areas; wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone);

ii. Structural stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure as appropriate, and shall have parallel bars with one-inch spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third the width of the diameter of the orifice or one-third the width of the weir, with a minimum spacing between bars of one inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of (h) below;

iii. Structural stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion-resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at *N.J.A.C. 5:21-7.3, 7.4, and 7.5* shall be deemed to meet this requirement;

iv. At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of 2 1/2 inches in diameter; and

v. Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at (h) below.

2. Stormwater management measure guidelines are available in the New Jersey Stormwater Best Management Practices Manual. Other stormwater management measures may be utilized, provided the design engineer demonstrates that the proposed measure and its design will accomplish the required water quantity, groundwater recharge, and water quality design and performance standards established by (d) above.

3. Manufactured treatment devices may be used to meet the requirements of (d) above, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the NJDEP.

(g) Sources for technical guidance are as follows:

1. Technical guidance for stormwater management measures can be found in the documents listed at (g)1i and ii below, which are available from Maps and Publications, New Jersey Department of Environmental Protection, 428 East State Street, P.O. Box 420, Trenton, New Jersey 08625; (609) 777-1038.

i. Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended. Information is provided on stormwater management measures such as: bio-retention systems, constructed stormwater wetlands, dry wells, extended detention basins, infiltration structures, manufactured treatment devices, pervious paving, sand filters, vegetative filter strips, and wet ponds.

ii. The New Jersey Department of Environmental Protection Stormwater Management Facilities Maintenance Manual, as amended.

2. Additional technical guidance for stormwater management measures can be obtained from the following:

i. The Standards for Soil Erosion and Sediment Control in New Jersey, promulgated by the State Soil Conservation Committee and incorporated into *N.J.A.C. 2:90*. Copies of these standards may be obtained by contacting the State Soil Conservation Committee or any of the Soil Conservation Districts listed in *N.J.A.C. 2:90-1.3(a)4*. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey 08625; (609) 292-5540;

ii. The Rutgers Cooperative Extension Service, (732) 932-9306; and

iii. The Freehold Soil Conservation Districts, 4000 Kozloski Road, Freehold, New Jersey 07728; (732) 683-8500.

(h) Safety standards for stormwater management basins are as follows:

1. This subsection sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This subsection applies to any new stormwater management basin.

2. Requirements for trash racks, overflow grates, and escape provisions are as follows:

i. A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management basin to ensure proper functioning of the basin outlets in accordance with the following:

(1) The trash rack shall have parallel bars, with no greater than six-inch spacing between the bars.

(2) The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure.

(3) The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack.

(4) The trash rack shall be constructed and installed to be rigid, durable, and corrosion-resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per square foot.

ii. An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:

(1) The overflow grate shall be secured to the outlet structure but be removable for emergencies and maintenance.

(2) The overflow grate spacing shall be no less than two inches across the smallest dimension.

(3) The overflow grate shall be constructed and installed to be rigid, durable, and corrosion-resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per square foot.

iii. For purposes of this subsection, "escape provisions" means the permanent installation of ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall include escape provisions as follows:

(1) If a stormwater management basin has an outlet structure, escape provisions shall be incorporated in or on the structure. With the prior approval of the reviewing agency identified in (h)3 below, a freestanding outlet structure may be exempted from this requirement.

(2) Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than 2 1/2 feet. Such safety ledges shall be comprised of two steps. Each step shall be four feet to six feet in width. One step shall be located approximately 2 1/2 feet below the permanent water surface, and the second step shall be located one foot to 1 1/2 feet above the permanent water surface.

(3) In new stormwater management basins, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than three horizontal to one vertical.

3. An exemption from the safety standards for stormwater management basins may be granted only upon a written finding by the appropriate reviewing agency (municipality, county or Department) that the exemption will not constitute a threat to public safety.

(i) Requirements for a site development stormwater plan are as follows:

1. The following concern submission of site development stormwater plan:

i. Whenever an applicant seeks host municipality approval of a development subject to this section, the applicant shall submit all of the required components of the checklist for the site development stormwater plan at (i)3 below as part of the submission of the applicant's application for subdivision or site plan approval.

ii. The applicant shall demonstrate that the project meets the standards set forth in this section.

iii. The applicant shall submit four copies of the materials listed in the checklist for site development stormwater plans in accordance with (i)3 below.

2. Site development stormwater plan approval: The applicant's site development project shall be reviewed as a part of the subdivision, site plan, or development application review process by the planning board, zoning board of adjustment, or zoning officer from which municipal approval is sought. The planning board, zoning board, or zoning officer shall consult the host municipality engineer or other such engineer (as appropriate) to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this section.

3. Checklist requirements are as follows:

i. The following information shall be required:

(1) Topographic base map: The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of one inch equals 200 feet or greater, showing two-foot contour intervals. The map, as appropriate, may indicate the following: existing surface water drainage; shorelines; steep slopes; soils; erodible soils; perennial or intermittent streams that drain into or upstream of the Category One waters; wetlands and floodplains along with their appropriate buffer strips; marshlands and other wetlands, pervious or vegetative surfaces; existing man-made structures, roads, bearing and distances of property lines; and significant natural and man-made features not otherwise shown.

(2) Environmental site analysis: A written and graphic description of the natural and man-made features of the site and its environs. This description should include a discussion of soil conditions, slopes, wetlands, waterways, and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.

(3) Project description and site plan(s): A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high groundwater elevations. A written description of the site plan and justification of proposed changes in natural conditions may also be provided.

(4) Land use planning and source control plan: This plan shall provide a demonstration of how the goals and standards of (c) through (f) above are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality, and stormwater quantity problems at the source by land management and source controls whenever possible.

(5) Stormwater management facilities map: The following information, illustrated on a map of the same scale as the topographic base map, shall be included:

(A) The total area to be paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater; and

(B) Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention, and emergency spillway provisions with maximum discharge capacity of each spillway.

(6) The following concern calculations:

(A) Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in (d) above shall be provided.

(B) When the proposed stormwater management control measures (for example, infiltration basins) depend on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.

(7) Maintenance and repair plan: The design and planning of the stormwater management facility shall meet the maintenance requirements of (j) below.



ii. Waiver from submission requirements: The host municipality official or board reviewing an application under this section may, in consultation with the host municipality engineer, waive submission of any of the requirements in (i)3i(1) through (6) above when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

(j) The following concern maintenance and repair:

1. Applicability: Projects subject to review as in (c) above shall comply with the requirements of (j)2 and 3 below.

2. The following concern general maintenance:

i. The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development;

ii. The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). Maintenance guidelines for stormwater management measures are available in the New Jersey Stormwater Best Management Practices Manual. If the maintenance plan identifies a person other than the developer (for example, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's agreement to assume this responsibility, or of the developer's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation;

iii. Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project;

iv. If the person responsible for maintenance identified under this paragraph is not a public agency, the maintenance plan and any future revisions based on (j)2vii below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken;

v. Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of non-vegetated linings;

vi. The person responsible for maintenance identified under (j)2ii above shall maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders;

vii. The person responsible for maintenance identified under (j)2ii above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed;

viii. The person responsible for maintenance identified under (j)2ii above shall retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by (j)2vi and vii above;

ix. The requirements of (j)2iii and iv above do not apply to stormwater management facilities that are dedicated to and accepted by the host municipality or another governmental agency; and

x. In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the host municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have 14 days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The host municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such

maintenance and repair, the host municipality may immediately proceed to do so and shall bill the cost thereof to the responsible person; and

3. Nothing in this section shall preclude the host municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with *N.J.S.A. 40:55D-53*.

(k) No person in control of private property (except a residential lot with one single-family house) shall authorize the repaving, repairing (excluding the repair of individual potholes), resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen), reconstructing, or altering any surface that is in direct contact with an existing storm drain inlet on that property unless the storm drain inlet either:

1. Already meets the design standard in (d)5iii above to control passage of solid and floatable materials; or
2. Is retrofitted or replaced to meet the standard in (d)5iii above prior to the completion of the project.

(l) Nothing in this section shall prevent the respective host municipality from taking such lawful action pursuant to its ordinances and other law as is necessary to enforce the provisions of this section or to prevent or remedy any violation of this section.

#### 19:31C-3.13 Flood damage prevention

(a) The scope and purpose of this section are as follows:

1. It is the purpose of this section to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- i. Protect human life and health;
- ii. Minimize expenditure of public money for costly flood control projects;
- iii. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- iv. Minimize prolonged business interruptions;
- v. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- vi. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- vii. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- viii. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

2. In order to accomplish its purposes, this section includes methods and provisions for reducing flood losses, including:

- i. Restricting or prohibiting uses that are dangerous to health, safety, and property due to water or erosion hazards, or that result in damaging increases in erosion or in flood heights or velocities;
- ii. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- iii. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;

- iv. Controlling filling, grading, dredging, and other development that may increase flood damage; and
- v. Preventing or regulating the construction of flood barriers that will unnaturally divert floodwaters or which may increase flood hazards in other areas.

(b) As used in this section, the following terms shall have the meanings indicated:

"Area of shallow flooding" means a designated AO, AH, or VO zone on a community's Digital Flood Insurance Rate Map (DFIRM) with a one-percent-annual-or-greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" means the land in the floodplain within a community subject to a one-percent-or-greater chance of flooding in any given year.

"Base flood" means the flood having a one-percent chance of being equaled or exceeded in any given year.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

"Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

"Digital Flood Insurance Rate Map" or "DFIRM" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Elevated building" means a non-basement building: built, in the case of a building in an area of special flood hazard, to have the top of the elevated floor or, in the case of a building in a coastal high-hazard area, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water, and adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In an area of special flood hazard, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In areas of coastal high hazard, "elevated buildings" also includes a building otherwise meeting the definition of elevated building even though the lower area is enclosed by means of breakaway walls.

"Erosion" means the process of the gradual wearing away of land masses.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; and/or the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Insurance Rate Map" or "FIRM" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood Insurance Study" or "FIS" means the official report in which the Federal Insurance Administration has provided flood profiles, as well as the flood insurance rate map(s) and the water surface elevation of the base flood.

"Floodplain management regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than .2 foot.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic structure" or "historic resource" means properties within the Fort Monmouth Project Area identified in the Programmatic Agreement.

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for the parking of vehicles, building access, or storage in an area other than a basement is not considered a building's lowest floor, provided that such enclosure is not built so to render the structure in violation of other applicable non-elevation design requirements.

"Manufactured home" means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term manufactured home does not include a recreational vehicle.

"Manufactured home park" or "manufactured home subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"New construction" means structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community and includes any subsequent improvements to such structures.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the municipality.

"Primary frontal dune" means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves from coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from the relatively steep slope to a relatively mild slope.

"Recreational vehicle" means a vehicle that is: built on a single chassis; 400 square feet or less when measured at the longest horizontal projections; designed to be self-propelled or permanently towable by a light-duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of construction" means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include exca-

vation for a basement, footings or piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348), "start of construction" includes substantial improvements. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, which is principally above the ground.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either: any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications that have been identified by the local code enforcement officer and that are the minimum necessary to assure safe living conditions; or any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

(c) The following are the section's general provisions:

1. This section shall apply to all areas of special flood hazards within the jurisdiction of the host municipalities, Monmouth County, New Jersey.

2. The basis for establishing areas of special flood hazard is as follows:

i. The areas of special flood hazard for the host municipalities, Community Nos. 340318 (Borough of Tinton Falls), 340293 (Borough of Eatontown), and 340320 (Borough of Oceanport), are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

(1) A scientific and engineering report, Flood Insurance Study, Monmouth County, New Jersey (All Jurisdictions) dated September 25, 2009.

(2) A Flood Insurance Rate Map for Monmouth County, New Jersey (All Jurisdictions) as shown on Index and panel(s) 34025C0183F, 34025C0184F, 34025C0187F, 34025C0191F, the effective date of which is September 25, 2009.

ii. The documents in (c)2i above are incorporated by reference into this section. The Flood Insurance Study and maps are on file at the municipal buildings of the respective host municipalities.

3. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this section and other applicable regulations. Nothing in this section shall prevent the respective host municipality from taking such other lawful action pursuant to its ordinances and other law as is necessary to enforce the provisions of this section or to prevent or remedy any violation.

4. Abrogation; conflict with other provisions: This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section and an ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

5. In the interpretation and application of this section, all provisions shall be:

i. Considered as minimum requirements;

ii. Liberally construed in favor of the Authority and the host municipalities; and

iii. Deemed neither to limit nor repeal any other powers granted under law.

6. The following concern warning and disclaimer of liability:

i. The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This section does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

ii. This section shall not create liability on the part of the Authority or respective host municipality, or any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.

(d) The following concern administration:

1. Development permit requirements are as follows:

i. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in (c)2 above. Application for a development permit shall be made on forms furnished by the host municipality and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

ii. Specifically, the following information is required:

(1) The elevation in relation to mean sea level of the lowest floor (including basement) of all structures;

(2) The elevation in relation to mean sea level to which any structure has been floodproofed;

(3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in (e)2ii below; and

(4) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. Designation of local administrator: The construction official of the respective host municipality is hereby appointed to administer and implement this section by granting or denying development permit applications in accordance with its provisions.

3. Duties and responsibilities of administrator: The duties of the host municipality construction official shall include, but not be limited to:

i. Permit review;

(1) Review all development permits to determine that the permit requirements of this section have been satisfied;

(2) Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required;

(3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of (e)3i below are followed;

(4) Review all development permits in the coastal high hazard area of the area of special flood hazard to determine if the proposed development alters sand dunes so as to increase potential flood damage; and

(5) Review plans for walls to be used to enclose space below the base flood level in accordance with (e)4ii(4) below;

ii. Use of other base flood and floodway data: When base flood elevation and floodway data has not been provided in accordance with (c)2 above, the construction official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, in order to administer (e)2i and ii below;

iii. Information to be obtained and maintained as follows:

(1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

(2) For all new or substantially improved floodproofed structures:

(A) Verify and record the actual elevation (in relation to mean sea level);

(B) Maintain the floodproofing certifications required in (d)1ii(3) above;

(C) In coastal high hazard areas, certification shall be obtained from a registered professional engineer or architect that the provisions of (e)4ii(1) and (2)(A) and (B) below are met; and

(D) Maintain for public inspection all records pertaining to the provisions of this section;

iv. Alteration of watercourses as follows:

(1) Notify adjacent communities and the NJDEP, Dam Safety and Flood Control section and the Land Use Regulation Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration; and

(2) Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood-carrying capacity is not diminished; and

v. Interpretation of FIRM boundaries: Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in (d)4 below.

4. The following concern requests for review and relief:

i. Nothing in this section shall modify the procedures provided by host municipality ordinance or other law for requests for reviews of a decisions or interpretation by a host municipality officer pursuant to this section.

ii. The respective host municipality board responsible for reviewing decisions or interpretations by a host municipality officer pursuant to this section may grant relief from the requirements of this section to permit construction in a manner that would otherwise be prohibited by this section. In considering a request for relief, the respective host municipality board shall consider all technical evaluations, all relevant factors, standards specified in other provisions of this section, and:

(1) The danger that materials may be swept onto other lands to the injury of others;

(2) The danger to life and property due to flooding or erosion damage;

- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the Reuse Plan and floodplain management program of that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

iii. Relief shall be subject to the following conditions:

- (1) Relief may be granted for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in (d)4ii above have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for granting relief increases.
- (2) Relief may be granted for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Relief shall not be granted within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (4) Relief shall only be granted upon a determination that the relief granted is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Relief shall only be granted upon:
  - (A) A showing of good and sufficient cause;
  - (B) A determination that failure to grant the relief requested would result in exceptional hardship to the applicant; and
  - (C) A determination that the granting of the relief requested will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
- (6) Any applicant to whom relief is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (e) Provisions for flood hazard reduction are as follows:

1. General standards: In all areas of special flood hazards, the following standards are required:



i. The following concern anchoring:

- (1) All new construction to be placed or substantially improved and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes to be placed or substantially improved shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

ii. The following concern construction materials and methods:

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

iii. The following concern utilities:

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (4) For all new construction and substantial improvements, the electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

iv. The following concern subdivision proposals:

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or five acres (whichever is less).

v. Enclosure openings: All new construction and substantial improvements having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criterion: a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other covering or devices provided that they permit the automatic entry and exit of floodwaters.

2. Specific standards: In all areas of special flood hazards where base flood elevation data have been provided as set forth in (c)2 above, or in (d)3ii above, the following standards are required:

i. The following concern residential construction:

(1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities, elevated a minimum of two feet above base flood elevation in the Borough of Oceanport and elevated to or above base flood elevation in the Boroughs of Tinton Falls and Eatontown; and

(2) Within any AO zone on the municipality's FIRM, defined as an area with a one-percent-annual-chance shallow flooding where average depths are between one and three feet, that is, a 100-year flood, all new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two feet if no depth number is specified); and shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

ii. All new construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall comply with one of the two standards below:

(1) The following concern the elevation of the lowest floor:

(A) Have the lowest floor, including basement together with the attendant utilities and sanitary facilities, elevated a minimum of two feet above base flood elevation in the Borough of Oceanport, or to or above the level of the base flood elevation in the Boroughs of Tinton Falls and Eatontown; and

(B) Within any AO zone on the respective host municipality's DFIRM, defined as an area with a one-percent-annual-chance shallow flooding where average depths are between one and three feet, that is, a 100-year flood, have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two feet if no depth number is specified); and have adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures; or

(2) The following concern floodproofing:

(A) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

(B) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(C) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in (d)3iii(2)(B) above.

iii. The following concern manufactured homes:

(1) Manufactured homes shall be anchored in accordance with (e)1i(2) above.

(2) All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is a minimum of two feet above the base flood elevation.

3. Floodways: Located within areas of special flood hazard established in (c)2 above are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris, potential projectiles, and erosion potential, the following provisions apply:

i. Encroachments, including fill, new construction, substantial improvements, and other development, are prohibited unless a technical evaluation demonstrates that encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

ii. If (e)3i above is satisfied, all new construction and substantial improvements must comply with this subsection.

iii. In all areas of special flood hazard in which base flood elevation data has been provided and no floodway has been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than .2 feet at any point.

4. Coastal high hazard area: Coastal high hazard areas (V or VE zones) are located within the areas of special flood hazard established in (c)2 above. These areas have special flood hazards associated with high velocity waters from tidal surges and hurricane wave wash; therefore, the following provisions shall apply:

i. The following concern the location of structures:

(1) All buildings or structures shall be located landward of the reach of the mean high tide.

(2) The placement of manufactured homes shall be prohibited, except in an existing manufactured home park or manufactured home subdivision.

ii. The following concern construction methods:

(1) Elevation: All new construction and substantial improvements shall be elevated on piling or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the piling or columns) is elevated to or above the base flood level, with all space below the lowest floor's supporting member open so as not to impede the flow of water, except for breakaway walls as provided for in (e)4ii(4) below.

(2) The following concern structural support:

(A) All new construction and substantial improvements shall be securely anchored on piling or columns.

(B) The pile or column foundation and structure attached thereto shall be anchored to resist flotation, collapse, or lateral movement due to the effects of wind and water loading values each of which shall have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

(C) There shall be no fill used for structural support.

(3) Certification: A registered professional engineer or architect shall develop or review the structural design specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for compliance with the provisions of (e)4ii(1) and (2)(A) and (B) above.

(4) The following concern space below the lowest floor:

(A) Any alteration, repair, reconstruction, or improvement to a structure started after (the effective date of this subchapter) shall not enclose the space below the lowest floor unless breakaway walls, open wood latticework, or insect screening are used as provided for in this section.

(B) Breakaway walls, open wood latticework, or insect screening shall be allowed below the base flood elevation, provided that they are intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. Breakaway walls shall be designed for a safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls that exceed a design safe loading of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions.

I. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

II. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water load acting simultaneously on all building components (structural and nonstructural). Water-loading values used shall be those associated with the base flood. Wind-loading values used shall be those required by applicable State or local building standards.

(C) If breakaway walls are utilized, such enclosed space shall be used solely for parking of vehicles, building access, or storage and not for human habitation.

(D) Prior to construction, plans for any breakaway wall must be submitted to the respective host municipality construction official for approval.

iii. Sand dunes: Man-made alteration of sand dunes within Zones VE and V on the community's DFIRM that would increase potential flood damage are prohibited.

#### 19:31C-3.14 Circulation network

(a) The following concern gates and access points:

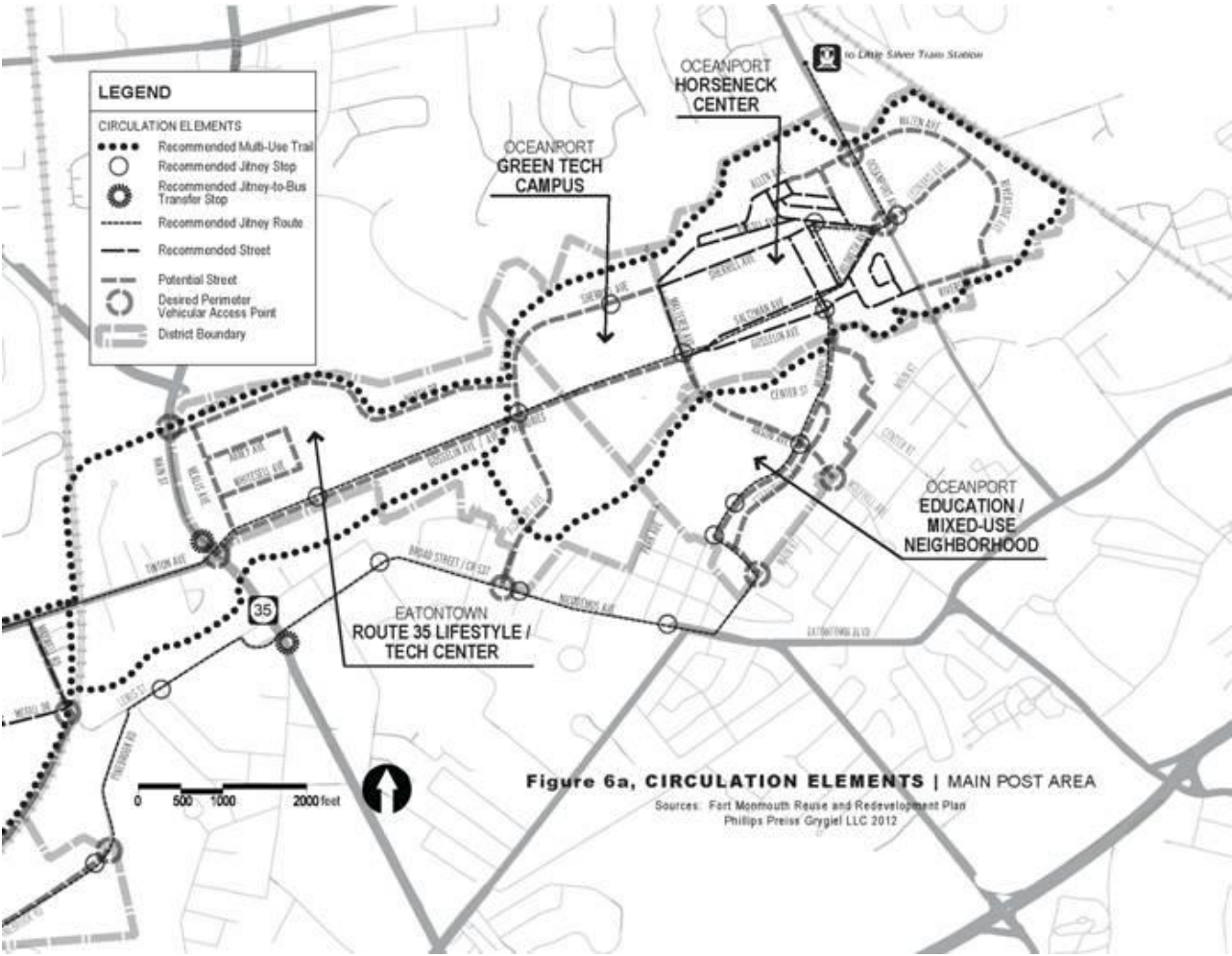
1. Security gate dismantling: As the Fort Monmouth Project Area is redeveloped, the removal of security gates and barricades should be considered to enhance public access.

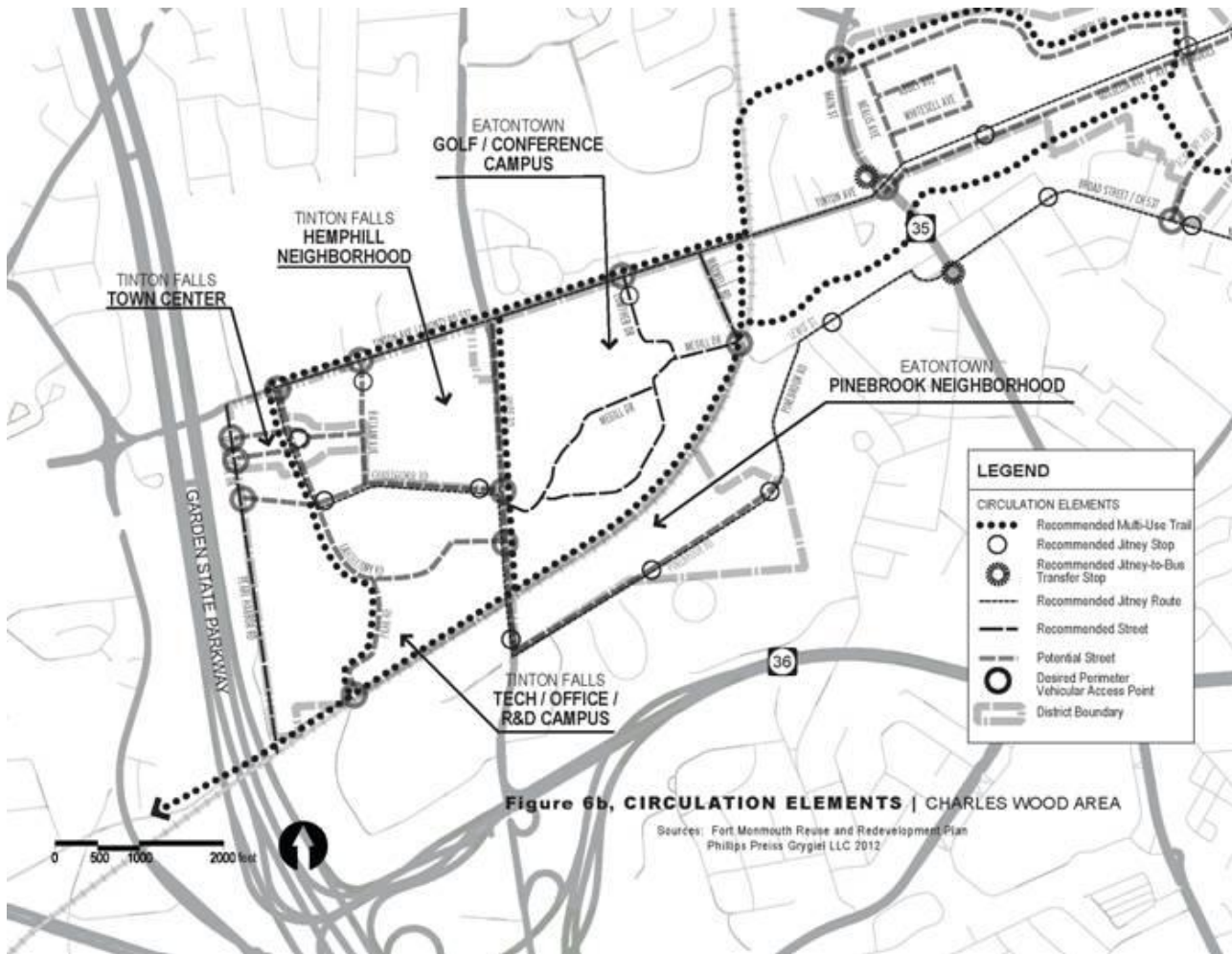
2. Additional street connections to Fort Monmouth Project Area exterior: Figures 6a and 6b, Circulation Elements, below show the desired new vehicular access points to the Fort Monmouth Project Area. Most of these access points involve the extension of dead-end roadways at the Fort Monmouth Project Area perimeter to connect to adjacent streets.

(b) The following concern the street system:

1. Figures 6a and 6b, Circulation Elements, below show the network of streets that are either "recommended streets" or "potential streets" within the Fort Monmouth Project Area.

2. The locations depicted for the new streets refer to their general alignment, the specific streets to which they should connect within and at the perimeter of the Fort Monmouth Project Area, and their locations with regard to certain land uses and/or open space areas. Variation in final design to account for development patterns, turning radii, intersection spacing, visibility, etc. is permitted.





i. The following concern major new street segments:

(1) In Oceanport, Anson Avenue should be extended in a northwesterly direction to connect to Malterer Avenue at Saltzman Avenue. At its southern end, Anson Avenue should be realigned to connect to Main Street at the intersection of Wolfhill Avenue. Stephenson Avenue (in the Education/Mixed-Use Neighborhood) should be realigned with Whitehall Court and redesigned as a sweeping boulevard-like road with a center linear park.

(2) In Eatontown, North Drive should be extended westward to connect to Route 35/Main Street on its western end. Wilson Avenue should be extended southwards to connect to Broad Street/CR 537, using part of the existing right-of-way of Academy Avenue west of the existing Wilson Avenue. Together, Wilson and Academy Avenues should be realigned to create a sweeping entry drive from the Broad Street area.

(3) In Tinton Falls, Laboratory Road should be extended north to Tinton Avenue. Bataan Avenue should be relocated east, or replaced/augmented with a new north-south street, to form the eastern boundary of the Town Center district.

ii. Streets for removal or closure: Smaller Fort Monmouth Project Area streets within each host municipality may be removed in order to better serve new development; however, the resulting street grid should meet the requirements of (b)4 below.

iii. Streets framing open spaces: As described in N.J.A.C. 19:31C-3.16(b), different open spaces of specific types are recommended or suggested in each development district. For many of the open spaces, a minimum number of sides and/or percentage of the open space's perimeter should be surrounded by, or framed by, streets. The purpose is to ensure that open spaces are easily accessible to residents, visitors, and the general public, rather than being hidden from view behind development. In addition, N.J.A.C. 19:31C-3.17(a) describes how much of the perimeter of certain open spaces should include buildings that face onto the open space.

iv. The following concern connectivity:

(1) In general, the new street system should be designed to improve connectivity between the Fort Monmouth Project Area and surrounding areas. Streets should provide a redundant grid network with multiple connections between destinations.

(2) Cul-de-sacs and dead-ends are discouraged (unless unavoidable for site planning reasons) because they reduce the pedestrian-scale interconnectedness of the street system. If a cul-de-sac or dead-end is unavoidable, a pedestrian pathway should be provided at the end, creating a publicly-accessible connection to the closest adjacent street.

(3) The street network should be designed to anticipate future street connections between development districts. Stubbed street connections should be provided at the edge of incrementally-developed areas where they would be useful in terms of improving connectivity between and within development districts.

v. The following concern intersection spacing and design:

(1) For safety, new street intersections should be located at least 200 feet from other new or existing intersections.

(2) At new or reconfigured intersections, roadways should intersect at right angles (90 degrees), or as close as possible to a right angle. Where three or more streets intersect, roundabouts or traffic circles should be considered.

(3) Access driveways to parking lots and parking garages for medium-density residential and all non-residential development should either align with new or existing drives across the street, share curb cuts with adjacent driveways where possible, or be offset at least 150 feet from nearby driveways.

(4) Crosswalks should be provided at all intersections with recommended streets, and optionally at all other intersections. Brightly-contrasting paint or textured paving should be used for crosswalks with higher pedestrian volumes, while paint or vinyl striping may be used elsewhere.

vi. The following concern block size:

(1) Unless otherwise specified below, the recommended block size below is defined in relation to vehicular streets as specified in (d) below that include sidewalks; alleys are not permitted as a means to create smaller block sizes:

(A) Block size in neighborhood districts: Each block should not exceed 600 feet by 200 feet.

(B) Block size in center districts: Each block should not exceed 700 by 350 feet.

(C) Block size in campus districts: No block should exceed 1,000 feet along the longest block dimension.

(2) The following exceptions apply to the recommended block sizes:

(A) Where existing buildings must be preserved through adaptive reuse, and where existing open space is recommended for preservation.

(B) Where open space areas are provided in N.J.A.C. 19:31C-3.16, and where multi-use pedestrian/bicycle pathways are provided at sufficient spacing to provide the equivalent block size at a pedestrian/cyclist scale.

(c) The following concern bicycle and pedestrian networks:

1. Sidewalks: All streets (except for alleys) should have sidewalks on both sides. Sidewalks should have a clear walking area of at least five feet. A tree planting area with a minimum of five feet width should be provided between sidewalks and roadways, surfaced with concrete or decorative brick in retail areas and with grass and/or low landscaping in other areas. Wider sidewalk area widths should be considered in mixed-use areas.

2. The following concern multi-use trails:

i. A continuous multi-modal trail loop should be provided around the perimeter of the Fort Monmouth Project Area, as shown above in Figures 6a and 6b, Circulation Elements. The multi-modal trail should be at least 12 feet wide to accommodate pedestrians and cyclists traveling in both directions, and should be striped and marked in accordance with prevailing standards. Where the trail alignment does not fall within green or open space, the trail may be constructed adjacent to a street, incorporating available right-of-way from sidewalks. The design of any multi-use trail along a county roadway shall be coordinated with the County of Monmouth; and

ii. Any opportunities for additional connections to other planned local and regional trails systems should be considered, including connections to the planned multi-modal trail lying outside of the Fort Monmouth Project Area connecting the Main Post and Charles Wood.

3. Bicycle lanes: Beyond the bicycle facilities that may be created as part of the multi-use trail specified in (c)2 above, additional bicycle lanes are permitted and should be considered on Fort Monmouth Project Area streets. Street configurations, as described in (d) below, should be widened accordingly to accommodate any bicycle lanes. Dedicated and shared bicycle paths should comply with the standard guidelines developed by the New Jersey Department of Transportation.

(d) The following concern street typologies:

1. Where applicable, streets within the Fort should comply with Residential Site Improvement Standards (RSIS). Further, all streets within the Fort should follow one or more of the right-of-way typologies described and illustrated in Figures 7a and 7b, Street Sections, below. Cartway right-of-way widths described below refer to the vehicular right-of-way. The selection of street type should take into account the adjacent land uses, traffic loads, and pedestrian volumes.

i. Local street: This type should be used in residential areas or where development faces a park or other open space. Each local street should have one 11-foot travel lane in each direction, and on-street parking on at least one side, with eight-foot lane widths. Total cartway right-of-way width: 30 to 38 feet. Recommended street-facing building setbacks: six to 15 feet.

ii. One-way couplet, which is a pair of streets designed to work together on opposite sides of a public open space, such as along Sherrill and Saltzman Avenues on either side of the Parade Ground: Each half of the couplet should have two 11-foot travel lanes running in the same direction, and one eight-foot parking lane next to the open space. Total cartway right-of-way width for each couplet street: 30 feet. Recommended street-facing building setbacks: six to 15 feet.

iii. Main street: This type should be used in mixed-use and other retail and office areas. Main streets should have one 12-foot travel lane in each direction, and parking lanes on both sides at eight-foot widths. Total right-of-way cartway width: 40 feet. Recommended street-facing building setbacks: zero to 10 feet.

iv. Minor collector road: This type should be used only in campus districts, where no on-street parking is needed; or where a street has open space on both sides. Minor collector roads should have one 12-foot travel lane in each direction, and no on-street parking. Total cartway right-of-way width: 24 feet. Recommended street-facing building setbacks: 20 to 30 feet.

v. Boulevard street: This type should be used where the effect of a signature grand street is desired. Boulevards should have one 12-foot travel lane and one eight-foot parking lane in each direction, plus a 10-foot (or wider) planted center



median. A shared turning lane may alternate with the planted median. Total cartway right-of-way width: at least 50 feet. Recommended street-facing building setbacks: 10 to 25 feet.

vi. Arterial road: This type is permitted only for Tinton Avenue, Hope Road, and Avenue of Memories. Arterials should have two 12-foot travel lanes in each direction (four travel lanes total), with no on-street parking. Total cartway width: 48 feet. Recommended street-facing building setbacks: 10 to 25 feet.

vii. Alley: This type is not permitted to frame recommended open spaces or provide access to the fronts of buildings. Alleys may provide access to rear residential parking garages, typically for small-lot single family homes, townhouses, and stacked flat unit types. Alleys should have one 19-foot, two-way access drive aisle, with three-foot planting strips on either side in the areas that do not include garage doors. At garage doors, the planting strip should be paved, in order to provide a paved area of 25 feet for vehicular access into garages. No sidewalks are permitted. Total cartway right-of-way width: 25 feet. Recommended building setbacks: zero to three feet.

2. In addition, Figures 7a and 7b, Street Sections, below show recommended minimum and maximum building setbacks for each street type, which apply in conjunction with build-to lines specified in N.J.A.C. 19:31C-3.17(a).

3. Additional right-of-way shall be required on certain streets if the multi-use trail system specified in (c)2 above uses the street's sidewalk or adjacent area, or if in-street bicycle lanes specified in (c)3 above are provided.

(e) The following concern trees and other streetscape furnishings:

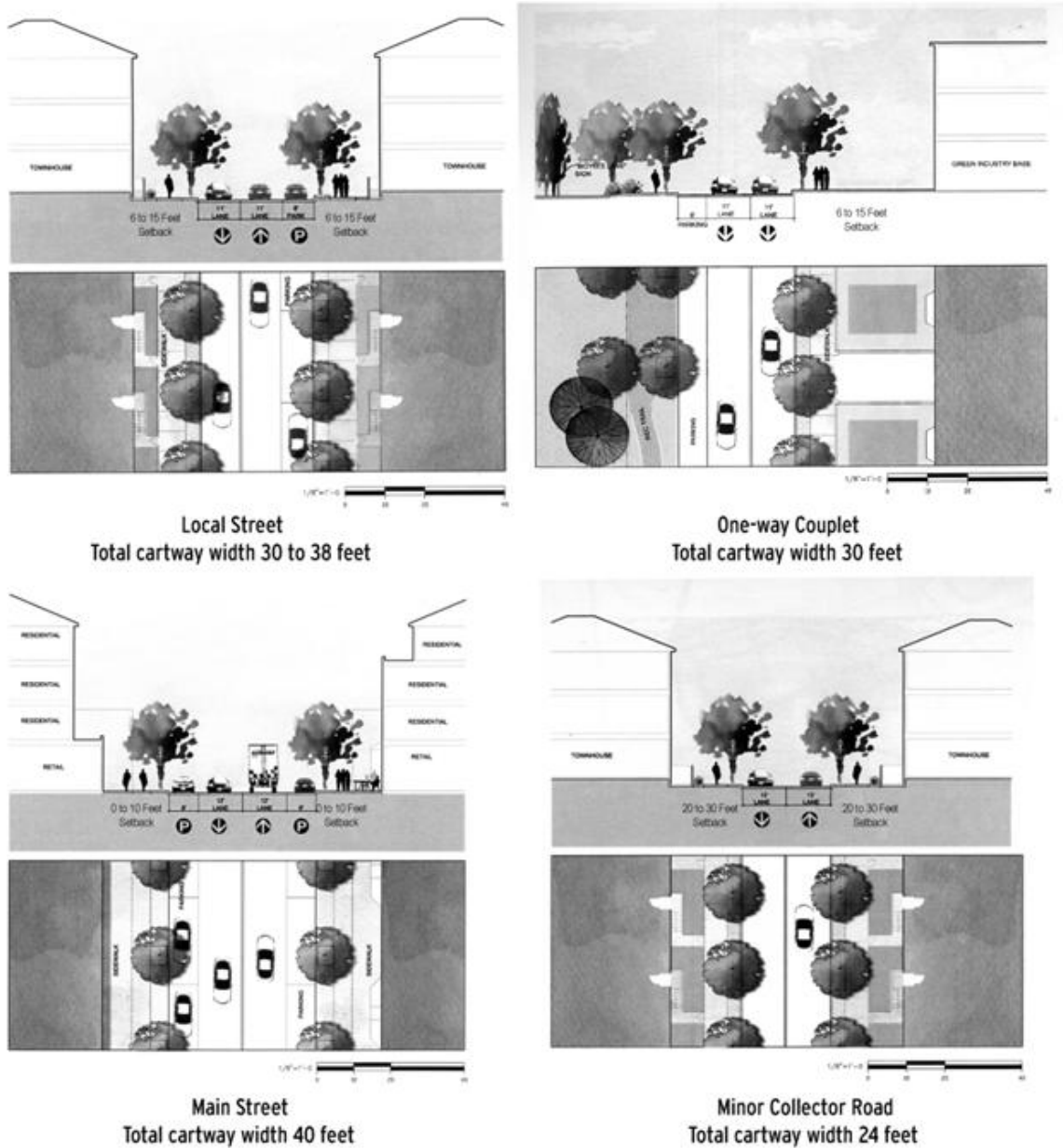
1. On existing streets to be preserved, existing trees should be maintained where possible. Upgrade of street sections to meet Residential Site Improvement Standards (RSIS) should take advantage of local conditions, if permitted, in order to preserve existing street trees.

2. Where street trees do not already exist, new street trees should be provided. Street trees should be located in the area between curb and sidewalk at an interval not to exceed 40 feet on center.

3. In areas with low pedestrian traffic (such as lower-density residential and campus districts), the tree planting area should include a continuous planted lawn strip, with interruptions for pathways that run perpendicular to the street to connect the street to buildings. Tree lawns should be sloped at two to three percent toward the curb. Trees should be located at least 25 feet away from street lights and clear of vehicular sight line triangles.

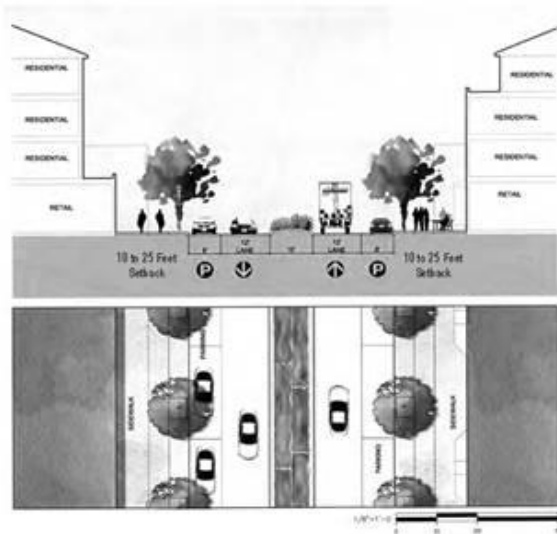
4. In areas with higher levels of pedestrian traffic (such as mixed-use areas, center districts, and higher-density residential areas), the tree lawn strip area may be paved, with trees placed either in open beds or below tree grates. Tree beds should have not less than four-foot depth, five-foot width, and 15-foot length in order to maximum the soil volume in the root zone. Tree grates, if employed, should be a minimum of five feet by five feet square, and the walk area over the planting pit should be a reinforced concrete slab or permeable paver system.

(f) Bus service: Jitney bus service is recommended to be provided within the Fort Monmouth Project Area. The bus should include at a minimum the recommended stops shown along the loop in Figures 6a and 6b above, and should connect to the NJ Transit Little Silver commuter rail train station and existing bus service along Route 35. Service running in both directions along the jitney route is recommended, rather than a one-way loop. Jitney bus stops should include shelters, seating, and lighting. As a metric for service levels, at least 80 percent of all development in the Fort Monmouth Project Area should have jitney bus service within a one-quarter-mile walking distance.

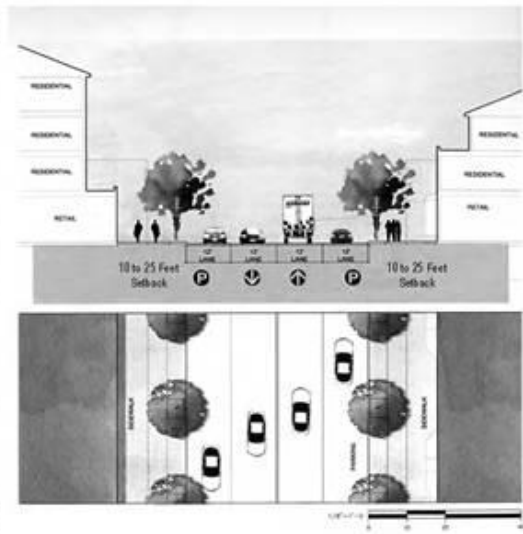


**Figure 7a, STREET SECTIONS**

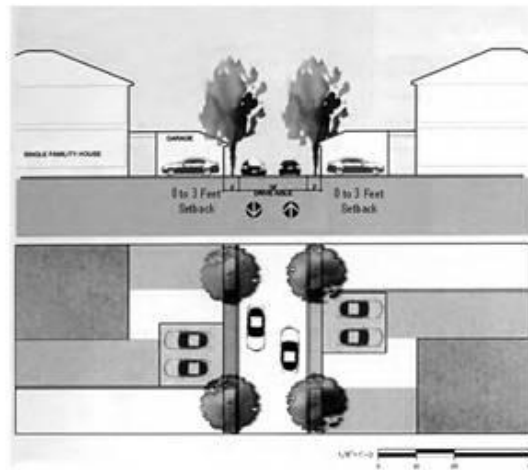
Sources: Fort Monmouth Reuse and Redevelopment Plan  
Phillips Preiss Grygiel LLC 2012



**Boulevard Street**  
Total cartway width at least 50 feet



**Arterial Road**  
Total cartway width 48 feet



**Alley**  
Total cartway width 25 feet

**Figure 7b, STREET SECTIONS**

Sources: Fort Monmouth Reuse and Redevelopment Plan  
Phillips Preiss Grygiel LLC 2012.

19:31C-3.15 Parking design

(a) On-street parking: On-street parking spaces should be allocated towards the required parking supply first, before the number of off-street parking spaces is determined. On-street parking spaces may not be double-counted (that is, allocated to more than one development).

(b) The following concern location of parking spaces:

1. Any and all parking spaces (except those provided on-street) should be located in parking structures or parking lots located within the following distances of a pedestrian entrance of the building containing uses that they serve:

i. Residential uses: Minimum of one space per unit either within the building, or within 500 feet. Additional spaces, or fraction thereof, within 1,000 feet.

ii. Retail uses: Within 750 feet.

iii. Hospitality, office/research, and institutional/civic uses: At least half of the parking supply within 750 feet. The remainder within 1,500 feet.

2. The location of parking spaces in mixed-use projects should comply with the requirements for each component use provided in this section.

(c) The following concern surface parking:

1. Locations: "Street" as used in this subsection refers to any permitted street type defined in N.J.A.C. 19:31C-3.14(d) except for alleys.

i. For all-residential buildings in all development districts, no surface parking should be located in the areas between the building and adjacent streets (whether abutting a recommended street or other street), except for parking spaces on an individual driveway leading to an individual residential garage. Instead, any surface parking should be provided at the interior or rear of the lot, away from street frontages.

ii. For hospitality, office, and institutional buildings in center and neighborhood districts, no surface parking should be located in areas between the building and any adjacent recommended streets.

iii. For buildings having stand-alone retail or retail mixed vertically with another use in center and neighborhood districts, no more than one double-loaded bay of surface parking (typically about 60 feet deep) should be located in areas between the building and any adjacent recommended streets.

iv. For hospitality, office, or institutional buildings in campus districts, no more than one double-loaded bay of surface parking (typically about 60 feet deep) should be located in areas between the building and any adjacent recommended streets.

2. The following concern landscaping and setbacks:

i. The following concern landscaped setbacks:

(1) Surface parking areas should be set back from street-facing lot lines, as well as from interior or rear lot lines shared with adjacent uses, at least five feet if one double-loaded bay of parking is provided, or at least 10 feet if a deeper parking area is provided. Setbacks from streets outside of the Fort Monmouth Project Areas boundaries are specified in N.J.A.C. 19:31C-3.17(c).

(2) Setbacks to parking areas and driveways should be landscaped with shrubs and/or low groundcover, including ever-green materials.

ii. Perimeter delineation: Any surface parking area located between a building and a street (where permitted under (c)1 above) should be delineated and separated from adjacent street/sidewalk frontages by means of a low screening hedge and/or low wall or fence of stone or metal. The hedge/wall/fence may be located at the front or back of the landscaped setback area.

iii. Interior landscaping: Where more than 25 parking spaces are provided in any surface parking area, at least 10 percent of the interior area of the lot should be landscaped with trees and low plantings.

iv. Connections to street sidewalks: Where surface parking is provided, at least one sidewalk should be provided running alongside the primary entry drive, connecting the sidewalk at the street to the primary building entrance(s). Such connecting sidewalks should have a minimum clear walking area of five feet wide.

v. Walkways between parking bays: Where more than 50 spaces are provided in any surface parking area, or where any parking spaces are located more than 125 feet from the primary building entrance, pedestrian walkway(s) should be provided through the parking lot, running parallel to bays of parking. The walkways should have a minimum clear walking area of five feet wide and should be sited to provide convenient, direct, and safe pedestrian access to the building.

(d) Structured parking: Structured parking should be kept away from view of streets, or softened in appearance, according to the following:

1. Garages for single-family and duplex residential units should meet one of the following configurations:

(1) Located within the front facade, but recessed at least five feet from primary facade plane;

(2) Located within a side facade of the house, and accessed by a driveway from the front or side (for corner lots) of the house; or

(3) As attached or detached garages at the rear of the house or lot, accessed by a driveway leading from the front, side, or rear of the lot.

2. Townhouse and stacked flat garages: Garages for townhouses and stacked flats should be located at the rear of the parcel, either attached or detached from the residences, and accessed from a rear alley.

3. The following concern screening by principal permitted uses:

i. On the ground level of parking structures, parking spaces and related functions should be screened from view of streets (except alleys) and recommended open space by active residential, retail, or other principal permitted uses in the following locations:

(1) Along all building frontages defined with a recommended build-to line; and

(2) Along all building frontages facing a recommended open space.

ii. Such uses should be at least 30 feet deep so as to provide usable space for activity that hides parking spaces. However, entries to parking garages may be visible at the ground level and need not be hidden behind principal permitted uses.

iii. Upper-level floors (that is, above the ground floor) of parking garages in the locations specified in (d)3i above are not required to be screened by principal permitted uses; however, if screening by principal permitted uses is not used, upper-level floors should instead be screened and softened by means of architectural detailing.

4. The following concern architectural detailing:

i. Screening structured parking spaces behind principal permitted uses described in (d)3 above is not recommended in the following locations:

(1) Along all building frontages facing recommended streets where no build-to line is delineated (Figures 9a and 9b, Build-to Lines, in N.J.A.C. 19:31C-3.17); and

(2) Along all building frontages facing open spaces that are not recommended or suggested open spaces (that is, along additional open spaces created beyond what is specifically addressed herein).

ii. Instead of screening, parking structures in the locations in (d)4i(1) and (2) above should employ architectural detailing, as set forth in (d)4iii below, at all levels to screen and soften the appearance of the structure. Alternatively, screening with principal permitted uses described in (d)3 above on lower floors may be combined with architectural detailing on upper floors; one or both approaches should be employed at all levels of parking garages in these locations.

iii. Architectural detailing of parking garages should meet the following at all levels in order to minimize views of parked vehicles from the street:

(1) The facade massing of parking structure levels should be architecturally integrated with the adjacent or upper-story residential, commercial, or mixed-use buildings, both horizontally and vertically. Parking facades should be broken into bays, following the bay pattern of related buildings. The lower level(s) of parking should be designed to "read" as a base to the building, using, for example, a belt course or horizontal masonry banding to create a more detailed pedestrian-scale base.

(2) The size, spacing, and enframement of garage window openings should be similar to that of adjacent or upper-story retail, office, and/or residential windows. Furthermore, the pattern of garage window openings should generally align vertically with the pattern and/or spacing of any retail, office, and/or residential bays and windows located on upper stories. Ribbon-style openings, open bays, and long horizontal string courses should not be used.

(3) The pattern of windows and detailing in parking facades should disguise any internal ramps or sloping levels of the parking garage so that they appear level.

(4) Parking garages should conceal views of automobiles from streets, adjacent buildings, and open spaces. A brick, masonry, precast, or similar parapet wall at least 42 inches in height should be provided at each level. Garage window openings should be designed to further shield vehicle headlamp glare to the outside of the structure, either through opaque or translucent glazing, or through grates and grilles.

(5) Glazing is recommended for all levels of exposed parking structure facades. However, on the first level, window glazing should be translucent (allowing for shadows and silhouettes behind the glass); transparent, clear-tinted, or reflective glazing is discouraged on the first level.

(6) Use of decorative grates and fenestration detailing should be considered to complement the architecture of the facade.

(7) The same or complementary types and quality of materials used elsewhere in the facades of related buildings should be employed for parking facades.

(8) Large areas of blank, solid walls should not be considered along street-facing parking areas.

(9) Landscaping, such as hedges and flowering plants, around the base of the structure should be considered to further conceal and soften views of parking level facades in these locations. Landscaping should include evergreen and deciduous materials so as provide an effective screen year-round.

5. The following concern planted buffer screening:

i. Where structured parking is not subject to (d)3 or 4 above, it may instead be softened through planted buffer landscaping, as described below in this paragraph. One or more of these approaches (screening by principal permitted uses, architectural detailing, or planted buffers) should be employed in the following locations:

(1) Along streets that are not part of the recommended street system and that do not face any type of open space; and

(2) Along interior side and rear lot lines.

ii. In-ground landscaping areas or landscape planters should be a minimum of four feet in depth, measured perpendicular to the building facade, and should extend for the length of the parking garage along the street frontage. They should be planted with a variety of herbaceous and woody plants, both deciduous and evergreen, having a minimum average planting height of four feet, and should continue to serve as an attractive screen in the winter.

iii. Trellises should be considered along the facade of exposed parking structures in these areas, to be planted with a living wall of ivy or other vertical-climbing greens.

iv. Planter edges that serve as seating areas should be considered. Alternately, low fences or walls should be considered in combination with landscaping to further screen the view of parking levels.

6. Screening the roofs of parking garages: Landscaping the roofs over structured parking garages should be considered. Acceptable means of rooftop landscaping include decorative paving, planters, lawn areas, seating areas, and green roofs.

(e) The following concern bicycle parking:

1. Bicycle racks should be provided for existing, adaptively reused, and new medium-density residential, mixed-use, and non-residential buildings in the following locations:

i. Where a building adjoins the multi-use trail, outdoor bicycle racks should be provided adjacent to a building entry;

ii. Where a building abuts a recommended build-to line fronting a recommended open space, outdoor bicycle racks should be provided at the perimeter of the open space;

iii. For mixed-use buildings, outdoor bicycle racks should be provided within the tree/landscaping strip between the sidewalk and the curb, within 50 feet of a retail building entrance;

iv. For all non-residential buildings, a secure indoor bicycle storage room should be provided; and

v. For all medium-density residential buildings, indoor bicycle racks should be provided within the garage area or within a separate, secure storage room.

2. Both indoor and outdoor bicycle storage areas should be located in safe, well-lit, visible, and active areas. Bicycle parking racks should be secured to the ground or floor and shall be designed to accommodate locking the frame of the bike.

3. The quantity of bicycle parking spaces provided in each required area listed above in this subsection should be based on the expected number of occupants, visitors, and/or workers at the building or public space.

#### 19:31C-3.16 Open space network and landscaping

(a) Figures 8a and 8b, Open Space Network, below show the recommended open spaces and suggested open spaces. The types of open spaces are:

1. Formal parks: Formal parks include various greens and squares should create well-used "people places" for gathering, people-watching, and relaxing. They should include a range of landscaping and hardscape/paved areas, and should also be flanked by streets and buildings in accordance with N.J.A.C. 19:31C-3.17(a).

2. Active recreation: Active recreation areas are intended for ball fields, hard surface courts, tracks, golf courses, swimming pools, and other intensive recreational use.

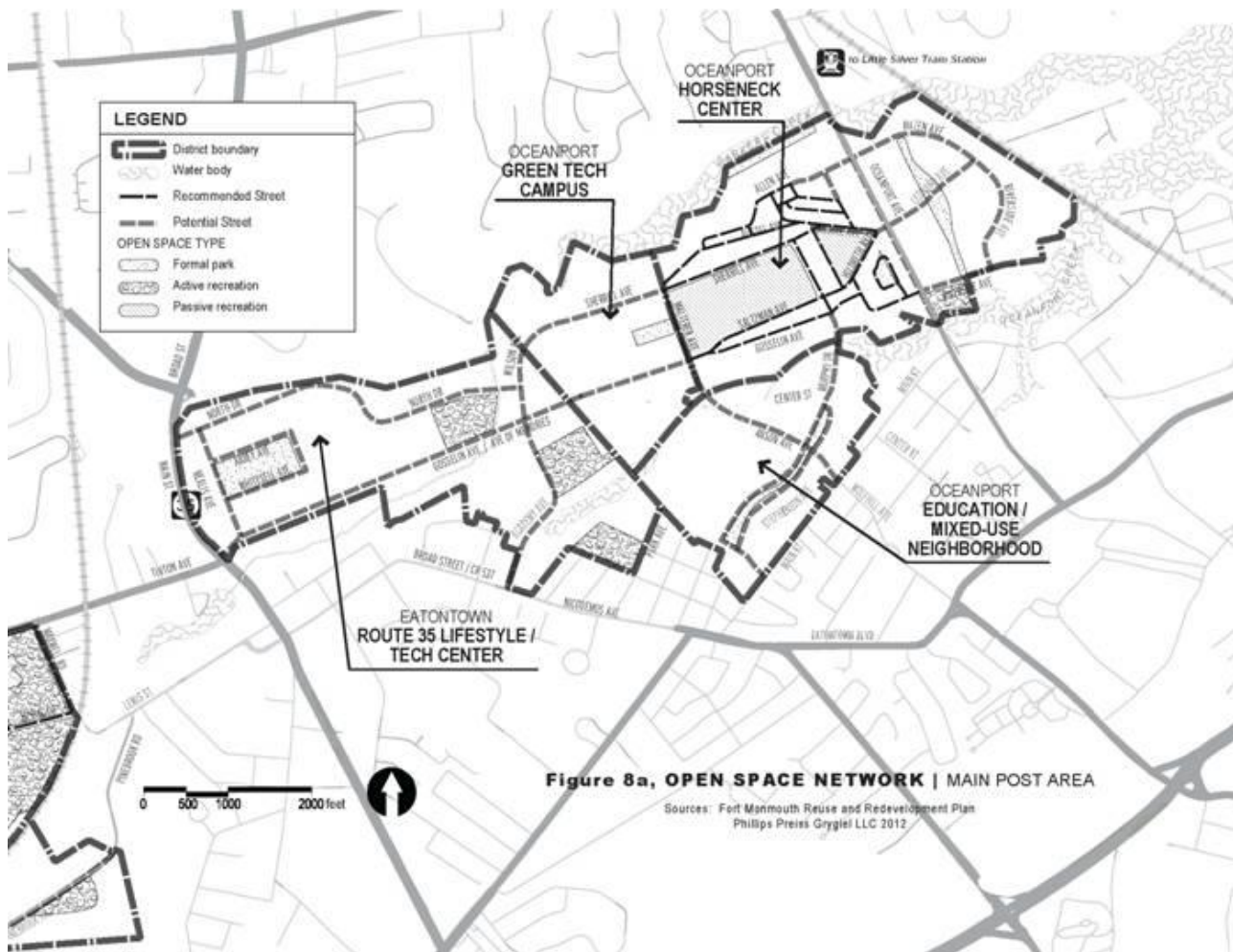
3. Passive open space: Passive open space constitutes the parade ground in Oceanport. Passive open spaces should remain as open, minimally landscaped space, with little hardscape or paving.

(b) Location of open spaces: The following sets forth recommendations for different types of open space by development district. The descriptions also specify the extent to which each open space should be surrounded, or framed, by streets (but not alleys), as defined in N.J.A.C. 19:31C-3.14(d). Buildings should front onto specific open spaces as provided in N.J.A.C. 19:31C-3.17(a).

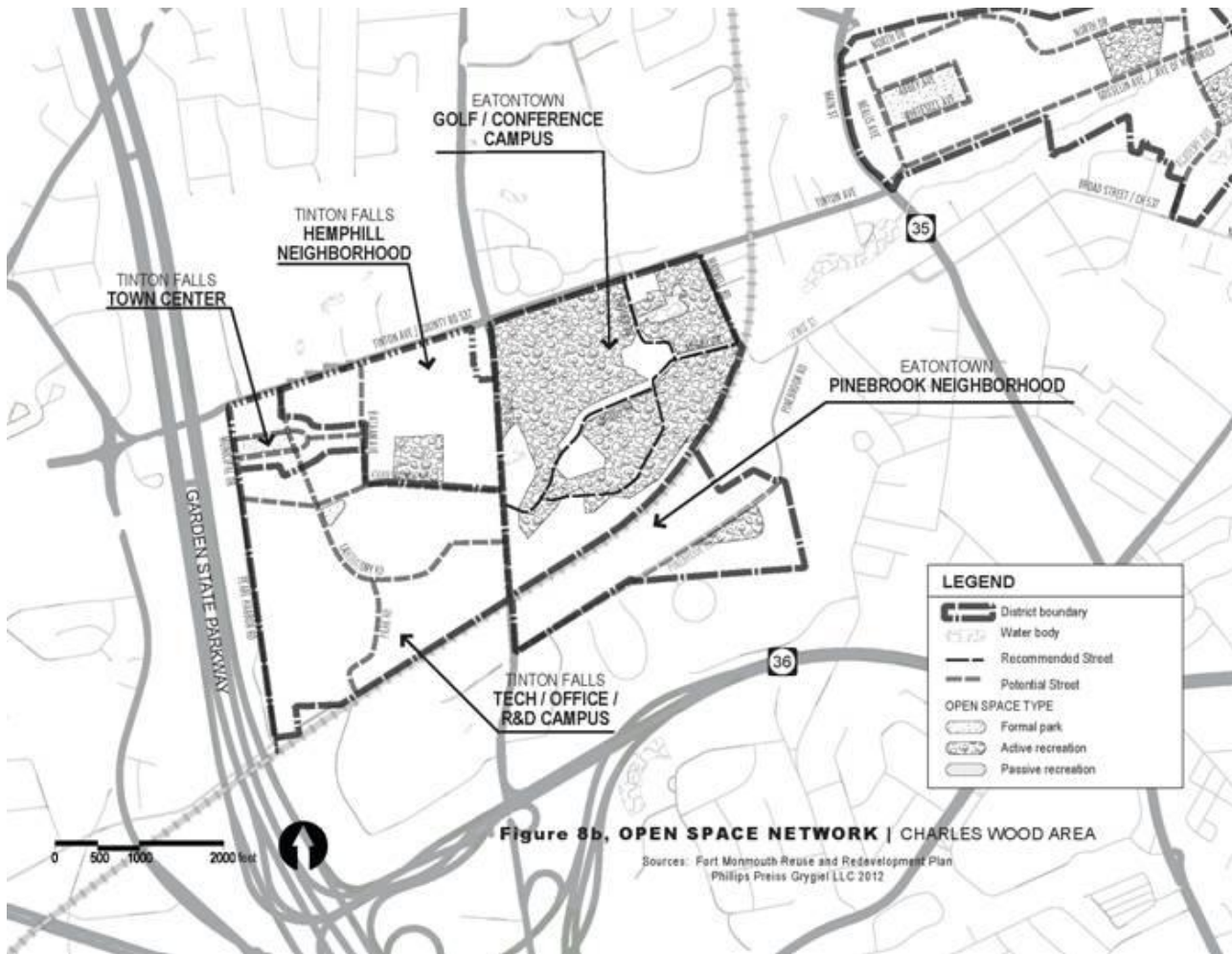
1. Oceanport:

i. Horseneck Center:

(1) Passive open space: parade ground - The parade ground consists of the rectangular green space located between Malterer, Sherrill, Washington, and Saltzman Avenues, as well as the triangular piece of open space located between Greely, Russel, and Hildreth Avenues in front of Building 286. The parade ground is surrounded by recommended streets.







(2) Formal park: Waterfront esplanade - Along Parker's Creek, a waterfront esplanade should be located in the area north of Allen Avenue. The minimum depth of the esplanade should be 100 feet and the minimum length should be 1,000 feet.

(3) Active recreation: Marina public access - The existing marina at the southeast corner of Oceanport and Riverside Avenues should be open space. A gateway pocket park should be created within the marina property, with public access to the waterfront along the east side of the Oceanport Avenue bridge that leads over Oceanport Creek.

(4) Formal park: Barkers circle green - The open space at the center of Barkers Circle (the cluster of Buildings 205 to 208 and 282, and 287, immediately southeast of Hildreth Avenue) should be open space. The central paved area should be removed and replaced with landscaping and/or decorative paving (as shown in Figures 8a and 8b above).

(5) Formal park: Linear greenway - A linear greenway should be located in the easternmost portion of the Horseneck Center district, east of Oceanport Avenue. It should be aligned generally parallel to Oceanport Avenue, at a midway point between Oceanport Avenue and the loop created by Hazen and Riverside Avenues. The minimum width of the greenway should be 100 feet, and it should extend from Hazen Avenue to Riverside Avenue. It should be flanked on both sides by streets and medium-density housing having front facades facing the greenway. N.J.A.C. 19:31C-3.17(a)3 describes the recommended build-to lines along this linear greenway.

ii. Education/Mixed-Use Neighborhood:

(1) Formal park: Linear green space - A linear green space should be located following the southern alignment of Stephenson Avenue. It should extend for at least 2,000 feet in length between Center Street and Cockayne Avenue. It should be flanked by streets on both long edges and should be at least 50 feet wide at all points. N.J.A.C. 19:31C-3.17(a)3 describes the recommended build-to lines along this linear green space.

iii. Green Tech Campus:

(1) Formal park: Campus quad - A formal park, known as the "campus quad," should be located within this development district and should be specifically in the area between Sherrill Avenue, Avenue of Memories, Wilson Avenue, and Malterer Avenue. It should be located at the interior of this area, or have frontage on one or two of these bounding streets. The quad should be at least two acres in size and rectangular in shape.

2. Eatontown:

i. Route 35 Lifestyle/Tech Center:

(1) Active recreation: Three facilities - The existing ball fields/active recreation facilities within this district constitute recommended open spaces. Each of the active recreation areas described below should be bordered by streets along at least 50 percent of its perimeter (see Figure 8a above).

(A) The two ballfields between North Drive and the Avenue of Memories to the west of Wilson Avenue (minimum size: eight acres);

(B) Ballfield and open field south of Alexander Lane, north of Nicodemus Avenue and east of Wilson Avenue (minimum size: eight acres); and

(C) West of Park Avenue, south of Nicodemus Avenue and the pond along the tributary to Oceanport Creek, the existing football/running track complex (minimum size: six acres).

(2) Formal park: Town green - The large, existing geothermal field that lies between Abbey and Whitesell Avenues and east of Nealis Avenue should be a formal open space; the "Town Green." The green should be at least six acres, and should be surrounded on all four sides by Streets (as shown in Figure 6a, Circulation Elements, in N.J.A.C. 19:31C-3.14). Build-to lines are specified in N.J.A.C. 19:31C-3.17(a)3 for all sides of the park.

ii. Pinebrook Neighborhood:

(1) Active recreation: Pinebrook Road ballfields - One or more new active recreation areas, with ball fields and hard-surface play courts (tennis, basketball), should be located along a section of Pinebrook Road. The total size of these active recreation areas should be at least five acres. Each active recreation area should be bounded by streets on at least 50 percent of its perimeter, with Pinebrook Road comprising at least one-third of the perimeter border length. As provided in N.J.A.C. 19:31C-3.17(a)3, adjacent residences should be sited to front onto these areas. The shape of the open space shown above in Figure 8b, Open Space, is intended to be schematic in nature.

iii. Golf/conference campus:

(1) Active recreation: Sun Eagles Golf Course - New development on the Suneagles Golf Course should remain within the general footprint of the disturbed area of Gibbs Hall and the existing buildings along Megill Drive.

3. Tinton Falls:

i. Town Center:

(1) Formal park: Civic green - A civic green should be located along Municipal Drive opposite the municipal complex, with its longitudinal centerline (its longer dimension) running roughly east/west. The Green should be framed by Streets

(as shown in Figure 6b, Circulation Elements, in N.J.A.C. 19:31C-3.14) along three sides and at least 75 percent of its entire perimeter. It should be at least 2.5 acres in size and should face the existing Tinton Falls Municipal Complex. The green should be available for community events such as farmers' markets and music and theater events. Build-to lines are specified in N.J.A.C. 19:31C-3.17(a)3 for the street frontages facing the green.

(2) Hemphill Neighborhood:

(A) Active recreation: Ballfield - The existing ball field north of Corregidor Road and west of Guam Lane should be retained. This recreation area should be bounded by streets on at least 50 percent of its perimeter. The minimum size should be six acres.

(B) Formal parks: pocket parks - In the Hemphill Neighborhood, two to three pocket parks should be located. These parks are not shown in Figure 8a above because their location is flexible. Each park should be at least one acre, and the total size of the two or three parks should be at least four acres. Each pocket park should be surrounded by streets on at least three sides, and low-density or medium-density residential uses should be located along all sides of the park, with front doors facing the park. Build-to lines are specified in N.J.A.C. 19:31C-3.17(a)3 for each side of the park.

(C) Formal park: Campus green - A small campus green should be located adjacent to Corregidor and Laboratory Roads. It should be surrounded by streets on at least two-thirds (66 percent) of its perimeter. The minimum size should be 1.5 acres. Built-to lines are specified in N.J.A.C. 19:31C-3.17(a)3 for the campus green.

4. Uses in open space areas: The following uses, facilities, and structures should be considered for the three types of open space areas.

i. Passive open space: Only permitted open space/recreation area accessory structures should be considered.

ii. Active recreation areas: Ballfields, ballcourts, gazebos, bleachers, picnic tables and related facilities, parking lots, roads, and driveways should be considered for active recreation areas with appropriate permitted accessory structures. Existing buildings may also remain.

iii. Formal parks: Gazebos, kiosks, and other permitted open space/recreation area accessory structures should be considered for formal parks. Pedestrian pathways and segments of multi-use trails should also be considered; however, vehicular roadways and driveways should not be used.

(c) Other open spaces: Other open spaces should be considered throughout the Fort Monmouth Project Area.

(d) The following concern landscaping:

1. General landscaping guidelines are as follows:

i. Water conservation planting design and irrigation practices, including water harvesting and reuse, should be employed throughout the Fort Monmouth Project Area to the greatest extent practicable. All areas of plant materials, other than existing vegetation, over 200 square feet in area and located more than 10 feet from a building foundation and requiring more than 15 inches of rainfall, should be irrigated.

ii. Existing trees should be preserved to the greatest extent practicable. In particular, existing trees in excess of eight-inch diameter at breast height (DBH) should not be removed from any lot, street right-of-way, or open space. Existing damaged, decayed, or diseased trees may be removed, preferably under the guidance of a licensed arborist.

2. Protection during construction: Prior to construction adjacent to trees, tree protection fencing should be installed at the outer drip line of the trees to ensure that no equipment enters and no materials are stored within the drip zone. In the event that construction must occur within the drip zone, an arborist should be engaged to recommend methods for ensuring the trees' health.

3. Screening adjacent to railroad: Continuous security fencing and evergreen tree and shrub landscaping screening should be installed along the edge of the NJ Transit and CSX railroad rights-of-way in Oceanport, Eatontown, and Tinton Falls.

19:31C-3.17 Building placement

(a) The following concern build-to lines:

1. Build-to lines should be interpreted to proactively site buildings to frame important streets or open spaces and should create a comfortable sense of enclosure like that of an "outdoor room." Thus, a critical mass of building frontage should be channeled to designated street frontages in order to frame the street (and adjacent open space, in many locations). The locations where build-to lines are recommended are shown in Figures 9a and 9b, Build-To Lines, below. Build-to lines are defined in all development districts except Eatontown's Golf/Conference Campus district. Where a recommended build-to line is shown:

i. A certain percentage of the street frontage should be framed by buildings whose front facade is located within the recommended minimum and maximum street-facing setback area as specified in N.J.A.C. 19:31C-3.14(d) for each type of street.

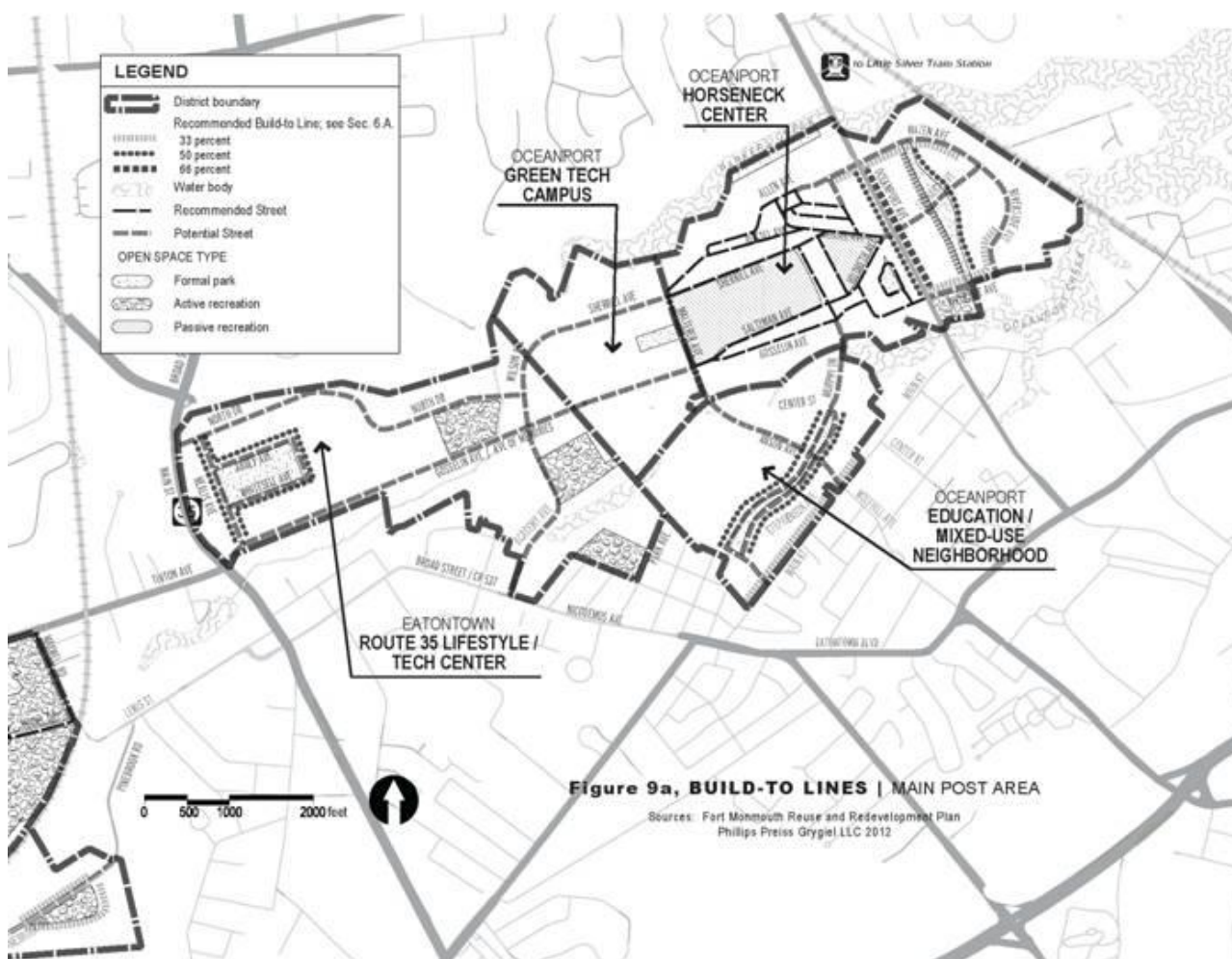
ii. All ground floor uses within the contributing portion of building mass should be principal permitted uses, with the exception of open space.

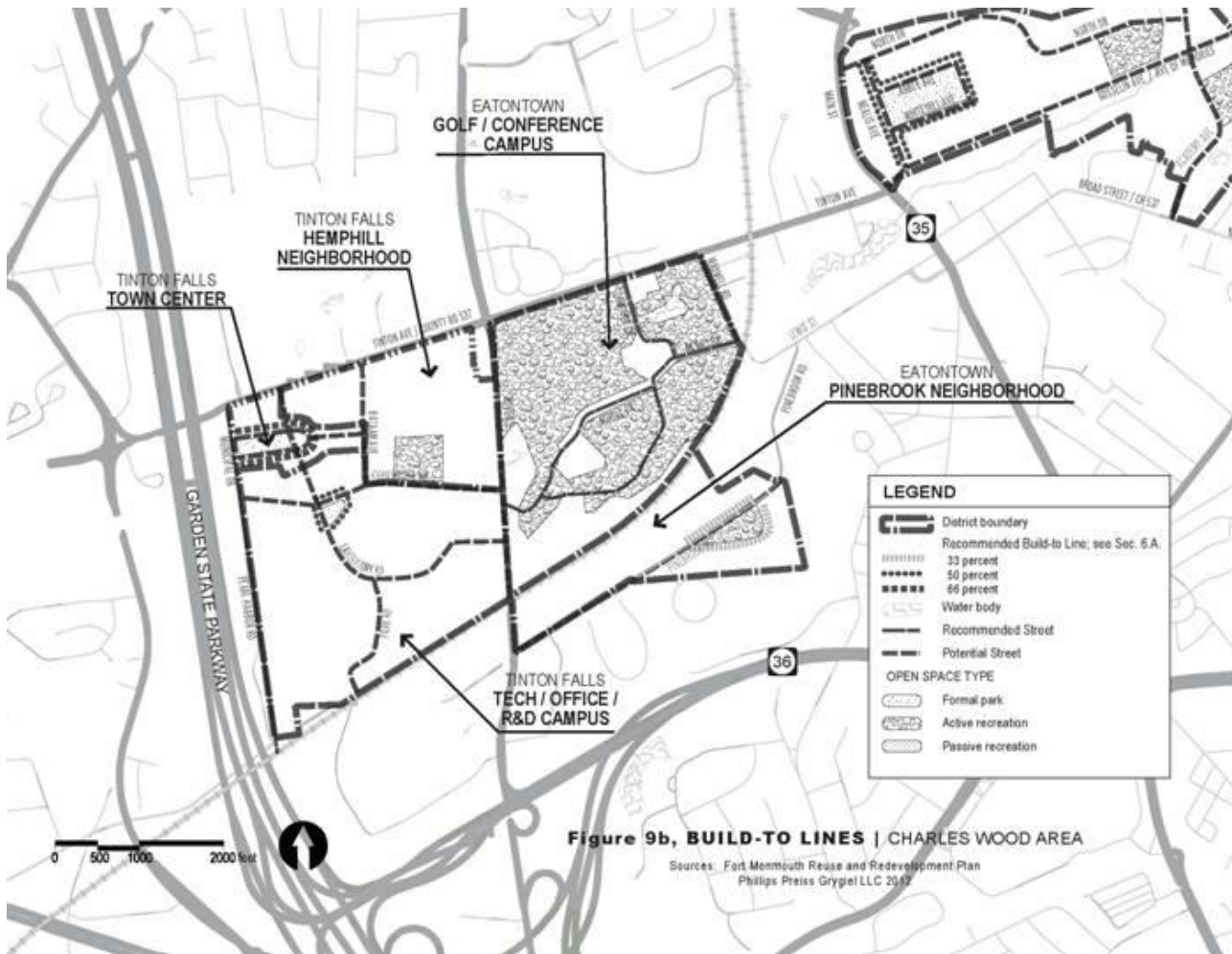
iii. Off-street parking areas should not adjoin the street along recommended build-to lines.

iv. In certain areas, a minimum amount of ground floor retail use along the recommended build-to line should be considered.

2. For example, Figure 9a shows 50 percent recommended build-to lines along portions of both sides of Oceanport Avenue. This means that at least 50 percent of the block frontage indicated should include buildings containing principal permitted uses (but not open space) in their ground floors, and that are located within the recommended minimum and maximum setbacks for the type of street, as specified in N.J.A.C. 19:31C-3.14(d), assigned to Oceanport Avenue. If Oceanport Avenue is considered a Main Street, then the setbacks should be zero to 10 feet. At least 50 percent of the block face should include building facades located within these setbacks distances; the remainder of the block face frontage would be open space, parking lots, storage areas, or other types of accessory uses.

3. Entries along recommended build-to lines: On all frontages with build-to lines, the primary pedestrian entrance for buildings should face the street having the build-to line, rather than any other adjacent street. If a building fronts more than one build-to line, the pedestrian entries may face either or both build-to lines.





4. The following concern build-to lines by location:

i. Oceanport:

(1) Horseneck Center:

(A) Along Oceanport Avenue:

I. Along the east side of Oceanport Avenue, at least 66 percent of the frontage between Hazel Avenue and Riverside Avenue should include buildings with their primary entries facing Oceanport Avenue.

II. Along the west side of Oceanport Avenue, at least 50 percent of the frontage between Hazel Avenue and Riverside Avenue should include buildings with their primary entries facing Oceanport Avenue.

III. In addition, at least 75 percent of the frontage of such buildings contributing to the Build-to Line on both sides of Oceanport Avenue should be mixed-use, multi-story structures with ground-floor retail use.

(B) Formal park: Linear greenway - Along the recommended linear greenway specified in N.J.A.C. 19:31C-3.16(b) east of Oceanport Avenue, at least 50 percent of the frontage along each bounding street should include buildings with their primary entries facing the greenway.



(C) Loop streets facing Parker's and Oceanport Creeks; Along Hazen and Riverside Avenues, at least 33 percent of the frontage along each street facing either Parker's or Oceanport Creeks should include buildings with their primary entries facing Parker's and Oceanport Creeks.

(2) Education/Mixed Use Neighborhood:

(A) Formal park: Linear green space - At least 50 percent of the street frontages on both sides of the recommended linear green space along Stephenson Avenue should be flanked by buildings with their primary entries facing the green space.

(B) Along Main Street: At least 33 percent of the street frontage on the north side of Main Street should include buildings with their primary pedestrian entries (not necessarily their vehicular entries, which may be provided from a rear alley) facing Main Street.

ii. Eatontown:

(1) Route 35 Lifestyle/Tech Center:

(A) Formal park: Town green - Around the recommended town green specified in N.J.A.C. 19:31C-3.16(b), at least 50 percent of each street frontage should include buildings with their primary entrance facing the green. In order to create daytime and evening activity, at least 50 percent of the length of building facades that contribute to this build-to line percentage should constitute mixed-use buildings with ground-floor retail use; the remainder may be medium-density residential development, in accordance with N.J.A.C. 19:31C-3.4.

(2) Golf/Conference Campus: No build-to line is recommended in this district.

(3) Pinebrook Neighborhood:

(A) Active recreation: Pinebrook Road ballfields - As specified in N.J.A.C. 19:31C-3.16(b), one or more active recreation areas is recommended along Pinebrook Road in Eatontown, with streets bordering all sides of each area. At least 33 percent of each street's frontage around each active recreation area should be comprised of buildings with their primary entrances facing the recreation area.

iii. Tinton Falls:

(1) Town Center:

(A) Formal park: Civic green - At least 66 percent of each of the frontages on the north, south, and east sides of the recommended civic green (that is, excluding the Municipal Drive frontage), should include buildings with their primary entrances facing the green. In addition, at least 50 percent of the buildings contributing to the recommended build-to line around the civic green should constitute mixed-use buildings with ground-floor retail use; the remainder may be medium-density residential development, in accordance with N.J.A.C. 19:31C-3.4.

(2) Tech/Office/R&D Campus:

(A) Formal park: Campus green - Around the recommended campus green, as specified in N.J.A.C. 19:31C-3.16(b), at the southeast corner of Corregidor Road and Laboratory Road, buildings should occupy at least 50 percent of the frontage along each of these streets.

(3) Hemphill Neighborhood:

(A) Formal parks: Pocket parks - For the two or three recommended pocket parks specified in N.J.A.C. 19:31C-3.16(b), residential buildings should occupy at least 33 percent of the frontage along all sides of each park.

(b) The following concern transitions between different uses:

1. Development of larger scale uses (that is, offices, hospitality, institutional, and stand-alone retail) should be buffered from smaller-scale development (namely residential low-density and residential medium-density) by one or more of the following techniques:

- i. Being located across a street or open space;
  - ii. Being located back-to-back or side-to-back across an alley or parking area;
  - iii. Having mixed-use development as a transitional use between the two areas; and
  - iv. Having a minimum 20-foot landscaped buffer where back-to-back, side-to-back or side-by-side development occurs.
2. In addition, non-residential uses located on the same block as residential uses should be located on higher-traffic streets and at the periphery or end of each block.

3. Mixed-use development is considered an appropriate transitional land use to all other permitted land use types without the need for buffering.

(c) Transitions to surrounding neighborhoods: The following buffers are recommended where no intervening street, open space, or water body may otherwise provide adequate separation and/or screening.

1. Oceanport:

i. Horseneck Center: Development should be setback at least 200 feet from the railroad right-of-way, with landscaping as specified in N.J.A.C. 19:31C-3.16(d)3 along the railroad right-of-way. All provisions of the Coastal Area Facility Review Act (CAFRA) apply for development along Parker's and Oceanport Creeks.

ii. Education/Mixed-Use Neighborhood: Buildings fronting onto Main Street in this district should be set back at least 20 feet from the public right-of-way in order to echo the prevailing setbacks along Main Street. The setback area should be landscaped with grass and low plantings, and optionally with trees. Buildings may have driveways onto Main Street in this area, or onto a rear alley.

iii. Green Tech Campus: New development in this area should be setback from Parker's Creek or its tributaries by at least 100 feet.

2. Eatontown:

i. Route 35 Lifestyle/Tech Center:

(1) In the area south of the Avenue of Memories and north of Academy Avenue on the southwestern edge of this development district, buildings should front onto new internal streets and only side or back onto the Fort Monmouth Project Area boundary. No new streets should be created between new development and existing adjoining development in these areas. Buildings should provide a minimum 25-foot setback along the Fort Monmouth Project Area perimeter in this area, and such setback should be generously planted with trees and other vegetation.

(2) In the area south of Academy Avenue, new development should provide a minimum 25-foot setback along the Fort Monmouth Project Area perimeter, and such setback should be generously planted with trees and other vegetation. Buildings may either front onto Park Avenue, or onto a new street within the district.

(3) Where buildings adjoin Route 35 and development to the north of the zone, a planted buffer of 25 feet should be provided.

ii. Pinebrook Neighborhood:



(1) Where buildings adjoin Pinebrook Road, a minimum 30-foot street-facing setback should be provided along Pinebrook Road. The setback area should be landscaped with grass and low plantings, and optionally with trees.

(2) Along this development district's borders with the existing residential neighborhood to the south and the institutional uses to the east, new buildings should only side or back onto the Fort Monmouth Project Area boundary. No new streets should be created between new development and existing adjoining development in these areas. Buildings should provide a minimum 15-foot setback along the Fort Monmouth Project Area perimeter in this area, and such setback should be generously planted with trees and other vegetation. Landscaping should be provided as specified in N.J.A.C. 19:31C-3.16(d)3 along the railroad right-of-way.

(3) Golf/Conference Campus: Existing landscaped buffers along the perimeter, other than where it is bordered by the railroad at the southern edge, should be maintained. Landscaping should be provided as specified in N.J.A.C. 19:31C-3.16(d)3 along the railroad right-of-way.

### 3. Tinton Falls:

#### i. Town Center:

(1) A strong connection is recommended from the Town Center to the existing Tinton Falls Municipal Complex to the west across Municipal Drive. In accordance with build-to line recommendations in (a)3 above, buildings should face the required civic green that aligns with the Municipal Complex. A 25-foot buffer should be provided adjoining Pearl Harbor Avenue.

(2) Where buildings adjoin Tinton Avenue, a minimum 50-foot planted buffer should be provided. This buffer may either be a series of easements on individual lots, with a permanent restriction against development or clearing of trees; or a separate, common area maintained by the property owner or property association. The buffer should be generously planted with trees and other vegetation.

ii. Hemphill Neighborhood: In order to avoid multiple driveways having direct access onto Tinton Avenue, any new low-density residential development within 200 feet of Tinton Avenue should be oriented to have vehicular and pedestrian access from a new internal street rather than from Tinton Avenue. A buffer of minimum 50 feet depth should be provided between development adjoining Tinton Avenue and the Tinton Avenue right-of-way. This buffer may either be a series of easements on individual lots, with a permanent restriction against development or clearing of trees; or a separate, common area maintained by the property owner or association. The buffer should be generously planted with trees and other vegetation.

iii. Tech/Office/R&D Campus: Transition buffers of at least 50 feet should be provided from the Tech/Office/R&D Campus to adjacent development areas. The only location where new development within the development district may adjoin existing development is along Pearl Harbor Road at the western boundary. A 25-foot planted buffer should be provided between new development and Pearl Harbor Road. New development may either face Pearl Harbor Road or a new internal street. Landscaping should be provided as specified in N.J.A.C. 19:31C-3.16(d)3 along the railroad right-of-way.

#### 19:31C-3.18 Building design and sustainability

##### (a) The following concern massing and articulation:

1. In center and neighborhood districts, buildings should have a traditional, pedestrian-friendly massing, echoing forms of the historic Fort Monmouth. Buildings in neighborhood districts should have massing and articulation appropriate to a residential focus. In campus districts, larger-scale massing may be employed, in keeping with the allowable uses of office, institutional, and hospitality.

##### i. The following concern horizontal massing of buildings:

(1) Along streets, facade planes of buildings should appear as a series of distinct bays. Bays in center and neighborhood districts should not exceed 60 feet in width. Bays in campus districts should not exceed 100 feet in width. Bays may be defined through elements such as columns, pilasters, gutters or expansion joints, changes in facade plane, size and rhythm of window spacing, pattern of balconies, and/or variation in surface material and pattern. Facade articulation should vary in the design and dimensions of bays along one building facade; a monotonous repetition of the same bay along a very wide facade is discouraged.

(2) Bay definition should extend through all levels of the building(s), except where horizontal massing changes in the facade plane are provided to break up the bulk of a building.

ii. The following concern vertical massing of buildings:

(1) The following concern the base of buildings:

(A) The base of buildings should be highlighted architecturally and differentiated from upper floors in order to visually ground the building. Suggested means are: varied fenestration, materials, floor heights, horizontal banding, detailing, and/or textures/patterns. On shorter buildings such as stand-alone retail or low-density residential buildings, the base may be the lower portion of the first level; on taller buildings, the base may be the lowest one or two floors.

(B) The pattern of window openings within a building's base should relate to the building's vertical bay pattern.

(C) Retail storefronts and lobbies to upper-story offices and apartment buildings should have large clear glass windows. Overhangs, light shelves, canopies, and straight awnings should be considered along storefronts and over major building entrances. Retail signage and building-mounted lighting are also recommended to help highlight the base where appropriate.

(D) Single-family homes, townhouses, and attached residential products should have full-width porches, stoops, porticos, or entry overhangs, echoing the historic pattern of housing at the Fort Monmouth. Individual unit entries with similar defining features should also be considered for ground-floor apartments in multi-family buildings.

(2) Middle of buildings: Except on low-density residential types, the middle levels of a building should be distinguished from the base and top by horizontal belt courses, cornices, or changes in material, facade detailing, or fenestration pattern and proportion.

(3) The following concern the top of buildings:

(A) The tops of buildings should be highlighted with a parapet wall, balustrade, or deep cornice.

(B) Flat roofs should be considered on stand-alone retail and office buildings. Flat or sloping roofs may be used for institutional/civic buildings and for mixed-use buildings. Residential buildings, both low and medium-density, should have sloping roofs in side-gabled, cross-gabled, or hipped shapes. All sloping roofs should have a minimum slope of 1:2 rise/run. Roofs exceeding 50 feet in length should have frequent dormer windows or be broken up by variations in plane and/or roofing mass.

(C) The rooflines of buildings should coordinate with, and reinforce, the variation in bay massing (horizontal differentiation).

(b) The following concern the transparency of buildings:

1. Entries: Pedestrian building entries should be clearly visible and highlighted within the front facade through projections, recessions, and/or material changes, as well as canopies, overhangs, and lighting. The distinguishing features of such entries should be carried vertically through the building mass.

2. The following concern windows:

i. The following refers to the amount of building facade in various locations that should include transparent glazing.

(1) The following concern ground-floor facade transparency:

(A) Fronting onto a recommended build-to line, any retail use should have transparent glazing occupying at least 75 percent of the ground-floor facade area. Any non-retail use fronting onto a build-to line should have transparent glazing occupying at least 50 percent of the ground-floor facade area.

(B) Fronting onto a recommended street, but not located along a recommended build-to line, facades for any use should have transparent glazing occupying at least 40 percent of the ground-floor facade area.

(C) Adjacent to (or across a street from) a recommended open space of type formal park, active recreation, or passive open space, but not located on a build-to line, facades should have transparent glazing occupying at least 40 percent of the ground-floor facade area. However, if the ground-floor facade also faces a recommended build-to line, the higher minimum described above should instead apply.

(2) The following concern upper-story transparency:

(A) Upper-story facades (any story above the ground floor) for any use facing a recommended build-to line should have transparent glazing occupying at least 40 percent of the upper-floor facade area.

(B) Upper-story facades (any story above the ground floor) for any use facing a recommended street should have transparent glazing occupying at least 25 percent of the upper-floor facade area. However, if the upper-story facade also faces a build-to line, the higher minimum described in (b)2i(2)(A) above should instead apply.

(C) Adjacent to (or across a street from) a recommended open space of type formal park, active recreation, or passive open space should have transparent glazing occupying at least 25 percent of the upper-floor facade area. However, if such facade also faces a recommended build-to line or recommended street, the appropriate higher minimum described in (b)2i(2)(A) above should instead apply.

(c) The following concern architectural style:

1. Relationship to historic Fort Monmouth buildings: Within the Oceanport Horseneck Center district and the Eatontown Golf/Conference Campus district, design of new buildings shall draw inspiration from the traditional forms of the buildings within these districts that are required to be adaptively reused. This includes the pedestrian-friendly scale; building height and footprint; symmetrical massing; traditional building materials and detailing; the relationship of the buildings to streets and open space; and the use of key iconic buildings as focal points to terminate or highlight key views.

2. Elsewhere in Fort Monmouth Project Area: Elsewhere in the Fort Monmouth Project Area, new buildings may be built with more modern architectural styles, materials, and forms, provided they comport with this subchapter.

(d) The following concern materials:

1. The following concern building materials:

i. Stone, masonry, brick, wood, fiber cement siding, precast, cast stone, manufactured stone masonry, and glass, as well as cast iron, steel, aluminum, and other types of metal should be the primary materials for facades. No more than three different primary materials should be used on any one building facade. Within the primary materials, variations in colors, textures, and pattern may be employed to further break up the bulk or mass of a building.

ii. Any security grates, access panels, and garage window grilles should be enlivened with artwork, decorative tiling, or ornamental metalwork where possible.

2. Consistent application: Facade design and finish materials should be considered in three-dimensions, particularly as buildings turn corners. Materials and/or details should be extended around building corners and extensions in order to avoid a "pasted-on" appearance. All building facades adjacent to or easily visible from a street, walkway, or open space should exhibit the same or similar degree of architectural detailing as the building's primary, street-facing facade.

3. The following concern transparency of glazing:

i. The following applies to ground floor facades. Reflective, mirrored, smoked, and dark tinted glass should not be used. Lightly-tinted glass may be used for energy-efficiency reasons only if the lightest-color tint that is closest to clear is used. Translucent glass, which allows for shadows and silhouettes behind the glass, should be used rather than spandrel glass, which is virtually opaque, in areas where light is to be admitted while direct views are obscured (such as screened parking areas or mechanical rooms). Spandrel glass should be used only to conceal structural elements (for example, supporting columns and floor slabs) and to maintain a glazed facade appearance.

ii. On upper-story facades, there is no restriction on the type or transparency of glazing.

(e) The following concern screening of service, mechanical, and related areas:

1. Loading areas: Building trash and recycling collection bins should be located on the interior of buildings or screened from view of streets and open space by means of fencing and/or landscaped buffers. Loading docks should have operable doors or gates so that they may be closed when not in use. Except where a building is completely surrounded by recommended streets, leaving no other possible location, loading docks should be located away from recommended street frontages.

2. Mechanical equipment: Building mechanical equipment on the first floor or at-grade is encouraged to be fully contained within the building. Alternately, it should be located in the rear yard or within the interior side yard area and screened with evergreen trees and shrubs and attractive fencing.

3. Rooftop mechanical equipment: Any rooftop mechanical equipment that may be visible from a street should be screened from view in a manner consistent with the architectural design and materials of the building, or set back far enough from the building edge that it is not visible from any street or open space.

4. Outdoor retail sales areas: Any exterior sales areas should be enclosed by screening that is compatible to the overall building form and comprised of quality materials that are in keeping with the building architectural style. No chain link fencing should be allowed for screening purposes.

(f) Private open space: Private open spaces should include both shared/common and individual spaces. Where possible, private open space shall be integrated and coordinated with the multi-use trail and public open spaces. Specific suggestions for each type of private open space follow below.

1. The following concern shared/common private open space:

i. A shared/common private open space such as a rooftop terrace, courtyard, or lawn area should be provided at each residential or mixed-use building containing multi-family units. Examples of where shared private open spaces could be provided include: atop the roof of a parking garage that is directly linked to or integral to the residential building; atop the roof or a mid-level terrace of the residential building itself; at-grade within an interior courtyard; to the front or side of the building; or any combination of these locations.

ii. For office-only and mixed-use buildings that are primarily occupied by office uses, shared private open space should also be considered.

iii. Shared open spaces should be appropriately sited with respect to the height and setback of the surrounding buildings to maximize light and minimize shadow impacts for the users and the public. These spaces should be attractively landscaped, easily accessible to all users, and include seating and amenities appropriate to their size.

2. The following concern individual private open space for residences:

- i. Each low-density residential unit should include individual private open space in the form of a front stoop or porch as well as a front yard. Terraces and/or balconies, and rear patios or yards, should be considered as well. These private open spaces should provide an extension of the interior living space and a transition zone from the public to private realm.
- ii. Medium density residential types, as well as residential units in mixed-use buildings, should similarly include individual private open spaces such as balconies or terraces, and yards and patios for ground-floor units.

(g) The following concern green design/sustainability:

1. Developers within the Fort Monmouth Project Area should attain LEED certification for individual buildings through LEED-NC, for New Construction; LEED-EB: O&M, Existing Buildings, Operations & Maintenance; LEED-CS, Core & Shell; LEED-Homes; or other LEED rating system. Developers applying for site plan review should achieve LEED-ND, Neighborhood Development at the minimum certification level.

2. Preservation of existing geothermal fields: Several geothermal fields for alternative energy lie within Eatontown's Route 35 Lifestyle/Tech Center district. One of these geothermal fields is recommended as a formal park within this development district, the town green as specified in N.J.A.C. 19:31C-3.16(b). Other geothermal fields at the Fort Monmouth Project Area should also be preserved where possible, through integration with the open space and/or surface parking system, as they provide valuable low-cost sustainable energy. For operational reasons, the only uses that should be allowed over active geothermal fields are surface parking lots and open space.

3. Green roofs: Green roofs should be considered on all new and existing buildings. Green roofs may be intensive (light shrubbery not to be walked on) or extensive (landscaping that can be walked and played on, as shared/common open space for building occupants). Green roofs may be used at the top roof level of a building as well as on lower-level courtyards atop parking garage levels.

4. Building preservation and adaptive reuse: N.J.A.C. 19:31C-3.4(b) specifies the preservation and adaptive reuse of various existing buildings within the Fort Monmouth Project Area.

5. Reuse of construction and demolition materials: Building debris created from demolition of existing buildings at Fort Monmouth should be reused for new foundations, roads, and walkways, where possible. All construction waste should also be reused or recycled on-site wherever possible, to minimize truck trips off-site.

6. Low-impact landscaping: Development within the Fort Monmouth Project Area should use native plants in all landscaped areas, in order to reduce the need for irrigation and fertilization, and select organic alternatives whenever the use of fertilizers is unavoidable for pest control. The proper selection of native and drought-tolerant plant materials should minimize the need for chemical treatment of landscaped areas. An integrated turf management and pest control program should be considered, in conjunction with selection of appropriate turf grasses, to strictly control the application of pesticides and fertilizer so as to minimize potential impact to groundwater and potential transport to nearby waterways via surface runoff.

7. Tree preservation: Existing street trees and trees within forested open space areas throughout the Fort Monmouth Project Area should be preserved wherever possible. All trees within recommended open spaces should be protected with fencing during construction, and preserved after construction is completed.

19:31C-3.19 Application of rules

(a) The following concern the relationship between this subchapter and the Reuse Plan:

1. This subchapter is designed to promote flexibility in connection with the implementation of the Reuse Plan, but it does not supersede the Reuse Plan and is not intended to be, nor should it be construed as, amendments to the Reuse Plan. All development and redevelopment within the Fort Monmouth Project Area shall be consistent with the Reuse

Plan. The Authority will evaluate all development and redevelopment within the Fort Monmouth Project Area for consistency with the Reuse Plan.

2. In determining whether a proposed development or redevelopment project or proposed LRHL redevelopment plan is consistent with the Reuse Plan, the Authority shall consider, among other things, the following, as applicable:

i. Whether the proposed land uses and location thereof would result in a material departure from the land uses and locations described in the Reuse Plan;

ii. Whether approval of the project or consent to the proposed LRHL redevelopment plan would result in a material change in the overall development yield or affordable housing obligations of the host municipality as described in the Reuse Plan, or would result in any negative impact to the Authority's obligations pursuant to the Fair Housing Act of 1985;

iii. Whether approval of the project or consent to the proposed LRHL redevelopment plan will result in any significant adverse impact on other areas of Fort Monmouth;

iv. Whether approval of the project or consent to the proposed LRHL redevelopment plan would substantially impair the intent and purposes of the Reuse Plan (that is, whether the Reuse Plan will remain a rational and coordinated land use plan following the development of the project or implementation of the LRHL redevelopment plan);

v. Whether the approval of the project or consent to the proposed LRHL redevelopment plan would have any negative impact to the Authority's obligations pursuant to Defense Base Closure and Realignment Act of 1990, Pub. L. 101-510 (10 U.S.C. § 2687) and any agreement with the U.S. Army conveying Fort Monmouth property to the Authority, and whether such approval or consent would require Federal review, consent, or approvals; and

vi. Whether approval of the project or consent to the proposed LRHL redevelopment plan would have significant adverse infrastructure ramifications different from those envisioned in the Reuse Plan.

3. Where a proposed development or redevelopment project is determined by the Authority to be inconsistent with the Reuse Plan, the Authority shall require the adoption of either a Reuse Plan amendment pursuant to N.J.A.C. 19:31C-3.27(c) or a use-type variance pursuant to N.J.A.C. 19:31C-3.21 prior to the approval of any application submitted to the Authority or the host municipality as provided in this subchapter.

4. Where a proposed LRHL redevelopment plan is determined by the Authority to be inconsistent with the Reuse Plan, the Authority shall require the adoption of either a Reuse Plan amendment pursuant to N.J.A.C. 19:31C-3.27(c) or a variance pursuant to N.J.A.C. 19:31C-3.25(b)4iii prior to the consent by the Authority to the LRHL redevelopment plan.

(b) The following concern the application and interpretation of this subchapter:

1. The provisions of this subchapter shall have application to the Fort Monmouth Project Area.

2. This subchapter shall apply to the construction and uses of all non-exempt buildings and structures and uses of land within the Fort Monmouth Project Area. No non-exempt building, structure, or land, or any part thereof, shall be used or occupied and no building or structure shall be erected, constructed, reconstructed, moved, repaired, extended, converted, altered, maintained, used, occupied, or reoccupied within the Fort Monmouth Project Area unless in conformity with all the provisions of this subchapter specified for the development district in which it is located.

3. All uses not specifically permitted by the applicable rules are prohibited.

4. The Authority shall have exclusive jurisdiction to interpret this subchapter and the Official Zoning Map. The zoning officers and zoning boards shall refer to the Authority all requests or applications for interpretation of this subchapter received by them.

i. Prior to the submission of a request for an interpretation, the requester shall attend a pre-submission conference with the Authority staff. Any statements or recommendations made by any representative of the Authority in the context of a pre-submission conference shall be considered non-binding on the prospective applicant, the Authority, and the host municipality and shall confer no legal rights.

ii. A request for an interpretation shall be submitted in writing and filed with the Authority.

iii. The written request for an interpretation shall include a properly completed and signed Authority application form, which shall request the following information:

(1) The applicant's name and address;

(2) The location of the property that is the subject of the application;

(3) If the applicant is not the property owner, the property owner's name and address as well as the property owner's authorization for the application;

(4) An excerpt of the existing rule or portion of the map for which an interpretation is sought;

(5) An explanation of the request for interpretation;

(6) Payment of the Authority uniform application fee pursuant to N.J.A.C. 19:31C-3.28(b)1; and

(7) Other such information as the Authority may deem necessary from a specific requester.

iv. Upon receipt of a complete application, the Authority staff shall review the request and make its recommendation to the FMERA Board. The decision of the Authority shall be memorialized by a formal written resolution of the FMERA Board adopted at the meeting at which the interpretation is decided.

v. A copy of the decision of the Authority shall be transmitted to the applicant by the Authority via certified mail.

vi. No person shall contact or attempt to contact any member of the Authority pertaining to a request for interpretation. No person shall contact or attempt to contact the Authority once the staff has deemed a request for interpretation complete and begins its review of the request.

vii. The Authority's interpretation shall be binding on the enforcement and administration of this subchapter, including, but not limited to, site plan and subdivision approvals by host municipality and county planning boards, unless and until superseded by a subsequent interpretation or change in this subchapter.

(c) The following concern exemptions:

1. The following activities or projects within the Fort Monmouth Project Area are exempt from this subchapter, except as and to the extent otherwise expressly provided in this subchapter to the contrary:

i. Projects of the United States on land owned by the United States, and subdivisions and mergers by deed from the United States, are exempt from local site plan and subdivision approval under the Fort Monmouth Economic Revitalization Authority Act, and from this subchapter;

ii. Projects undertaken by, and subdivisions or mergers by deed from, the Authority, EDA, or other State entities (including, but not limited to, interim use and occupancy of existing buildings or properties owned or controlled by them, and renovations associated with such interim use and occupancy) are exempt from local site plan and subdivision approval under the Fort Monmouth Economic Revitalization Authority Act, provided that all such projects, unless otherwise specifically exempted in this subsection, shall be subject to Authority's review and approval for compatibility (in the case of interim use and occupancy) or consistency (in the case of development or redevelopment) with the Reuse Plan and this subchapter;

iii. Roadway or infrastructure maintenance, repair, or replacement work within municipal, county, and State right-of-ways;

iv. Maintenance, repair, or replacement of existing utility structures or the installation of new underground utility structures within utility easements, where such work is conducted by the utility company or authorized representative;

v. County projects, on land owned by the county, and municipal projects, on land owned by the host municipality, shall not require local site plan or subdivision approval; provided that all such projects shall be subject to a Redevelopment Agreement or memorandum of understanding between the County or host municipality and the Authority or EDA as designated redeveloper, and to review by the Authority for consistency with the Reuse Plan and this subchapter; and

vi. Applications regarding alterations to individual detached one- or two-family homes and related accessory uses and not requiring any variances shall be exempt from site plan review and approval. Applications for alterations to individual detached one- or two-family homes and related accessory uses that require bulk and area-type variances shall be processed pursuant to this subchapter as minor site plans.

(d) The following concern zoning compliance letters:

1. Zoning compliance letters for properties within the Fort Monmouth Project Area shall be provided by the zoning officer, in consultation and cooperation with the Authority. The zoning officers shall provide to the Authority copies of all requests for zoning compliance letters received by them and all zoning compliance letters issued by them for properties within the Fort Monmouth Project Area.

2. In connection with exempt projects pursuant to (c) above (other than applications regarding alterations to individual detached one- or two-family homes and related accessory uses, as to which the zoning officer shall issue the zoning compliance letter), the Authority may provide a zoning compliance letter or confirmation of exemption for a specific property within the Fort Monmouth Project Area, upon written request and payment of the Authority uniform application fee pursuant to N.J.A.C. 19:31C-3.28(b)1.

3. The written request to the Authority for a zoning compliance letter shall include a properly completed and signed Authority application form, which shall request the following information:

i. The applicant's name and address;

ii. The location of the property that is the subject of the application;

iii. If the applicant is not the property owner, the property owner's name and address as well as the property owner's authorization for the application;

iv. The basis for the claimed exemption;

v. Where applicable, a chronological list of all prior Authority actions taken or approvals granted, and all prior land use approvals granted by the host municipality, if any, for the subject property; and

vi. Other such information as the Authority may deem necessary from a specific requester.

4. The Authority shall provide to the zoning officer a copy of each request for zoning compliance letters received by the Authority and of all zoning compliance letters issued by the Authority for properties within the host municipality.

(e) The following concern building permits and certificates of occupancy:

1. Building permits and certificates of occupancy for project improvements constructed within the Fort Monmouth Project Area shall be issued by the appropriate code official of the host municipality, or by the New Jersey Department of Community Affairs, as per applicable laws and subject to the requirements of this subchapter.



2. The host municipality code official shall refer to the Authority for review by the Historic Preservation Advisory Committee all applications for building permits involving properties within the Fort Monmouth Project Area identified in the Programmatic Agreement as buildings required for preservation" or select historic properties, where the Authority mandatory conceptual review and site plan approval by the planning board are not required prior to the issuance thereof, and shall not issue such permit prior to receiving the results of that review.

19:31C-3.20 Site plan and subdivision applications; mandatory conceptual review

(a) The Authority shall be an interested party entitled to notice in connection with all hearings of any local planning board relating to applications for development of land within 200 feet of the boundary of the Fort Monmouth Project Area.

(b) The following concern applications for site plan and subdivision approval:

1. All non-exempt development or redevelopment within the Fort Monmouth Project Area shall require site plan and/or subdivision approval.

2. Applications for subdivision approval and site plan approval in connection with development within the Fort Monmouth Project Area shall be submitted to the planning board of the host municipality in which the development parcel is located, and where and to the extent required pursuant to the County Planning Law, *N.J.S.A. 40:27-1* et seq., to the County planning board, for review and approval.

3. The Authority shall be an interested party entitled to notice in connection with all local planning board hearings relating to applications for development of land within the Fort Monmouth Project Area.

4. An application for development within the Fort Monmouth Project Area may not be deemed complete by a planning board until the planning board has received the Authority's written determination as to the results of its mandatory conceptual review pursuant to (c) below.

5. It shall be a condition of each final site plan or subdivision approval granted by the planning boards that the developer shall have entered into a redevelopment agreement with the Authority or EDA as designated redeveloper for the project that is the subject of the application, unless the project is exempt from the requirement of a redevelopment agreement pursuant to N.J.A.C. 19:31C-3.24(b).

6. Whenever a planning board shall make a land use decision pursuant to this subsection, a copy of the approved plans and of the memorializing resolution and all accompanying exhibits or reports incorporated by reference in the resolution shall be provided to the Authority, within not more than 10 working days following the adoption of the memorializing resolution.

(c) The following concern mandatory conceptual review (MCR) of site plan and subdivision applications by the Authority:

1. Prior to or simultaneous with submitting an application for subdivision or site plan approval to the planning board (or to the County planning board, if such submission is made prior to submission to the planning board), the application shall be submitted to the Authority for MCR.

2. The application for MCR shall consist of the following. Where the application involves a minor subdivision or minor site plan, the Authority, in its discretion and upon written request of the applicant, may waive one or more of the submission requirements in (c)2ii, iii, or iv below, where strict compliance therewith is impractical or not necessary in order for the Authority to perform the MCR.

i. A properly completed and signed Authority application form, which shall request the following information:

(1) The applicant's name and address;

(2) Identification and the location of the property that is the subject of the application, by municipal block and lot number if available, or by the Authority parcel designation;

(3) If the applicant is not the property owner, the property owner's name and address as well as the property owner's authorization for the application;

(4) What approvals the applicant seeks from the host municipality and/or the County;

(5) A brief description of the proposed development;

(A) For residential developments, the project description shall include a statement of how the project meets the affordable housing requirements set forth in N.J.A.C. 19:31C-3.23;

(B) If the proposed residential development does not satisfy the affordable housing requirements set forth in N.J.A.C. 19:31C-3.23, the application shall include a detailed explanation of the applicant's position as to economic feasibility and documentation in support thereof (including, but not limited to, a project pro forma and market studies);

(6) A list of all variances and design exceptions requested;

(7) A list of all buildings required for preservation or select historic properties as defined in the Programmatic Agreement, if any, included within or impacted by the project, and as to each whether any required NJSHPO referral has been made. Where NJSHPO referral is required, an application for MCR may be deemed incomplete in the absence of such referral;

(8) A list of all open space or other environmental features, if any, listed in the natural resources inventory which are included within or impacted by the project;

(9) The names and contact information of all professionals representing the applicant;

(10) If the applicant is seeking subdivision approval, a brief description of the parent parcel and of the proposed lots;

(11) A chronological list of all prior Authority actions taken or approvals granted, and land use approvals granted by the host municipality, if any, for the subject property;

(12) Any other supplemental information requested or required by the Authority; and

(13) Payment of the MCR application fee pursuant to N.J.A.C. 19:31C-3.28(b)1 and the posting of the MCR escrow deposit pursuant to N.J.A.C. 19:31C-3.28(b)2;

ii. The complete subdivision approval or site plan approval application submitted or to be submitted to the host municipality (or to the County, as the case may be), together with any application submission requirement waiver requests submitted or to be submitted to the planning board by the applicant;

iii. The architectural elevations of the proposed project, if not already included in the application pursuant to the host municipality's regulations; and

iv. A written statement by the applicant as to the application's relationship to each of the evaluation criteria set forth in (c)5 below, including, where variances or design exceptions are requested, a brief statement of the grounds on which the applicant believes the variances or exceptions may be granted, and a brief description of the consequences to the applicant and property owner if the variances or exceptions are denied.

3. Upon receipt of a complete application, the Authority staff shall conduct the MCR. Such conceptual review by the Authority staff shall be completed within 45 days of the Authority's receipt of the complete application, or within such later time period agreed to by the applicant, unless accompanied by a request for a use-type variance, in which case the

time periods applicable to the determination of a request for a use-type variance set forth in N.J.A.C. 19:31C-3.21 shall apply.

4. The Authority staff shall review each application to determine whether one or more use-type variances or an amendment to the Reuse Plan may be required. If the Authority staff determines that a use-type variance or an amendment to the Reuse Plan is required, the planning board shall not have jurisdiction over the subdivision application or site plan application until the applicant obtains approval from the Authority for the required use-type variances or an amendment to the Reuse Plan.

5. In addition to determining whether use-type variances may be required, in conducting the MCR the Authority staff may evaluate the application for, and express the Authority's position as to, each of the following criteria, if and as applicable to the application under consideration:

i. The need and justification for, and desirability of, any bulk and area-type variances requested by the applicant or that the Authority identifies as being required;

ii. Adequacy of access to and egress from the subject property, the impact of the proposed project on the existing roadway system within the Fort Monmouth Project Area boundaries, the relationship of the proposed project to the existing municipal or County roadway system, and the need for roadway improvements, relocations or modifications;

iii. Availability and adequacy of water, sewer, gas, electric, and telecommunications utilities, potential impacts of the proposed project on existing utilities infrastructure within the Fort Monmouth Project Area, the relationship of the project to the existing municipal or other utilities systems, and the need for infrastructure improvements or modifications;

iv. The need for and existence or availability of easements in connection with access and utilities;

v. Architectural and aesthetic review; and

vi. Any other aspect of the project that, in the opinion of the Authority is relevant to the successful redevelopment of the Fort Monmouth Project Area, including, but not limited to, the potential impacts of the proposed project on future redevelopment within the Fort Monmouth Project Area.

6. Where an application involves buildings required for preservation or select historic properties as defined in the Programmatic Agreement, the Authority shall provide a copy of the application for MCR to the Historic Preservation Advisory Committee for its review pursuant to (d) below. The results of the Historic Preservation Advisory Committee's review shall be included or incorporated into the written report of the results of the Authority's MCR.

7. A copy of each application for MCR shall be provided to the Environmental Advisory Committee, for informational purposes. Where the application involves open space to be preserved or sensitive environmental features identified in the natural resources inventory, the Authority shall request that the Environmental Advisory Committee review the application pursuant to (e) below. The results of the Environmental Advisory Committee's review shall be included or incorporated into the written report of the results of the Authority's MCR.

8. The results of the Authority's MCR will be communicated to the applicant and the planning board in writing. Except to the extent the jurisdiction of the planning board is restricted as provided in (c)4 above with regard to use-type variances or a Reuse Plan amendment, the MCR does not in any way obviate or supersede site plan or subdivision approval by the planning board (or, where applicable, the County planning board).

9. If following the completion of the MCR the application is materially modified or revised, notice of such modifications or revisions shall be provided to the Authority, and the Authority, by written notice to the planning board and the applicant, may require additional or supplemental conceptual review, if the Authority determines that such modifications or revisions materially and negatively alter the assumptions on which conceptual review was based.

(d) The following concern the Authority's Historic Preservation Advisory Committee:

1. The Authority's Historical Preservation Advisory Committee shall be the exclusive historic preservation commission, as established pursuant to section 21 of P.L. 1985, c. 516 (*N.J.S.A. 40:55D-107*), for all land use matters and approvals within the Fort Monmouth Project Area.

2. The Authority shall provide to the Historical Preservation Advisory Committee for its review a copy of each application for mandatory conceptual review that involves buildings required for preservation or select historic properties as defined in the Programmatic Agreement.

3. The Programmatic Agreement is not reproduced in this subchapter, but a current copy of the Programmatic Agreement shall be kept in the offices of the Authority.

4. The Historic Preservation Advisory Committee shall review the proposed project for consistency with the requirements of the Programmatic Agreement and any applicable preservation covenants required thereunder. The results of the Historic Preservation Advisory Committee's review may be incorporated in a resolution of the Committee or in the Committee's minutes, or in a written report of the Committee, at the Committee's discretion. The Historic Preservation Advisory Committee's review shall constitute part of and be coordinated with the timing of the Authority's mandatory conceptual review, so that the results and report thereof, if any, may be included or incorporated into the written report of the results of the Authority's mandatory conceptual review.

5. As required pursuant to N.J.A.C. 19:31C-3.19(e)2, the Historic Preservation Advisory Committee shall review and report on applications for building permits for properties identified in the Programmatic Agreement as buildings required for preservation or select historic properties, in all situations where the Authority mandatory conceptual review and site plan approval from the planning board are not required prior to issuance of the permit. The Authority shall report the results of the Historic Preservation Advisory Committee review of such permit application in writing to the host municipality code official who submitted the request for review, within 45 days of the Authority's receipt of the request. Failure of the Historic Preservation Advisory Committee to render a report within the 45-day period shall be deemed to constitute a report in favor of issuance of the permit and without the recommendation of conditions to the permit.

6. Meetings of the Historic Preservation Advisory Committee as part of the Authority's mandatory conceptual review of a project shall be conducted in accordance with the Senator Byron M. Baer Open Public Meetings Act, P.L. 1975, c. 231 (*N.J.S.A. 10:4-6 et seq.*).

(e) The following concern the Authority's Environmental Advisory Committee:

1. The Authority's Environmental Advisory Committee shall be the exclusive environmental commission, as established pursuant to P.L. 1968, c. 245 (*N.J.S.A. 40:56A-1 et seq.*), for all land use matters and approvals within the Fort Monmouth Project Area.

2. The Authority shall provide to the Environmental Advisory Committee an informational copy of each application for mandatory conceptual review. Where the application involves open space to be preserved or other environmental features to be preserved or protected as identified in the natural resources inventory, the Authority shall request the Environmental Advisory Committee's review of the application.

3. The natural resources inventory shall be prepared by the Authority staff, giving due consideration to the Reuse Plan and the natural resource inventories, if any, of the host municipalities, and approved by the FMERA Board. A current copy of the natural resources inventory shall be kept in the offices of the Authority.

4. The Environmental Advisory Committee shall review the proposed project for impacts upon the open space parcels and other environmental features to be protected or preserved as identified in the natural resources inventory (or prior to the completion thereof, in the Reuse Plan). The results of the Environmental Advisory Committee's review may be incorporated in a resolution of the Committee or in the Committee's minutes, or in a written report of the Committee, at the Committee's discretion. The Environmental Advisory Committee's review shall constitute part of and be coordinated with the timing of the Authority's mandatory conceptual review, so that the results and report thereof, if any, may be included or incorporated into the written report of the results of the Authority's mandatory conceptual review.

5. Meetings of the Environmental Advisory Committee as part of the Authority's mandatory conceptual review of a project shall be conducted in accordance with the Senator Byron M. Baer Open Public Meetings Act, P.L. 1975, c. 231 (*N.J.S.A. 10:4-6 et seq.*).

19:31C-3.21 Variances and exceptions

(a) The following concern bulk and area-type variances:

1. In connection with subdivision and site plan approval, the Planning Board shall have the authority to grant bulk and area-type variances from the requirements contained in this subchapter or applicable LRHL redevelopment plan, upon the satisfaction of either of the following criteria:

i. By reason of the exceptional narrowness, shallowness, or shape of the property; exceptional topographic conditions or physical features uniquely affecting the property; or an extraordinary and exceptional situation uniquely affecting the property or structures lawfully existing thereon, strict application would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer; or

ii. A determination that the purposes of the Reuse Plan and this subchapter would be advanced by a deviation from the bulk and area requirements of this subchapter and the benefits of the deviation would substantially outweigh any detriment.

2. No bulk and area-type variance may be granted without a determination that the variance can be granted without substantial detriment to the public good and that the granting of the variance will not substantially impair the intent and purpose of the Reuse Plan or this subchapter.

3. Where bulk and area-type variances are requested or identified by the Authority as being required during mandatory conceptual review, the Authority may include in its written report of the results of its mandatory conceptual review a statement with the Authority's position as to whether the variances can be granted without substantially impairing the intent and purpose of the Reuse Plan or this subchapter, or a statement as to why the Authority has determined that granting the variances would substantially impair the intent and purpose of the Reuse Plan or this subchapter.

4. Where the need or a request for a bulk and area-type variance is identified following the completion of the Authority's mandatory conceptual review, the planning board, prior to the completion of the public hearing on the application, shall so inform the Authority and shall afford the Authority the opportunity to provide for the record the Authority's statement pursuant to (a)3 above. The Authority's statement may be provided either as a written addendum to its report of the results of its mandatory conceptual review or by oral testimony, at the Authority's discretion.

(b) The following concern use-type variances, other than density variances:

1. The Authority shall have sole and exclusive jurisdiction to grant, for special reasons shown, a variance from the requirements of the Reuse Plan or this subchapter to permit:

i. A use or principal structure in a development district restricted against such use or principal structure;

ii. A continuation or an expansion of a nonconforming use;

iii. Deviation from a specification or standard pursuant to this subchapter pertaining solely to a conditional use;

iv. An increase in the permitted floor area ratio in a development district as established by this subchapter; and

v. A height of a principal structure which exceeds by 10 feet or 10 percent the maximum height permitted in a development district for a principal structure.

2. In lieu of granting any use-type variance, the Authority, in its discretion, may require the adoption of a Reuse Plan amendment pursuant to N.J.A.C. 19:31C-3.27(c) or an amendment to this subchapter, or both. The decision of the FMERA Board to require a Reuse Plan amendment or an amendment to this subchapter shall be memorialized in a resolution adopted by the FMERA Board.

3. An application for a use-type variance may be included as part of an application for mandatory conceptual review, or may be bifurcated from the development application to which it pertains and submitted separately and in advance of such development application. If not submitted together with an application for mandatory conceptual review, an application for a use-type variance shall be submitted on a properly completed and signed Authority application form, which shall request the following information:

i. The applicant's name and address;

ii. Identification and the location of the property that is the subject of the application, by municipal block and lot number if available, or by the Authority parcel designation;

iii. Identification of the particular rule from which the variance is sought;

iv. Provision of a statement of why the variance is sought and of the special reasons that warrant the granting thereof;

v. A description the consequences to the applicant and project if the variance is denied;

vi. Inclusion of site plans, reports, or other data that demonstrate the extent of the relief being sought;

vii. If the applicant is not the property owner, the property owner's name and address as well as the property owner's authorization for the application;

viii. A chronological list of all prior Authority actions taken or approvals granted, and land use approvals granted by the host municipality, if any, for the subject property;

ix. Inclusion of such other such information as may be deemed necessary from a specific applicant by the Authority; and

x. Inclusion of payment of the use-type variance application fee pursuant to N.J.A.C. 19:31C-3.28(b)1 and the posting of the use-type variance escrow deposit pursuant to N.J.A.C. 19:31C-3.28(b)2.

4. In the granting of any use-type variance, the Authority may impose such conditions, safeguards, limitations, and restrictions upon the premises benefited by the variance as may be necessary to: comply with other standards set forth in this subchapter; reduce or minimize any potentially injurious effect of such variance upon other property in or abutting the Fort Monmouth Project Area; carry out the general purpose and intent of this subchapter and the Reuse Plan; and promote the planning principles of the Reuse Plan.

5. If, prior to or in conjunction with an application for mandatory conceptual review, an applicant requests a use-type variance, or if, during the course of mandatory conceptual review, the Authority determines that a use-type variance or an amendment to the Reuse Plan is required, the planning board shall not have jurisdiction over the application unless and until the applicant obtains approval from the Authority for the required use-type variance, or until an amendment to the Reuse Plan or this subchapter is adopted.

6. A public hearing on an application requesting or requiring a use-type variance shall be held in accordance with N.J.A.C. 19:31C-3.26.

7. Use-type variances may be granted where the applicant demonstrates to the satisfaction of the Authority that special reasons exist for the granting of such variance, that the granting of the requested variance will not substantially impair the intent and purpose of the Reuse Plan and this subchapter, and that the variance can be granted without substantial

detriment to the public good. In determining whether to grant a request for a use-type variance, the Authority must determine, based upon the evidence presented by the applicant and the Authority staff's recommendation, that:

- i. Special reasons exist for the granting of the variance requested, including that the granting of the requested variance at the specified location will specifically and materially advance the planning objectives of the Reuse Plan and this subchapter;
- ii. The variance will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
- iii. Adequate infrastructure, including storm and sanitary sewers, utilities, and access roads, will be provided and shall be so designed to prevent and/or minimize negative impacts upon the existing infrastructure. In addition, the proposed use will not decrease the ability of said infrastructure to perform in a safe and efficient manner;
- iv. The variance will not have a substantial adverse environmental impact;
- v. The variance will not substantially impair the intent and purpose of the Reuse Plan or this subchapter; and
- vi. The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood of the subject property.

8. All use-type variances granted by the Authority shall require the affirmative vote of seven members of the FMERA Board, and shall be memorialized in a resolution adopted by the FMERA Board.

9. The approval of a use-type variance shall become null and void five years after the date on which the Authority adopts the resolution approving the variance, unless within such period:

- i. Site plan and subdivision approval for the project is obtained from the planning board; or
- ii. A certificate of occupancy pursuant to N.J.A.C. 19:31C-3.19(e) and a certificate of completion pursuant to N.J.A.C. 19:31C-3.24(f) are obtained for the project, and the use is commenced.

(c) The following concern requirements applicable to use-type variance for increased density:

1. Requests for a use-type variance seeking an increase in the permitted density as established by this subchapter shall first be heard and decided by the zoning board of the host municipality where the property in question is located, pursuant to *N.J.S.A. 52:27I-34.e(2)*. If the zoning board hearing such variance request does not vote in favor of the variance request, the Authority may not grant such a variance.

2. If the zoning board approves a request for a variance to increase density, the Authority may proceed to review and consider the application pursuant to the procedures and standards set forth in N.J.A.C. 19:31C-3.21(b) except as otherwise provided in this section.

3. Applications to the Authority that include a request for a density variance shall include the memorializing resolution and the record of the zoning board's approval of the variance.

4. Except where the zoning board has denied the density variance, the Authority may approve, conditionally approve, or deny such an application. In lieu of granting a use-type variance increasing density, the Authority, in its discretion, may require the adoption of a Reuse Plan amendment pursuant to N.J.A.C. 19:31C-3.27(c) or an amendment to this subchapter, or both.

5. In deciding the request for density variance, the Authority may rely on the record of the public hearings conducted by the zoning board. Nothing in this section shall preclude the Authority from requiring a separate public hearing in accordance with N.J.A.C. 19:31C-3.26 on an application for a density variance, if the Authority, in its sole discretion, determines that such a hearing is necessary or desirable.

6. The Authority shall approve or deny the application for the density variance within 120 days of a complete submission, unless the applicant agrees to extend the time.

(d) The following concern design exceptions:

1. The respective planning board, when acting upon site plan and subdivision applications, shall have the power to grant exceptions from the requirements listed in N.J.A.C. 19:31C-3.10 through 3.12 as may be reasonable and within the general purpose and intent of this subchapter or the Reuse Plan if:

- i. The literal enforcement of one or more of the rules in this subchapter is impractical; or
- ii. The literal enforcement of one or more of the rules in this subchapter will exact undue hardship because of peculiar conditions pertaining to the land in questions.

19:31C-3.22 Nonconforming uses, lots, and structures; temporary uses

(a) The following concern nonconforming uses, lots, and structures:

1. The following apply to nonconforming uses:

- i. Any nonconforming use of land or structure, or portions thereof, may be continued if otherwise lawful, subject to the provisions of this section.
- ii. A nonconforming use shall not be extended, expanded, or increased in intensity, or otherwise altered so as to increase the degree of nonconformity.
- iii. A nonconforming use shall not be changed to any use other than a use permitted in the development district. When a nonconforming use has been changed to any permitted use, it shall not thereafter revert to a nonconforming use.
- iv. No nonconforming use shall be moved in whole or in part for any distance to any location on the same or any other lot, unless such use conforms to the requirements of the development district in which it is located after being so moved.
- v. When a nonconforming use is discontinued or abandoned for 12 continuous months, any subsequent use or occupancy of the land or structure in which the nonconforming use was located shall comply with the rules of the development district in which it is located.
- vi. No use that is accessory to a principal nonconforming use shall continue after such principal use has ceased or terminated, unless otherwise permitted by the applicable rules.

2. The following apply to nonconforming structures/buildings:

- i. Any nonconforming structure/building, or portion thereof, may be continued if otherwise lawful, subject to the provisions of this section.
- ii. No nonconforming structure/building shall be enlarged or added to in any manner unless such enlargement or addition conforms to the requirements of the development district in which it is located.
- iii. No nonconforming structure/building shall be moved in whole or in part for any distance to any other location on the same or any other lot, unless the entire structure shall thereafter conform to the requirements of the development district in which it is located after being so moved.
- iv. Nonconforming structures/buildings may be maintained, repaired, or remodeled, including the incidental repair, installation, or relocation of nonbearing partitions, fixtures, wiring, or plumbing, provided that such maintenance, repair, or remodeling shall not create any additional nonconformity or increase the degree of existing nonconformity of all or



any part of such structure. Nothing in this subchapter shall be deemed to prevent the strengthening or restoration of a structure to a safe condition in accordance with an order of a public official who is charged with protecting the public safety.

v. In the event that a nonconforming structure/building is subject to partial destruction, by any means, such structure shall not be restored unless site plan approval is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.

vi. In the event that a nonconforming structure/building is subject to substantial destruction, by any means, such structure shall not be restored unless it conforms to the requirements for the development district in which it is located and a zoning certificate is obtained.

vii. Notwithstanding the provisions of this section, any structure that is devoted to a nonconforming residential use in any development district may be remodeled, extended, expanded, and enlarged, provided that after any such remodeling, extension, expansion, or enlargement, such structure shall not be used to accommodate a greater number of dwelling units than such structure accommodated prior to any such work.

(b) The following concern temporary uses and structures:

1. The planning board may permit temporary uses and structures under circumstances that will serve to facilitate the redevelopment of the Fort Monmouth Project Area and/or protect the public health, safety, and welfare. Restrictions and requirements applicable to permanent structures within the Fort Monmouth Project Area may be partially or totally modified for a temporary period in order to facilitate the construction of a redevelopment project and/or protect the public.

2. Temporary uses and structures shall be subject to site plan approval by the planning board (which may be included as part of the site plan approval for the project to which it relates), and only in conjunction with an approved site activity within the Fort Monmouth Project Area, such as construction or site remediation, or in order to provide protection for the public.

3. The planning board shall evaluate temporary structures and uses on a case-by-case basis. No approval shall be granted unless the applicant demonstrates the following:

i. Temporary uses and structures may be approved when evidence is provided to show that the structure or use serves a purpose that will facilitate redevelopment of the Fort Monmouth Project Area and/or protect the public health, safety, and welfare; and

ii. Temporary uses and structures shall comply with all applicable rules, unless otherwise permitted by planning board, with the Authority's consent.

4. The maximum duration of any temporary use shall be limited. The Planning Board, with the Authority's consent, shall determine the maximum duration of a temporary use or structure.

#### 19:31C-3.23 Affordable housing

(a) Development within the Fort Monmouth Project Area shall ensure that affordable housing units are constructed and comply with applicable provisions of the Fair Housing Act of 1985 and implementing rules and guidelines. As used in this section, "low or moderate income" shall have the meaning in the Fair Housing Act of 1985, *N.J.S.A. 52:27D-301* et seq., and implementing rules and guidelines.

(b) For developments consisting of newly-constructed residential units located, or to be located, within the Fort Monmouth Project Area, at least 20 percent of the residential units constructed shall be required to be reserved for occupancy by low or moderate income households, to the extent this is economically feasible.

(c) A developer of a project consisting of newly-constructed residential units within the Fort Monmouth Project Area being financed in whole or in part with State funds, including, but not limited to, transit villages designated by the Department of Transportation and units constructed on State-owned property, shall be required to reserve at least 20 percent of the residential units constructed for occupancy by low or moderate income households.

(d) Affordable housing units constructed within the Fort Monmouth Project Area in accordance with COAH rules and guidelines and this subchapter may be utilized by the host municipality where such units are located toward fulfilling its COAH obligation (if such obligation specifically includes the host municipality's obligation attributable to development within the boundaries of the Fort Monmouth Project Area).

(e) The Authority shall identify and coordinate regional affordable housing opportunities in cooperation with the host municipalities in areas with convenient access to infrastructure, employment opportunities, and public transportation. Coordination of affordable housing opportunities may include methods to regionally provide housing in line with regional concerns, such as transit needs or opportunities, environmental concerns, or such other factors as COAH may permit; provided, however, that such provision by the Authority may not result in more than a 50 percent change in the fair share obligation of any municipality.

(f) Notwithstanding any other law or provision of this subchapter to the contrary, no development fees assessed within the Fort Monmouth Transportation Planning District (as defined in the Fort Monmouth Economic Revitalization Authority Act) shall be assessed for any low and moderate income housing units which are constructed within the Fort Monmouth Project Area pursuant to this subchapter.

#### 19:31C-3.24 Redevelopment agreements; designated redevelopment agreement

(a) The following concern redevelopment agreements required:

1. Except as otherwise specifically provided to the contrary in this subchapter, all redevelopment within the Fort Monmouth Project Area shall be implemented pursuant to a redevelopment agreement or the designated redevelopment agreement. The Authority or EDA as designated redeveloper shall be a party to, and empowered to enforce, all redevelopment agreements concerning property or projects within the Fort Monmouth Project Area. Without limiting the generality of the foregoing sentence, where the Authority has consented to the designation of an area in need of redevelopment or rehabilitation and to the adoption of a redevelopment plan by a host municipality pursuant to the LRHL, the Authority or EDA as designated redeveloper shall be a necessary party to, and empowered to enforce, any redevelopment agreement entered into between the host municipality and the redeveloper.

2. It shall be a condition of each final site plan or final subdivision approval granted by the planning boards that the applicant shall enter into a redevelopment agreement with the Authority or EDA as designated redeveloper for the project that is the subject of the application, unless the project is exempt from the requirement of a redevelopment agreement pursuant to (b) below.

(b) Exemptions: The following types of projects shall not be considered redevelopment for the purposes of this subchapter and shall not require a redevelopment agreement:

1. Applications exempt from site plan review involving alterations to individual, detached one- or two-family homes and accessory uses; and

2. The Authority or EDA as designated redeveloper in its discretion may waive the requirement for a redevelopment agreement in respect of projects involving only minor site plan or minor subdivision approval, where such waiver would not be contrary to the purposes and intent of the provisions of this subchapter or the Reuse Plan.

(c) The following concern the EDA as designated redeveloper of certain properties:

1. Under *N.J.S.A. 52:27I-33.a*, the EDA is designated as a designated redeveloper for any property acquired by or conveyed to the Authority.

2. The Authority and EDA shall enter into a designated redevelopment agreement detailing the terms and conditions of the designated redeveloper relationship. The designated redevelopment agreement between the Authority and EDA is not reproduced in this subchapter, but a current copy of the agreement, as the same may be amended or modified from time to time, shall be kept in the offices of the Authority.

3. The EDA shall be a necessary party to any redevelopment agreement concerning any property or project acquired by the Authority unless the EDA has not assumed the role of designated redeveloper.

4. The designated redevelopment agreement shall provide that, when the EDA undertakes a specific project, an addendum to the agreement will be added that contains, without being limited to, the following provisions regarding the specific project:

i. A provision limiting the use of the property to the uses permitted pursuant to the Reuse Plan and this subchapter;

ii. A provision requiring the commencement and completion of the project within a period of time that the Authority and the EDA fix as reasonable;

iii. A provision that any lease may provide that all improvements shall become the property of the Authority or EDA as designated redeveloper; and

iv. Such other covenants, provisions, and continuing controls as may be deemed necessary to effectuate the purposes of the Fort Monmouth Economic Revitalization Authority Act.

5. When the EDA undertakes a specific project, the Authority shall review and approve the proposed project as set forth in N.J.A.C. 19:31C-3.19(c)1ii. Such approval shall require the affirmative vote of seven members of the FMERA Board.

(d) The following concern the required contents of redevelopment agreements:

1. All redevelopment agreements pertaining to properties or projects within the Fort Monmouth Project Area shall designate the redeveloper of the property or project that is the subject of the agreement, and at a minimum shall also contain the following, which shall be covenants running with the land prior to completion of the project as evidenced by the Authority's issuance of a certificate of completion as provided in (f) below:

i. A provision limiting the use of the property to the uses permitted pursuant to the Reuse Plan, and this subchapter and/or, where applicable, to the uses permitted pursuant to the LRHL redevelopment plan adopted by the host municipality with the Authority's consent;

ii. A provision requiring the redeveloper to commence and complete the project within a period of time that the Authority or EDA as designated redeveloper deems reasonable; and

iii. A provision restricting transfer and providing that the redeveloper shall be without power to sell, lease, or otherwise transfer the property, project, or redevelopment agreement, or any part thereof, prior to the completion of the project, without the written consent of the Authority or EDA as designated redeveloper.

2. All redevelopment agreements shall require that the covenants required pursuant to (d)1i through iii above shall be incorporated into a declaration of covenants and restrictions to be recorded against the subject property, subject to expiration upon the issuance of a certificate of completion as provided in (f) below.

3. Redevelopment agreements entered into in connection with an LRHL redevelopment project shall contain a provision pursuant to *N.J.S.A. 40A:12A-39.e* whereby the host municipality delegates to the Authority or EDA as designated redeveloper the right and ability to enforce the redevelopment agreement and to take other actions pursuant to the powers granted to the host municipality or redevelopment entity by the LRHL, including, but not limited to, declaring redeveloper defaults and the issuance of certificates of completion for the project, unless the Authority or EDA as designated redeveloper in its sole discretion determines otherwise.

(e) The following concern optional contents of a redevelopment agreement:

1. Redevelopment agreements pertaining to properties or projects within the Fort Monmouth Project Area may contain the following as appropriate under the circumstances:

i. Representations and warranties of the redeveloper (for example, qualified to do business in New Jersey, no financial problems, no legal problems, has or will have wherewithal to construct the project, all previously submitted information is accurate, etc.);

ii. A guaranty of the redeveloper's performance or payment may be required (for example, where redeveloper is a "shell" entity, the parent company or controlling individuals may be required to guaranty performance or payment), and where third party guaranty of redeveloper's performance or payment or both is provided, representations and warranties of the guarantor;

iii. Where the property is owned by the Authority or EDA as designated redeveloper and to be conveyed by the Authority or EDA as designated redeveloper to the redeveloper, and a separate agreement is not in place in respect of such conveyance, the terms and conditions of the conveyance, including purchase price, time frame for closing, etc.;

iv. In connection with a conveyance of property owned by the Authority or EDA as designated redeveloper, a limited right of reverter, exercisable by the Authority or EDA as designated redeveloper if the redeveloper has not commenced construction of the project within the agreed upon project timetable or otherwise defaults in the performance of its obligations under the redevelopment agreement, resulting in termination of the agreement and redeveloper status;

v. In connection with a lease of property by the Authority or EDA as designated redeveloper, the lease terms may provide that all improvements shall become the property of the Authority or EDA as designated redeveloper at the expiration or termination of the lease term;

vi. Where applicable, the scope and responsibility for costs of due diligence and environmental matters, including remediation if required, and site access terms and agreements, including indemnification of the Authority or EDA as designated redeveloper in connection therewith;

vii. Where applicable, provisions relating to the financing of the project and financial assistance, if any, to be provided or facilitated for the project;

viii. Cross-default provisions relating to any financial agreement between the host municipality and the redeveloper in connection with the project;

ix. Provisions addressing the rights and obligations of project mortgagees, in the event of a redeveloper event of default;

x. Provisions whereby the redeveloper agrees to defray the costs of the Authority or EDA as designated redeveloper arising out of or in connection with the negotiation, preparation and performance of the Authority's obligations or of obligations of EDA as designated redeveloper, pursuant to the redevelopment agreement, and arrangements for the payment thereof;

xi. Where applicable, provisions relating to the posting of performance and maintenance bonds for project-related improvements as may be required pursuant to the site plan or subdivision approvals for the project, and such other matters as might be addressed in a developer's agreement required as a condition of planning board approval of the project; and

xii. Any other covenants, provisions, conditions, or contingencies, or continuing controls as may be deemed necessary or desirable by the Authority or EDA as designated redeveloper to effectuate and achieve the purposes of the Fort Monmouth Economic Revitalization Authority Act and the effective redevelopment of the project and the Fort Monmouth Project Area.

(f) The following concern certificates of completion:

1. Unless the redevelopment agreement provides otherwise, the Authority or EDA as designated redeveloper shall issue certificates of completion for all redevelopment projects within the Fort Monmouth Project Area, upon completion thereof in accordance with the requirements of the redevelopment agreement.

2. Upon completion of any project subject to a redevelopment agreement within the Fort Monmouth Project Area, and the issuance of certificates of occupancy by the code official of the host municipality for such project, the applicant may apply to the Authority for a certificate of completion.

3. The application for a certificate of completion shall be submitted on a properly completed and signed Authority application form, which shall request the following information:

i. The applicant's certification to the Authority that all improvements have been completed in accordance with the redevelopment agreement and project approvals;

ii. Copies of all certificates of occupancy for the project issued by the code official of the host municipality; and

iii. A certification by the applicant that the redevelopment agreement is in full force and effect and the applicant is not aware of any default or event of default in the performance of its obligations thereunder, or of any facts which, upon the giving of notice would constitute an event of default thereunder.

4. The Authority or EDA as designated redeveloper may inspect the project to ensure it was completed in accordance with the redevelopment agreement. If the project is deemed completed in compliance with the requirements of the redevelopment agreement, the Authority or EDA as designated redeveloper shall issue a certificate of completion for the project. The certificate of completion shall constitute a recordable, conclusive determination of the satisfaction and termination of the agreements and covenants with respect to the project in the declaration of covenants recorded against the subject property pursuant to the terms of the redevelopment agreement.

5. Within 30 days after receipt of the application, the Authority or EDA as designated redeveloper shall provide the redeveloper with the certificate of completion, or a written statement setting forth in detail the reasons why it believes that the redeveloper has failed to complete the project in accordance with the provisions of the redevelopment agreement or is otherwise in default of its obligations thereunder and what reasonable measures or acts will be necessary in the reasonable opinion of the Authority or EDA as designated redeveloper for the redeveloper to be entitled to the certificate of completion.

#### 19:31C-3.25 LRHL Redevelopment and redevelopment plans

(a) The following concern an LRHL area in need of redevelopment or rehabilitation designation:

1. The Authority may request that a host municipality consider the designation of any portion of the Fort Monmouth Project Area within its municipal boundaries as being an area in need of redevelopment or an area in need of rehabilitation pursuant to the provisions of the LRHL; or the Authority may consent to a request by a host municipality to so designate a portion of the Fort Monmouth Project Area.

2. The Authority may initiate its own investigation, or may request that a host municipality study property located within its municipal boundaries to determine if such property meets the criteria for designation as an area in need of redevelopment or area in need of rehabilitation under the LRHL. Alternatively, a host municipality may request that the Authority undertake such an investigation or consent to the host municipality undertaking such an investigation on its own initiative. The Authority may request that additional properties be investigated that are not identified in the original request.

3. The Authority's consent is required for all LRHL area in need designations by a host municipality, whether requested by the Authority or by the host municipality.

4. A request by a host municipality for the Authority's consent to the designation as an area in need of redevelopment or area in need of rehabilitation pursuant to the LRHL shall be submitted to the Authority, in writing, signed by the chief executive officer of the municipality. The request shall include a properly completed and signed Authority application form, which shall request the following information:

- i. Identification and the location of the property proposed for designation by municipal block and lot number if available, or by the Authority parcel designation;
- ii. The existing zoning and land use of the properties proposed for designation;
- iii. A map showing the boundaries of the area proposed to be investigated;
- iv. A description of existing structures, if any, on the properties proposed for designation;
- v. An area investigation study and a statement indicating why the area may be in need of redevelopment; and
- vi. A copy of the host municipality's resolution designating the area in need of redevelopment or rehabilitation.

5. The procedures to be followed by the host municipality for the designation of an area in need pursuant to the LRHL shall be the procedures set forth in the LRHL. Any resolution adopted by the governing body designating an area in need prior to the Authority's consent thereto shall be expressly conditioned upon, and shall not be effective until, the Authority's consent to the designation.

6. When considering whether to consent to an area in need of redevelopment or an area in need of rehabilitation designation by a host municipality, the Authority may request a review by and statement from the Authority's planner, concurring with the findings and recommendations of the area study; and a review by and opinion from the Authority's attorney, that the procedures utilized and the area investigation meet the legal requirements for area designation pursuant to the LRHL and applicable case law. The Authority may also consider the extent of the area subject to the designation, the justification for the designation, and whether the designation will contribute to the successful redevelopment of the Fort Monmouth Project Area.

7. The Authority may consent to, consent with conditions, or withhold its consent to the area in need of redevelopment or area in need of rehabilitation designation. The Authority's consent to an area in need designation shall require the affirmative vote of seven members and shall be memorialized by a formal written resolution of the Authority adopted at the meeting at which the Authority determines whether to consent to the designation.

8. Amendments to expand the boundaries of a previously designated area in need shall be deemed a new action requiring Authority consent, and shall follow all procedures set forth in this subsection.

(b) The following concern LRHL redevelopment plans:

1. The Authority's consent is required for the host municipality's adoption of a redevelopment plan pursuant to LRHL for a duly designated area in need of redevelopment or rehabilitation or a portion thereof.

2. The application for the Authority's consent to the adoption or proposed adoption of an LRHL redevelopment plan by a host municipality shall consist of:

i. A properly completed and signed Authority application form, which shall request the following information:

(1) Identification and the location of the property that is the subject of the proposed LRHL redevelopment plan, by municipal block and lot number if available, or by the Authority parcel designation;

(2) A brief description of the LRHL redevelopment plan, including identification of departures from the requirements of the Reuse Plan and this subchapter;

(3) The names and contact information of all professionals representing the applicant in connection with the preparation of the LRHL redevelopment plan; and

(4) Any other supplemental information required by the Authority;

ii. A complete copy of the LRHL redevelopment plan as adopted by the host municipality;

iii. A copy of the host municipality's resolution designating the area in need of redevelopment or rehabilitation, the area investigation study, and of the Authority's resolution consenting thereto;

iv. A copy of the planning board's review of the proposed LRHL redevelopment plan and report to the governing body pursuant to the requirement of the LRHL and a copy of the record of all relevant proceedings conducted by the planning board;

v. Copies of all notices sent or published in connection with the host municipality's consideration and adoption of the LRHL redevelopment plan; and

vi. A copy of the host municipality's adopted ordinance adopting the LRHL redevelopment plan and a copy of the record of all relevant proceedings conducted by the governing board.

3. In accordance with N.J.A.C. 19:31C-3.19(a), all provisions of the LRHL redevelopment plan shall be consistent with the Reuse Plan. All provisions of the LRHL redevelopment plan shall also be consistent with this subchapter. In determining whether the LRHL redevelopment plan is consistent with this subchapter, the Authority shall consider the following, as applicable:

i. Whether consent to the LRHL redevelopment plan would result in a departure from the requirements of this subchapter relating to:

(1) A use or principal structure in a development district restricted against such use or principal structure;

(2) A continuation or an expansion of a nonconforming use;

(3) Deviation from a specification or standard pertaining solely to any conditional use;

(4) An increase in the permitted floor area ratio;

(5) An increase in the permitted density; or

(6) A height of a principal structure which exceeds by 10 feet or 10 percent the maximum height permitted in the development district for a principal structure;

ii. Whether consent to the LRHL redevelopment plan would result in a material change in the overall development yield or affordable housing obligations of the host municipality as provided in this subchapter, or would result in any negative impact to the Authority's obligations pursuant to the Fair Housing Act of 1985;

iii. Whether consenting to the LRHL redevelopment plan will result in any significant adverse impact on other areas of Fort Monmouth;

iv. Whether consenting to the LRHL redevelopment plan would substantially impair the intent and purposes of this subchapter (that is, whether this subchapter will remain rational and coordinated land use rules following the implementation of the LRHL redevelopment plan);

v. Whether the consent to the LRHL redevelopment plan would have any negative impact to the Authority's obligations pursuant to Defense Base Closure and Realignment Act of 1990, Pub.L. 101-510 (*10 U.S.C. § 2687*), any agreement

with the U.S. Army conveying Fort Monmouth property to the Authority, and whether such consent would require Federal review, consent, or approvals; and

vi. Whether consenting to the LRHL redevelopment plan will have significant adverse infrastructure ramifications within the Fort Monmouth Project Area.

4. The Authority may consent to, consent with conditions, or withhold its consent to the host municipality's adoption of the LRHL redevelopment plan that is consistent with the Reuse Plan and this subchapter. If the Authority determines the LRHL redevelopment plan to be inconsistent with the Reuse Plan or this subchapter, the Authority may withhold its consent or consent with one or more of the following conditions and/or variances:

i. The Authority may require, as a condition to its consent, an amendment to the Reuse Plan pursuant to N.J.A.C. 19:31C-3.27(c) so that the LRHL redevelopment plan is consistent with the amended Reuse Plan and/or in lieu of variances pursuant to (b)4iii below.

ii. The Authority may require, as a condition to its consent, an amendment to this subchapter so that the LRHL redevelopment plan is consistent with the amended rules.

iii. In its resolution consenting to the adoption of the LRHL redevelopment plan, the Authority may grant variances for each inconsistency with the Reuse Plan under N.J.A.C. 19:31C-3.19(b)2i and with this subchapter under (b)3i above. Before the Authority may grant a variance for an increase in the permitted density established in this subchapter, the Authority shall submit the proposed density variance to the zoning board of the host municipality that adopted the LRHL redevelopment plan. The zoning board shall hear and decide the submitted variance only. If the Zoning Board does not vote in favor of the submitted variance, the Authority shall not be permitted to grant that variance. Any resolution consenting to the adoption of the LRHL redevelopment plan containing such variances shall be adopted by the affirmative vote of seven members of the FMERA Board, shall identify the provisions of the rules from which the variances are granted, and shall state the Authority's reasons for granting the variances.

5. In determining whether to consent to an LRHL redevelopment plan, the Authority may rely upon the record of all relevant proceedings of the host municipality, including the planning board's review and report and the public meetings and hearings conducted by the planning board and governing body in connection with the adoption of the LRHL redevelopment plan ordinance. Nothing in this subsection shall preclude the Authority from requiring a separate public hearing in accordance with N.J.A.C. 19:31C-3.26 on an application for consent to the adoption of an LRHL redevelopment plan, if the Authority, in its sole discretion, determines that such a hearing is necessary or desirable. The Authority may also consider the following, among other things:

i. The justification for utilizing an LRHL redevelopment plan;

ii. Whether the LRHL redevelopment plan is proposed as an overlay alternative to, or as superseding, the applicable provisions of this subchapter; and

iii. Any other aspect of the proposed LRHL redevelopment plan that, in the opinion of the Authority, is relevant to the successful redevelopment of the Fort Monmouth Project Area, including, but not limited to, the potential impacts of the LRHL redevelopment plan on future redevelopment within the Fort Monmouth Project Area and the implications of the LRHL redevelopment plan for the Authority's ability to oversee redevelopment of the property within the Fort Monmouth Project Area.

6. No LRHL redevelopment plan for property within the Fort Monmouth Project Area shall be effective unless and until the Authority has consented to its adoption, notwithstanding the fact that the host municipality may have enacted an ordinance adopting the LRHL redevelopment plan prior to receiving the Authority's consent thereto. All such ordinances adopted by the governing body prior to the Authority's consent thereto shall be expressly conditioned upon, and shall not become effective until, the Authority consents to the adoption thereof.

7. All LRHL redevelopment plans shall include a provision requiring a redevelopment agreement between the Authority or EDA as designated redeveloper, the host municipality, and the redeveloper.



8. LRHL redevelopment plans may provide that in connection with subdivision and site plan approval, the planning board shall have the authority to grant bulk and area-type variances from requirements contained in this subchapter or the LRHL redevelopment plan, as applicable. All LRHL redevelopment plans shall include a provision requiring that any request for a use-type variance from the requirements of the LRHL redevelopment plan be treated and processed as a request for an amendment to the LRHL redevelopment plan pursuant to this subchapter, including the requirement in (b)10 below for Authority consent to such an amendment.

9. The Authority's consent to the adoption of an LRHL redevelopment plan shall be memorialized by a formal written resolution of the Authority adopted at the meeting at which the Authority determines whether to consent to the adoption.

10. Amendments to an LRHL redevelopment plan previously consented to by the Authority shall be deemed a new action requiring consent, and shall follow all procedures set forth in this subsection.

11. Redevelopment plans duly adopted by a host municipality pursuant to the LRHL with the Authority's consent shall be noted on the official zoning map.

12. Development standards and design guidelines specifically set forth in an LRHL redevelopment plan duly adopted by a host municipality with the Authority's consent shall apply to projects within the area encompassed by the LRHL redevelopment plan, to the extent described in the LRHL redevelopment plan. Where the LRHL redevelopment plan does not provide a corresponding development standard or design guideline for an aspect of a project that would be addressed under this subchapter, the requirements or development and design guideline in this subchapter shall apply unless the LRHL redevelopment plan specifically provides otherwise. Generally applicable requirements and development and design guidelines in this subchapter relating to all development districts within the Fort Monmouth Project Area and not specifically enumerated in the LRHL redevelopment plan shall apply to projects within the area encompassed by the LRHL redevelopment plan, unless and to the extent the LRHL redevelopment plan specifically provides otherwise.

#### 19:31C-3.26 Hearings

(a) The following concern public hearings:

1. Whenever the Authority is required to hold a public hearing pursuant to this subchapter, the Authority shall hold a public hearing in accordance with this section and shall select a reasonable time and place for the conduct of the public hearing, and shall so advise the applicant.

2. The Authority shall provide notice of the public hearing pursuant to (b) below.

3. For use-type variance applications, 10 copies of any plans, reports, exhibits, or other data to be submitted as evidence during a public hearing shall be required to be submitted.

i. Failure to produce 10 copies of such plans, reports, exhibits, or other data submitted as evidence at the public hearing shall not invalidate the proceedings.

ii. Failure to submit 10 copies of any plans, reports, exhibits, or other data submitted as evidence within one week of the public hearing shall cause the Authority staff to reproduce the required number of copies, the cost of which shall be borne by the applicant.

iii. Photographs of three-dimensional exhibits shall be deemed acceptable copies.

4. A party to a hearing shall include the applicant and the host municipality, and any of the following persons, agencies, or organizations who have entered an appearance of record either prior to commencement of the public hearing or when permitted by the Authority:

i. Any person, agency, or organization entitled to individual notice under (b) below; and

ii. Any person that can demonstrate that their right to use, acquire, or enjoy property in which that person holds an interest may be directly and substantially impacted by the application for development. Increased economic competition or other impacts upon a business that are unrelated to the purposes of the MLUL as set forth at *N.J.S.A. 40:55D-2*, shall not constitute a direct and substantial impact that may impact a person's right to use, acquire, or enjoy property.

5. The Authority shall designate a hearing officer to conduct the hearing. The hearing officer shall be qualified to administer oaths and may compel the attendance of witnesses, the production of relevant papers, and inquire into and establish qualifications of witnesses appearing.

6. Applicants, other than individuals or sole proprietorships, shall be represented by a New Jersey attorney-at-law.

7. All testimony by witnesses at any hearing shall be given under oath, and every party of record at a hearing shall have the right to present evidence and to examine and to cross-examine witnesses on all relevant issues, but the hearing officer may impose reasonable limitations on the number of witnesses heard and on the nature and length of their testimony and cross-examination. Expert testimony shall be provided by a New Jersey-licensed professional engineer, professional planner, registered architect, or other professionals.

8. The Authority shall arrange for a transcript of the hearing, the cost of which shall be borne by the applicant. All exhibits accepted into evidence shall be properly identified. The reason for the exclusion of any exhibits from evidence shall be clearly noted in the record. The transcript and exhibits shall be filed with the Authority and shall be a part of the public record.

9. The hearing officer may continue the hearing from time to time as may be reasonably necessary, and may refer the matter back to the Authority staff for further review or investigation. A copy of any reports resulting from such further review or investigation shall be filed with the Authority and become part of the public record.

10. The public hearing(s) shall be concluded within such time periods as reasonably calculated to enable the Authority to take action within the time periods required by this subchapter, unless the applicant consents in writing or on the record to an extension of the time period. The public record shall be closed at the time of conclusion of the public hearing(s).

11. Following the conclusion of the hearing, the hearing officer shall provide to the FMERA Board all evidence submitted, copies of all transcripts, and a written recommendation. The FMERA Board may grant, deny, or grant the application with conditions, and in so doing may modify the recommendation of the hearing officer. Notice of the FMERA Board's decision will be published in a newspaper of general circulation available in the host municipality in which the property is located, and written notice of the FMERA Board's decision will be provided to the applicant and to the host municipality.

(b) The following concern notice of public hearings:

1. Whenever a public hearing is required pursuant to this subchapter, the Authority shall arrange for public notice, the cost of which shall be borne by the applicant. The notice shall include:

i. The time and location of the public hearing;

ii. A statement describing the subject matter of the hearing;

iii. The nature of any approval sought, together with any relief sought;

iv. Identification of the applicant and owner of the subject property; and

v. A statement that the application and supporting materials will be available for public inspection at the offices of the Authority at least 10 days prior to the hearing.

2. At least 10 days in advance of the public hearing, the Authority shall arrange for publication of the public notice in a newspaper of general circulation available in the host municipality in which the property is located, and shall provide for notice either in person, by certified mail, or otherwise, to the following:

- i. Any party entitled to personal notice of an application pursuant to the MLUL; and
- ii. The municipal clerk of each municipality in which property owners must be served notice, pursuant to N.J.A.C. (b)2i above.

3. The applicant shall obtain and submit to the Authority a certified list or lists of property owners entitled to notice from the tax assessor of the host municipality or municipalities in which property owners must be served notice pursuant to (b)2i above. The Authority and the applicant shall be entitled to rely upon the information contained in such list, and failure to give notice to any property owner not on the list shall not invalidate any hearing or proceeding. Said lists shall be produced and certified no earlier than 90 days prior to the date of the hearing.

4. Whenever a public hearing is required pursuant to this subchapter, the applicant shall pay the cost of such legal notices as shall be required to be given and the cost of the preparation of a stenographic record of any such hearing.

#### 19:31C-3.27 Administrative

(a) All applications submitted to the Authority pursuant to this subchapter shall be accompanied by an application fee and, where applicable, an escrow deposit, pursuant to N.J.A.C. 19:31C-3.28(b)2, unless such application is exempt from the requirements thereof or the fee or deposit waived by the Authority.

(b) Every application required by this subchapter shall be filed with the Authority and, if so stated, with the applicable host municipality.

(c) The following concern Reuse Plan amendment procedures:

1. The Authority may amend the Reuse Plan, in whole or in part, from time to time, pursuant to this section and *N.J.S.A. 52:27I-35*.

2. An application may be submitted to the Authority to amend the Reuse Plan. Such application shall be filed with the Authority, in writing, and signed by the applicant.

i. The application shall state the following clearly and concisely:

(1) The full name and address of the applicant;

(2) The substance or nature of the amendment that is requested;

(3) The reasons for the request and the applicant's interest in the request; and

(4) Other such information as may be deemed by the Authority staff to be necessary to determine the desirability of a requested amendment.

ii. Any document submitted to the Authority that is not in substantial compliance with this section shall not be deemed to be an application for Reuse Plan amendment requiring further agency action. The document shall be returned to the sender with a deficiency explanation.

3. Upon receipt of a complete application for Reuse Plan amendment, the following shall occur:

i. The application shall be dated and logged by the Authority staff.

ii. The Authority staff shall acknowledge to the applicant receipt of the application.

iii. The Authority staff shall review the application and prepare a preliminary analysis with recommendations that shall be submitted to the FMERA Board for its consideration and approval.

iv. The FMERA Board may act on the application to:

(1) Deny the application;

(2) Grant the application and request the Authority staff to initiate a Reuse Plan amendment proceeding in accordance with (c)4 below; or

(3) Refer the matter to the Authority staff for further deliberations, which may include the preparation of records and studies necessary to evaluate the desirability of the requested Reuse Plan amendment. Upon conclusion of the deliberations, the FMERA Board shall either deny or grant the petition in accordance with this section.

v. The Authority staff shall notify the applicant of the action on the application.

4. The Authority staff may initiate a Reuse Plan amendment by presenting a proposed amendment to the FMERA Board. Any departures from the requirements of the Reuse Plan and these rules contained in the proposed amendment shall be identified to the FMERA Board.

5. In determining whether to approve a Reuse Plan amendment, the FMERA Board shall consider the following, as applicable:

i. Whether approval of the Reuse Plan amendment would result in a material change in the overall development yield or affordable housing obligations of the host municipality as described in the Reuse Plan, or would result in any negative impact to the Authority's obligations pursuant to the Fair Housing Act of 1985;

ii. Whether approval of the Reuse Plan amendment will result in any significant adverse impact on other areas of Fort Monmouth;

iii. Whether approval of the Reuse Plan amendment would substantially impair the intent and purposes of the Reuse Plan (that is, whether the Reuse Plan will remain a rational and coordinated land use plan following the incorporation of the Reuse Plan amendment);

iv. Whether approval of the Reuse Plan amendment would have any negative impact to the Authority's obligations pursuant to Defense Base Closure and Realignment Act of 1990, Pub.L. 101-510 (*10 U.S.C. § 2687*) and any agreement with the U.S. Army conveying Fort Monmouth property to the Authority, and whether such approval would require Federal consent or approvals; and

v. Whether approval of the Reuse Plan amendment would have significant adverse infrastructure ramifications different from those envisioned in the Reuse Plan.

6. Prior to the adoption of any amendment to the Reuse Plan, the Authority shall transmit a copy of the proposed Reuse Plan amendment to the governing body of each host municipality. If the Reuse Plan amendment proceeding was initiated by an application, the Authority staff shall notify the applicant of the transmittal.

7. Within 45 days of receipt of the proposed Reuse Plan amendment, the governing body of each host municipality may transmit to the Authority a written report containing the host municipality's recommendations concerning the proposed Reuse Plan amendment. When considering whether to adopt the proposed Reuse Plan amendment, the FMERA Board may rely on the record of public hearings, if any, that may have been conducted by the host municipalities.

8. The Authority staff shall review the report from each host municipality and prepare a preliminary analysis with proposed reasons for accepting or not accepting the recommendations from the host municipalities; such analysis shall be submitted to the FMERA Board for its consideration and approval.

9. Any action by the Authority to amend the Reuse Plan shall require the affirmative vote of seven members. To the extent that the approved Reuse Plan amendment contains departures from the requirements of this subchapter, the amendment shall control. If, pursuant to N.J.A.C. 19:31C-3.21(b)2 or 3.25(b)4i, departures from the requirements of this subchapter are included in the Reuse Plan amendment in lieu of a variance, the resolution approving the Reuse Plan amendment shall so state, and the approval of the Reuse Plan amendment shall have the effect of a variance as to such departures.

10. If the Reuse Plan amendment proceeding was initiated by an application, the Authority staff shall notify the applicant of the final action of the Authority.

(d) The following concern appeals from Authority actions:

1. Any person or entity adversely affected by a decision of the Authority staff that constitutes a decision of the Authority may appeal that decision as set forth in (d)3 below. Any recommendation of the Authority staff shall not be subject to appeal.

2. Any person or entity adversely affected by a decision of the FMERA Board may appeal that decision as set forth in (d)3 below.

3. Appeals allowed under (d)1 and 2 above shall proceed as follows:

i. The person or entity appealing the decision shall submit, by certified mail to the Authority, within 15 calendar days from the date of the Authority's action, a written notice of appeal containing the following:

(1) A brief statement of facts describing the Authority decision being appealed;

(2) The nature and scope of the interest of the person or entity appealing such decision;

(3) A statement of all facts alleged to be at issue and the relevance of the facts to the Authority's decision for which the appeal is made; and

(4) Any request for an informal in-person hearing.

ii. The Director of the Authority may designate an Authority or EDA staff member to serve as a hearing officer for the appeal and to make a recommendation on the merits of the appeal to the FMERA Board. The hearing officer shall perform a review of the written record and may require an in-person hearing. The hearing officer has sole discretion to determine if an in-person hearing is necessary to reach an informed decision on the appeal.

iii. Following completion of the record review and any in-person hearing, the hearing officer shall issue a written report to the FMERA Board containing his or her finding(s) and recommendation(s) on the merits of the appeal.

iv. The FMERA Board shall consider the hearing officer's recommendation(s) and, based on that review, shall issue a final agency decision on the appeal.

4. Appeals under (d)3 above are not contested cases subject to the requirements of the Administrative Procedure Act, *N.J.S.A. 52:14B-1* et seq., or the Uniform Administrative Procedure Rules, *N.J.A.C. 1:1*.

5. Appeals from any decision made by the FMERA Board under (d)3iv above shall be made by way of judicial review of the Superior Court of New Jersey Appellate Division pursuant to the New Jersey Court Rules.

6. Appeals from any decision made by the host municipalities or the County, or any officials or boards of the host municipalities or the County, shall be made pursuant to existing law, including host municipality ordinances and the New Jersey Court Rules.

(e) Except as otherwise provided for in this subchapter, if the person or entity described in whom or in which Authority is vested to decide an application fails to act within the time specified, the application shall not be deemed approved or consented to by virtue of said failure to act.

(f) The following concern severability:

1. The provisions of this subchapter shall be separable, in accordance with the following:

i. If any section, subsection, paragraph, sentence, clause, or phrase of this subchapter is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this subchapter.

ii. If the application of any provision of this subchapter to a particular property, building, or structure is for any reason held to be unconstitutional or invalid, such decision shall not affect the application of said provisions to any other property or structure.

(g) No person shall, with respect to any application made to the Authority, whether such application requires a decision by the FMERA Board or Authority staff, attempt to contact any member or staff of the Authority in an effort to improperly influence them with respect to their decision regarding the subject application. This prohibition shall also apply to rulemaking. Any member or staff of the Authority who has been contacted in this regard shall immediately report such contact to the Office of the Attorney General, which shall take any necessary and appropriate action.

19:31C-3.28 Fee schedule

(a) General provisions are as follows:

1. This fee schedule shall apply to all applications submitted to the Authority pursuant to this subchapter, unless waived.

2. Any application fee, or portion thereof, provided for in this section, may be waived by the Director of the Authority upon good cause shown, including, but not limited to, financial hardship, size and scope of the application and/or business entity, and general economic conditions in the regions. Applications submitted by a host municipality or the County are exempt from the payment of fees.

3. Application fees are nonrefundable, except that a full refund of fees may be made by the Director of the Authority provided that a written request to withdraw the application is received before the close of the second working day after receipt of the same.

4. Escrow deposits shall be utilized by the Authority to defray costs for professional fees incurred by or on behalf of the Authority in reviewing and considering an application. The Authority shall be entitled to be reimbursed for all professional charges incurred by the Authority in connection with the consideration of the applications for which an escrow deposit is required. Properly reimbursable professional charges shall be reasonable and necessary and shall relate to reviews and related activities performed by the Authority's consultants and professionals. Additions to the escrow deposit may subsequently become necessary to cover all reimbursable costs and expenses incurred by the Authority pursuant to the terms of this subchapter.

(b) The following concern application fees and escrow deposits:

1. Application fees are as follows:

i. The Authority uniform application fee (administrative fee applicable to all applications): \$ 250.00.

ii. Application fee for mandatory conceptual review: \$ 250.00 for minor site plan or minor subdivision; \$ 1,000 for all other applications.

iii. Application fee for use-type variance submitted separate from application for mandatory conceptual review: \$ 1,000.

2. Required escrow deposits are as follows:

- i. Application for mandatory conceptual review: \$ 1,000 for minor site plan or minor subdivision; for all other applications, \$ 2,500, plus \$ 100.00 per 1,000 square feet of land area to be disturbed, to a maximum initial deposit of \$ 10,000.
- ii. Application for use-type variance submitted separate from application for mandatory conceptual review: \$ 1,000, plus \$ 100.00 per 1,000 square feet of land area to be disturbed, to a maximum initial deposit of \$ 5,000.