RESOLUTION
of the
BOROUGH OF NEW PROVIDENCE
Resolution No. 2025-58

Council Meeting Date: 01-28-2025 Date Adopted: 01-28-2025

TITLE: RESOLUTION OF THE BOROUGH OF NEW PROVIDENCE, COUNTY OF UNION, STATE OF NEW JERSEY COMMITTING TO DCA'S FOURTH ROUND AFFORDABLE HOUSING PRESENT NEED AND PROSPECTIVE NEED NUMBERS AS MODIFIED

Councilperson Geoffroy submitted the following resolution, which was duly seconded by Councilperson Cumiskey .

WHEREAS, on March 20, 2024, Governor Murphy signed into law an Amendment to the Fair Housing Act (N.J.S.A. 52:27D-301, et seq.) (hereinafter "Amended HFA"); and

WHEREAS, the Amended FHA requires the Department of Community Affairs ("DCA") to produce non-binding estimates of fair share obligations on or before October 20, 2024; and

WHEREAS, the DCA issued a report on October 18, 2024 ("DCA Report") wherein it reported its estimate of the obligation for all municipalities based upon its interpretation of the standards in the Amended FHA; and

WHEREAS, the DCA Report calculates the Borough of New Providence's (the "Borough") Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 20 units and a Prospective Need or New Construction Obligation of 210 units; and

WHEREAS, the Amended FHA provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that the Amended FHA would support lower calculations of Round 4 affordable housing obligations; and

WHEREAS, the Amended FHA further provides that "[a]ll parties shall be entitled to rely upon regulations on municipal credits, adjustments and compliance mechanisms adopted by COAH unless those regulations are contradicted by statute, including P.L. 2024, c.2, or binding court decisions" (N.J.S.A. 52:27D-311(m)); and

WHEREAS, COAH regulations authorize vacant land adjustments as well as durational adjustments; and

WHEREAS, the DCA has released a Geographic Information Systems spatial data representation of the Land Capacity Analysis for P.L. 2024, c.2 containing the Vacant and Developable land information that serves the basis for calculating the land capacity factor; and

WHEREAS, the Borough has reviewed the lands identified by the DCA for the land capacity factor with respect to the MOD-IV Property Tax List data, construction permit data, Land Use Board approvals, configuration and accessibility to ascertain whether these identified developable lands may accommodate development; and

WHEREAS, based upon the foregoing, the Borough relies on the DCA calculations of the Borough's fair share obligations as modified herein to account for the Borough's review of the lands identified by the DCA for the land capacity factor with respect to the MOD-IV Property Tax List data, construction permit data, Land Use Board approvals, configuration and accessibility to ascertain whether these identified developable lands may accommodate development, and as further set forth in detail and explained in the attached memo prepared by the Borough's Affordable Housing Planner, and the Borough seeks to commit to provide its fair share of 20 units present need and 198 units prospective need, subject to any vacant land and/or durational adjustments it may seek as part of the Housing Plan element and Fair Share Plan element it subsequently submits in accordance with the Amended FHA; and

WHEREAS, the Borough reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

WHEREAS, the Borough also reserves the right to adjust its position in the event of any rulings in the Montvale case (MER-L-1778-24) or any other such action that alters the deadlines and/or requirements of the Amended FHA; and

WHEREAS, in the event that a third party challenges the calculations provided for in this Resolution, the Borough reserves the right to take such position as it deems appropriate in response thereto, including that its Round 4 Prospective Need Obligation should be lower than described herein; and

WHEREAS, in light of the above, the Mayor and Council of the Borough of New Providence find that it is in the best interests of the Borough of New Providence to commit to the modified present need and prospective need Fourth Round affordable housing fair share numbers set forth herein, subject to the reservations set forth herein; and

WHEREAS, in accordance with the AOC Directive #14-24 dated December 13, 2024, the Mayor and Council find that, as a municipality seeking a certification of compliance with the FHA, it is in the best interests of the Borough of New Providence to direct the filing of an action in the form of a declaratory judgment complaint within 48 hours after adoption of the within Resolution of fair share obligations, or by February 3, 2025, whichever is sooner;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of New Providence, County of Union, State of New Jersey as follows:

1. All of the above Whereas clauses are incorporated into the operative clauses of this Resolution.

2. The Borough of New Providence hereby commits to the DCA's Round 4 Present Need Obligation of 20 units and a modification of the DCA's Round 4 Prospective Need Obligation of 210 units to 198 units as explained above and in the attached memo from the Borough's Affordable Housing Planner, and subject to all reservations of rights set forth above.

3. The Borough of New Providence hereby directs its Borough Attorney to file a declaratory judgment complaint in Union County within 48 hours after adoption of the within Resolution and attaching this Resolution as an exhibit with the attached memo.

4. The Borough of New Providence hereby authorizes its Borough Attorney to submit and/or file the within Resolution with attached memo with the Program or any other such entity as may be determined to be appropriate.

5. This Resolution shall take effect immediately according to law.

APPROVED, this 28th day of January, 2025.

RECORD OF VOTE

	AYE	NAY	ABSENT	NOT VOTING
BILICSKA	X			
CUMISKEY	X			
DOLAN	X			
GEOFFROY	X			
KOGAN	X			
MCKNIGHT	X			
MORGAN			TO BREAK COUNCIL TIE VOTE	

I hereby certify that the above resolution was adopted at a meeting of the Borough Council held on the 28th day of January, 2025.

Denise Brinkofski, Borough Clerk

Borough Of New Providence
County Of Union
State Of New Jersey

Allen Morgan, Mayor

TO: Bernadette Cuccaro, Borough Administrator
Borough of New Providence
360 Elkwood Avenue
New Providence, NJ 07974

CC: Paul Rizzo, Esq., Borough Attorney

FROM: McKinley Mertz, PP, AICP
Megan Adam, Associate Planner

RE: Land Capacity Factor Review - Fourth Round Obligation Calculations and Methodology in Accordance with P.L.2024, c.2

DATE: December 19, 2024

INTRODUCTION

On March 18, 2024, the affordable housing legislation known jointly as Senate Bill S50 and Assembly Bill A4 passed both houses of the legislature. Governor Murphy signed the bill (P.L.2024, c.2) into law on March 20, 2024, establishing a new methodology for determining municipalities' affordable housing obligations.

The New Jersey Department of Community Affairs ("DCA") subsequently released on October 20, 2024, a report outlining the Fourth Round (2025-2035) Fair Share methodology and its calculations of low- and moderate-income obligations for each of the State's municipalities. The report notes that the obligations were calculated in alignment with the formulas and criteria found in P.L.2024, c.2. The report details the process and the data that was utilized to carry out the DCA's calculations, with the intent of providing a reproduceable and transparent step-by-step record of the methodology applied.

The purpose of this memo is to provide a high-level summary of the methodology utilized by the DCA to calculate these Fourth Round obligations, and analyze the accuracy of the data utilized by DCA to determine if there is a realistic potential and justification to lower New Providence's Fourth Round affordable housing prospective need. According to the amended affordable housing legislation, every municipality in the State is responsible for adopting by resolution its Fourth Round obligation numbers by January 31, 2025. Although the DCA has released its calculations, each municipality is permitted to conduct their own obligation calculation, in accordance with the requirements set forth in P.L.2024, c.2. This memo sets forth a preliminary analysis of the obligation calculation for the Borough of New Providence.

DCA Prospective Need Calculation

To calculate each municipality's Fourth Round Prospective Need, the DCA averaged the following three calculations to create an "average allocation factor":

Equalized Nonresidential Valuation Factor

This refers to the changes in nonresidential property valuations in a municipality that have occurred in the period between the beginning of the preceding round and the round currently being calculated. For the sake of calculating the Fourth Round obligation, this period begins in 1999.

The DCA calculated 1999 and 2023 equalized nonresidential valuations for each municipality, which were then (a) used to calculate the change that has occurred in this time period (b) aggregated at the Housing Region level. Each municipality's equalized nonresidential valuation change was then divided by the change at the Regional level to determine its Equalized Nonresidential Valuation Factor.

Income Capacity Factor

This refers to the extent of which a municipality's income level differs from that of the lowest-income municipality in its Housing Region, which is calculated as the average of two measures: (a) the municipal share of the regional sum of the differences between the median municipal household income and an income floor of $100 below the lowest median household income in the Region; and (b) the municipal share described, weighted by the number of households in the municipality.

The DCA first calculated Housing Regional median household income floors by computing the lowest municipal median household income in each Housing Region and subtracting 100 from that number. Then the difference from the regional income floor was computed at the municipal level, by subtracting the Housing Region income floor from each municipality's median household income. These differences were then summed to produce aggregated income differences at the Housing Region level.

From these computations, the two measures described above were calculated: (a) each municipality's difference from the Housing Region income floor was divided by its Housing Region aggregated income differences to determine its share of Housing Region Income differences; and (b) each municipality's difference from the Housing Region income floor was multiplied by its number of households and then divided by its Housing Region aggregated income differences to determine its household-weighted income differences. Each municipality's (a) share of Housing

Region income differences and (b) household-weighted income differences were aggregated at the Housing Region level and averaged to produce each municipality's Income Capacity Factor.

Land Capacity Factor

This refers to the total acreage of a municipality's land that is developable, taking into account (a) lands subject to development limitations and (b) weighting factors linked to the Planning Area land is located in and whether it falls within a special protection zone in the Highlands, Pinelands, or Meadowlands region. To calculate Land Capacity Factor, the DCA calculated each municipality's amount of developable land utilizing GIS and divided this number by the Housing Region total. We note that, due to the nature of certain data points, the analysis conducted by the DCA did not include tax parcels identified as vacant land or qualified farmland. A combination of Land Use Land Cover data, MOD-IV Property Tax data, and DCA construction permit data was used in this analysis.

Next, each municipality's Fourth Round Prospective Need was calculated by multiplying each Housing Region's Prospective Need by each of its municipality's average allocation factors.

Finally, these numbers were adjusted in accordance with the Affordable Housing Law to ensure that no Prospective Need obligations yielded an obligation in excess of either 1,000 units or 20% of the municipality's total number of households.

Utilizing the methodology described above, the DCA calculated the following Fourth Round obligations for New Providence Borough:

DCA Fourth Round Obligations for New Providence Borough				
Prospective Need	*Equalized Nonresidential Valuation Factor*	*Land Capacity Factor*	*Income Capacity Factor*	*Average Allocation Factor*
210	1.33%	0.23%	1.50%	1.02%

HGA ANALYSIS OF NEW PROVIDENCE'S FOURTH ROUND PROSPECTIVE NEED OBLIGATION

NJDCA released an ArcGIS shapefile showing all of the polygons throughout the state that it identified as contributing to the "Land Capacity Factor." Our office reviewed the results of the methodology to identify any polygons that should be excluded from the Borough's land capacity. The justification for excluding polygons identified by DCA is spelled out below and is generally based on specific local knowledge that was not captured by the broader statewide screening. Our office considered factors such as whether the polygon is listed on the Borough's Recreation and Open Space Inventory (ROSI), is within an existing railway or road right-of-way, is part of a property that is not vacant, is constrained by wetlands that have been identified on surveys or site plans, is encumbered by easements, or has an approved site plan within the last five years.

HGA did not undertake any separate analysis of non-residential valuation or income trends as these are objective measures; therefore, the DCA's calculations of the Borough's Equalized Nonresidential Valuation Factor and Income Capacity Factor remain unchanged throughout HGA's analysis. Nonetheless, the change in the Land Capacity Factor alters the Borough's Average Allocation Factor.

POLYGONS TO BE REMOVED FROM LAND CAPACITY FACTOR ANALYSIS

After reviewing all the polygons outlined in the DCA Land Capacity Analysis Parcel Map, our office has identified 17 polygons that have justification for removal from the Borough's Land Capacity Factor calculation. These polygons are outlined in the following paragraphs, and location maps for each polygon are included as Appendix A to this memorandum.

Polygons 1-4, 6-10

These polygons should not be considered developable, as they are all located within the NJ Transit rail right-of-way. The sum of their weighted acreage amounts to 2.13 acres.

Polygon 5

A portion of this polygon of land (highlighted in yellow on the map) should be removed from the Land Capacity Factor analysis, as it is located within a sewer easement shown on the Borough tax map and thus precluded from development. The sewer easement is included as Appendix B to this memorandum. This land to be removed from consideration amounts to approximately 0.06 acres.

Polygons 11, 13-15

These polygons should not be considered developable, as they are all located within the NJ Transit rail right-of-way. The sum of their weighted acreage amounts to 1.72 acres.

Polygon 12

This polygon of land should be removed from the Land Capacity Factor analysis, as it is located within a yard area of a developed residential lot and is also within a lot that has received recent subdivision (memorialized in Borough Planning Board Resolution #2024-07). The Planning Board resolution, as well as the recorded subdivision deed are included as Appendix C to this memorandum. This land to be removed from consideration amounts to approximately 0.07 acres.

Polygon 16

This polygon of land, amounting to approximately 0.57 acres, should be removed from the Land Capacity Factor analysis, as it is located on a parcel listed on the Borough's Recreation and Open Space Inventory (ROSI) (Block 53, Lot 4, within the Public Library). The page from the Borough's ROSI is attached as Appendix D to this memorandum.

Polygon 17

This polygon should not be considered developable, as it is located within the cemetery of the New Providence Presbyterian Church and thus is not considered vacant. Its weighted acreage amounts to 4.27 acres.

CONCLUSION + RECOMMENDATION

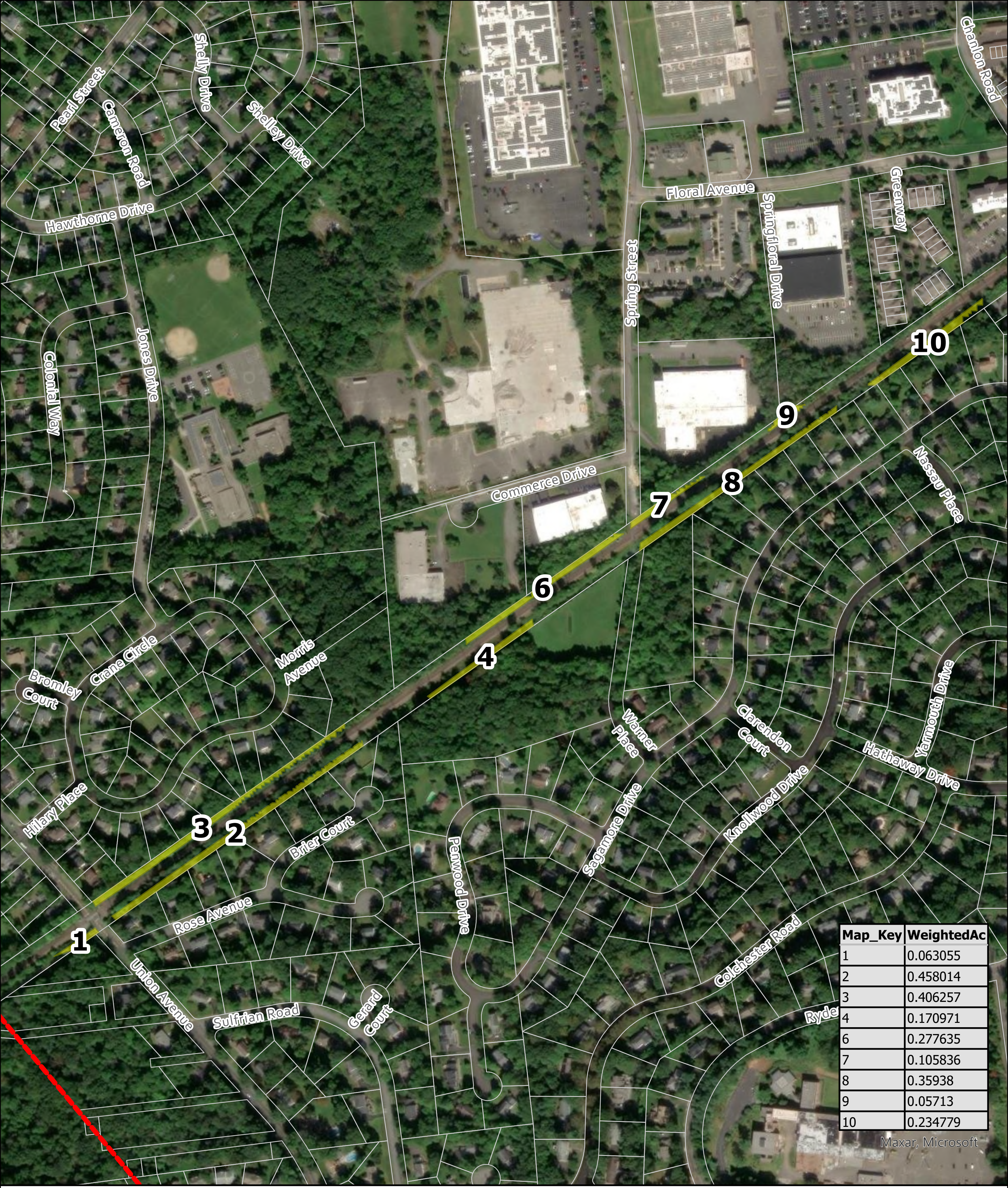
The total acreage of the 17 polygons to be removed from the Borough's Land Capacity Factor calculation amounts to approximately 8.83 acres. This results in a reduction in Land Capacity Factor from 0.23% to 0.07%, and a reduction in overall Prospective Need Obligation from 210 units to 198 units. The results of our office's analysis are outlined in the following table.

Modified Fourth Round Obligations for New Providence Borough				
Prospective Need	*Equalized Nonresidential Valuation Factor*	*Land Capacity Factor*	*Income Capacity Factor*	*Average Allocation Factor*
198	1.33%	0.07%	1.50%	0.97%

We recommend that the modified obligations outlined above be adopted by resolution prior to the January 31, 2025, deadline established within Affordable Housing P.L. 2024, c.2 (S50/A4). New Providence should consult with the Borough Attorney regarding the adoption of this resolution to formally establish its Fourth Round housing obligations.

APPENDIX A

MAPS OF POLYGONS TO BE REMOVED FROM LAND CAPACITY ANALYSIS WITHIN NEW PROVIDENCE BOROUGH DATED DECEMBER 2024



Map_Key	WeightedAc
1	0.063055
2	0.458014
3	0.406257
4	0.170971
6	0.277635
7	0.105836
8	0.35938
9	0.05713
10	0.234779

N

0 170 340 680 Feet

Source: NJOGIS, NJDEP, NJDOT

Land Capacity Analysis

New Providence, NJ

HGA
Heyer, Gruel & Associates

December 2024

Map_Key	WeightedAc
5	0.06236

N

0 25 50 100 Feet

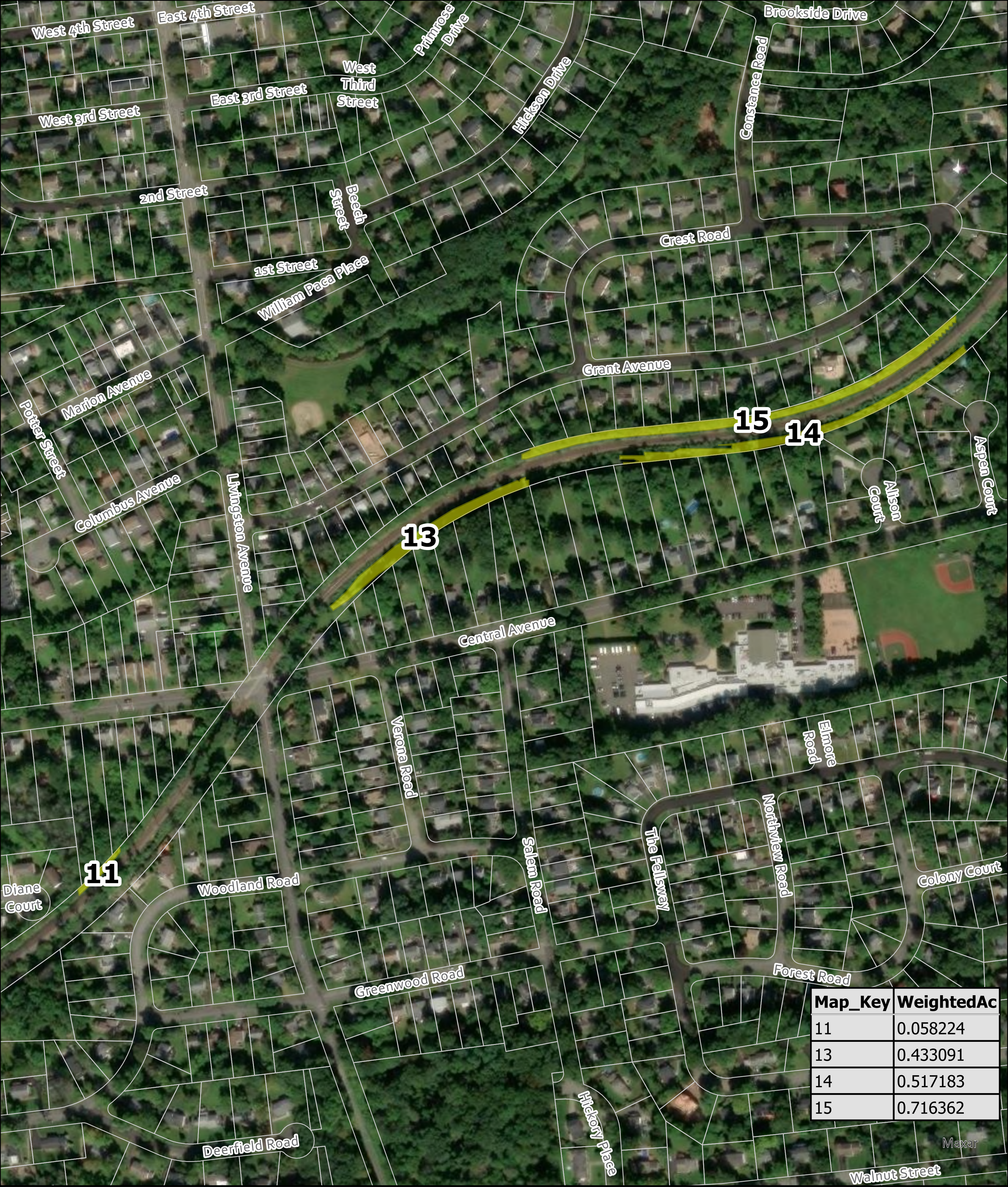
Source: NJOGIS, NJDEP, NJDOT

Land Capacity Analysis

New Providence, NJ

HGA
HEYER, GRUEL & ASSOCIATES

December 2024



Map_Key	WeightedAc
11	0.058224
13	0.433091
14	0.517183
15	0.716362

N

0 140 280 560 Feet

Source: NJOGIS, NJDEP, NJDOT

Land Capacity Analysis

New Providence, NJ

HGA
HEYER, GRUEL & ASSOCIATES

December 2024

Map_Key	WeightedAc
12	0.072419

Source: NJOGIS, NJDEP, NJDOT

Land Capacity Analysis

New Providence, NJ

HGA
Heyer, Gruel & Associates

December 2024

Map_Key	WeightedAc
16	0.57078
17	4.268098

N

0 80 160 320 Feet

Source: NJOGIS, NJDEP, NJDOT

Land Capacity Analysis

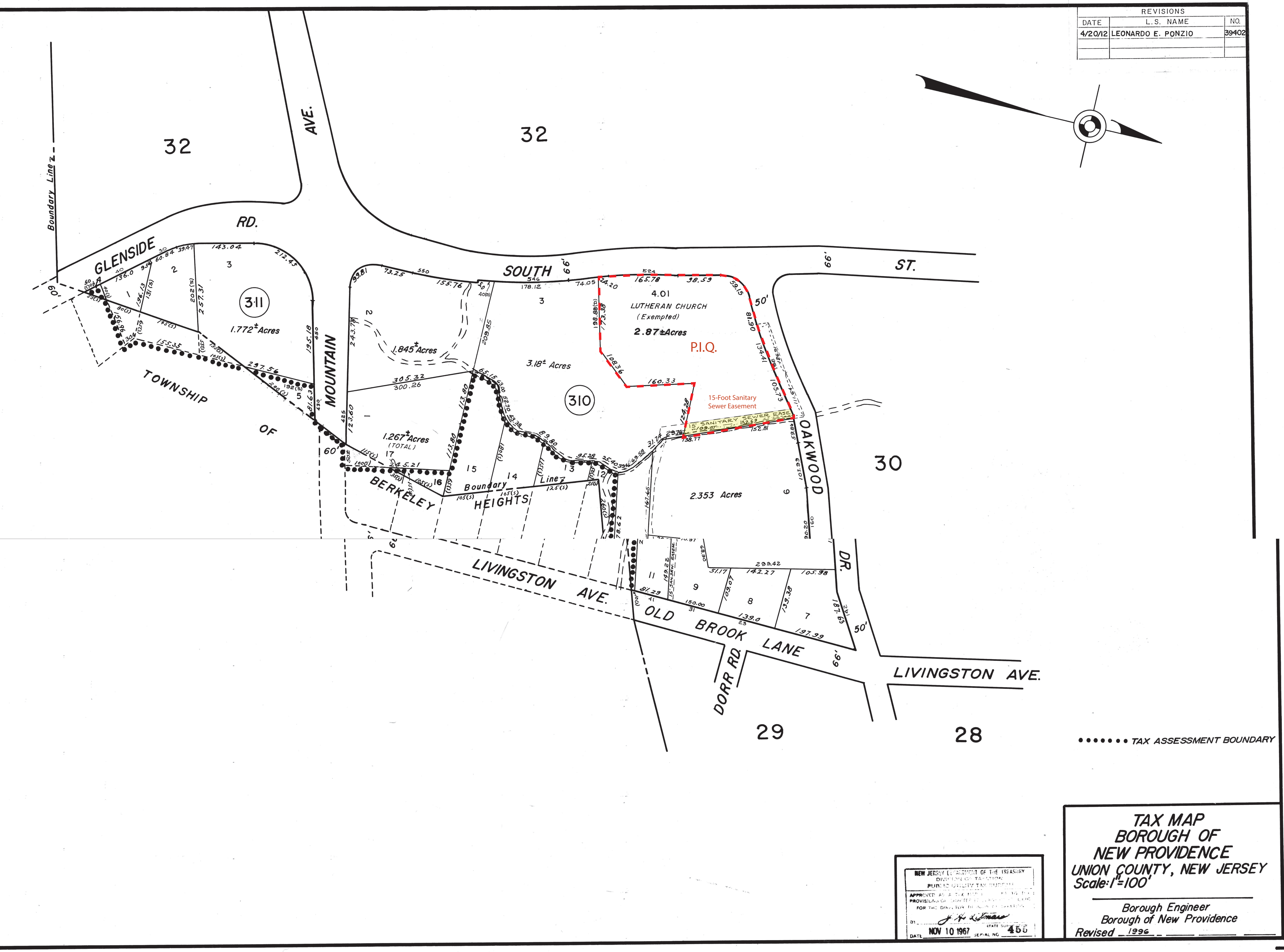
New Providence, NJ

HGA
Heyer, Gruel & Associates

December 2024

APPENDIX B

SEWER EASEMENT WITHIN BLOCK 310, LOT 4.01
BOROUGH OF NEW PROVIDENCE TAX MAPS, SHEET 31
REVISED THROUGH 4/20/2012



REVISIONS
DATE
L.S. NAME
NO.
4/20/12
LEONARDO E. PONZIO
39402
32
32
GLENSIDE
RD.
AVE.
MOUNTAIN
SOUTH
ST.
311
1.772± Acres
310
3.18± Acres
1.845± Acres
1.267± Acres (TOTAL)
4.01
LUTHERAN CHURCH
(Exempted)
2.87±Acres
P.I.Q.
15-Foot Sanitary Sewer Easement
15' SANITARY SEWER EASE.
OAKWOOD
DR.
30
2.353 Acres
TOWNSHIP
OF
BERKELEY
HEIGHTS
Boundary Line
Boundary Line
LIVINGSTON AVE.
OLD BROOK LANE
DORR RD.
LIVINGSTON AVE.
29
28
TAX ASSESSMENT BOUNDARY
NEW JERSEY DEPARTMENT OF THE TREASURY
NOV 10 1967
455
TAX MAP
BOROUGH OF
NEW PROVIDENCE
UNION COUNTY, NEW JERSEY
Scale: 1"=100'
Borough Engineer
Borough of New Providence
Revised 1996

APPENDIX C

BOROUGH OF NEW PROVIDENCE
MEMORIALIZED PLANNING BOARD RESOLUTION #2024-07, DATED 7/2/2024
RECORDED SUBDIVISION DEED FOR PROPERTY AT 915-917 CENTRAL AVE., DATED 10/31/2024

Joanne Rajoppi, **Union County Clerk** **Union County, New Jersey** Recording Data Cover Page Pursuant to N.J.S.A. 46:26A-5	Official Use Only: Recording Label Received & Recorded DEED-1 Union County, NJ Inst# 41776 11/04/2024 11:20 Pgs-11 Joanne Rajoppi Consider. $1.00 County Clerk RT Fee $0.00 Operator Alzate
DATE OF DOCUMENT 10/31/2024	**TYPE OF DOCUMENT** DEED
FIRST PARTY NAME Edward P Dippolito Sr	**SECOND PARTY NAME** Edward P Dippolito Sr
ADDITIONAL FIRST PARTIES	**ADDITIONAL SECOND PARTIES**

THE FOLLOWING SECTION IS REQUIRED FOR DEEDS ONLY	
BLOCK 180 ,180	**LOT** 40.01 ,41.01
MUNICIPALITY NEW PROVIDENCE ,NEW PROVIDENCE	**CONSIDERATION** 1.00
MAILING ADDRESS OF GRANTEE 915 Central Avenue New Providence, NJ 07974	

THE FOLLOWING SECTION IS FOR ORIGINAL MORTGAGE BOOKING & PAGING INFORMATION FOR ASSIGNMENTS, RELEASES, DISCHARGES & OTHER ORIGINAL MORTGAGE AGREEMENTS ONLY	
ORIGINAL BOOK	**ORIGINAL PAGE**

UNION COUNTY, NEW JERSEY RECORDING DATA PAGE

This cover page is for use in Union County, New Jersey only.

Please do not detach this page from the original document as it contains important recording information and is part of the permanent record. Forms available at clerk.ucnj.org

CORRECTIVE
SUBDIVISION
DEED

This Corrective Deed is made on OCTOBER 31, 2024

BETWEEN

Edward P. Dippolito, Sr.

whose address is
915 Central Avenue
New Providence, NJ 07974

referred to as the Grantor,

AND

Edward P. Dippolito, Sr.

whose address is
915 Central Avenue
New Providence, NJ 07974

referred to as the Grantee,

The words "Grantor" and "Grantee" shall mean all Grantors and all Grantees listed above.

1.Transfer of Ownership. The Grantor grants and conveys (transfers ownership of) the property (called the "Property") described below to the Grantee. This transfer is made for the sum of One and 00/100 ($1.00) Dollar.

The Grantor acknowledges receipt of this money.

2.Tax Map Reference. (N.J.S.A. 46:26A-3) Borough of **New Providence**
Block No. **180** Lot Nos. **40 & 41 (newly created lots 40.01 & 41.01)** Qualifier No. Account No.
☐ No lot and block or account number is available on the date of this Deed. (Check box if applicable.)

3.Property. The Property consists of the land and all the buildings and structures on the land in the **Borough of New Providence, County of Union** and **State of New Jersey**.

☒ Please see attached Legal Description annexed hereto and made a part hereof. (Check box if applicable.)

This Deed memorializes the decision of the Planning Board of the Borough of New Providence approving application #2024-02 for development by 915 Central Ave LLC on June 18, 2024 for minor subdivision with variances. The Resolution memorializing the decision of the Board was adopted on July 2, 2024.

The tract to be subdivided is described as follows, consisting of Block 180, Lots 40 & 41, as designated on the Tax Maps of the Borough of New Providence and more particularly described in Schedule A annexed hereto.

BEING the same premises conveyed to Grantor by Edward P. Dippolito, Sr., Executor of the Estate of Joan T. Dippolito and Edward P. Dippolito, Sr. recorded in the Union County Clerk's Office on September 23, 2022 in Deed Book 6482, Pages 498-504 (Block 180, Lot 40); and

BEING the same premises conveyed to Grantor by Edward P. Dippolito, Sr., Executor of the Estate of Joan T. Dippolito and Edward P. Dippolito, Sr. recorded in the Union County Clerk's Office on December 1, 2022 in Deed Book 6491, Pages 459-465 (Block 180, Lot 41)

Prepared by:	(For Recorder's Use Only)
Hilary P. Utz, Esq.	DB6561-2946

• Proposed Lot 40.01 after the subdivision is described in the annexed Schedule B, entitled "Metes & Bounds Description of New Lot 40.01 In Block 180, Borough of New Providence, Union County, New Jersey" dated 09/12/24 prepared by Nancy J. Scott, PLS, #GS35875; and

• Proposed Lot 41.01 after the subdivision is described in the annexed Schedule C, entitled "Metes & Bounds Description of New Lot 41.01 In Block 180, Borough of New Providence, Union County, New Jersey" dated 09/12/24 prepared by Nancy J. Scott, PLS, #GS35875.

•The purpose of this corrective deed is to correct the lot designations referenced in the original deed dated September 19, 2024 and recorded in the Union County Clerk's Office on October 16, 2024 in deed book 6559 page 383-393, from 40.1 and 41.1 to 40.01 and 41.01.

Robert Lesnewich, Chairman, Planning Board
Borough of New Providence

Margaret Koontz
Margaret Koontz, Secretary, Planning Board
Borough of New Providence

• **Promises by Grantor.** The Grantor promises that the Grantor has done no act to encumber the Property. This promise is called a "Covenant as to grantor's acts" (N.J.S.A. 46:4-6). This promise means that the Grantor has not allowed anyone else to obtain any legal rights which affect the Property (such as by making a mortgage or allowing a judgment to be entered against the Grantor).

• **Signatures.** This Deed is signed and attested to by the Grantor's proper corporate officers as of the date at the top of the first page. (Print name below each signature.)

Witnessed or Attested by:

Jorge Cruz, Esq.
Attorney at Law of the
State of New Jersey

By: Edward P. Dippolito
Edward P. Dippolito, Sr., Grantor

STATE OF NEW JERSEY

ss.:

COUNTY OF Union

I CERTIFY that on October 31, 2024, **Edward P. Dippolito, Sr.**, personally came before me and stated to my satisfaction that this person (or if more than one, each person):

(a) was the maker of the attached Deed;
(b) executed this Deed as his and/or her own act; and
(c) made this Deed for $1.00 as the full and actual consideration paid or to be paid for the transfer of title.

Jorge Cruz, Esq.
Attorney at Law of the
State of New Jersey

RECORD AND RETURN TO:
Hilary P. Ulz, Esq.
DEMPSEY, DEMPSEY & SHEEHAN
387 Springfield Avenue,
Summit, NJ 07901

GIT/REP-3
(8-24)
(Print or Type)

State of New Jersey
Seller's Residency Certification/Exemption

Seller's Information

Name(s)
Edward P. Dippolito Sr.

Current Street Address
915 Central Avenue

City, Town, Post Office	State	ZIP Code
New Providence	NJ	07974

Property Information

Block(s)	Lot(s)	Qualifier
180	40 & 41 (New Lots 40.01 & 41.01)	

Street Address
915-917 Central Avenue

City, Town, Post Office	State	ZIP Code
New Providence	NJ	07974

Seller's Percentage of Ownership	Total Consideration	Owner's Share of Consideration	Closing Date
100	1.00	1.00	10-31-24

Seller's Assurances (Check the Appropriate Box) (Boxes 2 through 16 apply to Residents and Nonresidents)

1. ☐ Seller is a resident taxpayer (individual, estate, or trust) of the State of New Jersey pursuant to the New Jersey Gross Income Tax Act, will file a resident Gross Income Tax return, and will pay any applicable taxes on any gain or income from the disposition of this property.
2. ☐ The real property sold or transferred is used exclusively as a principal residence as defined in 26 U.S. Code section 121.
3. ☐ Seller is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4. ☐ Seller, transferor, or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5. ☐ Seller is not an individual, estate, or trust and is not required to make an estimated Gross Income Tax payment.
6. ☒ The total consideration for the property is $1,000 or less so the seller is not required to make an estimated Income Tax payment.

7a. ☐ The gain from the sale is not recognized for federal income tax purposes under 26 U.S. Code section 721, 1031, or 1033 (CIRCLE THE APPLICABLE CODE SECTION). If the indicated section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey Income Tax return for the year of the sale and report the recognized gain. See instructions.

7b. ☐ Seller **only** received like-kind property.

8. ☐ The real property is being transferred by an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of this State.
9. ☐ The real property being sold is subject to a short sale instituted by the mortgagee, whereby the seller agreed not to receive any proceeds from the sale and the mortgagee will receive all proceeds paying off an agreed amount of the mortgage.
10. ☐ The deed is dated prior to August 1, 2004, and was not previously recorded.
11. ☐ The real property is being transferred under a relocation company transaction where a trustee of the relocation company buys the property from the seller and then sells the house to a third party buyer for the same price.
12. ☐ The real property is being transferred between spouses or incident to a divorce decree or property settlement agreement under 26 U.S. Code section 1041.
13. ☐ The property transferred is a cemetery plot.
14. ☐ The seller is not receiving net proceeds from the sale. Net proceeds from the sale means the net amount due to the seller on the settlement sheet.
15. ☐ The seller is a retirement trust that received an acknowledgment letter from the Internal Revenue Service that the seller is a retirement trust, and is therefore not required to make the estimated Gross Income Tax payment.
16. ☐ The seller (and/or spouse/civil union partner) originally purchased the property while a resident of New Jersey as a member of the U.S. Armed Forces and is now selling the property as a result of being deployed on active duty outside of New Jersey. (Only check this box if applicable and neither boxes 1 nor 2 apply.)

Seller's Declaration

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein may be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete. By checking this box ☐ I certify that a Power of Attorney to represent the seller(s) has been previously recorded or is being recorded simultaneously with the deed to which this form is attached.

10-31-24	Edward P. Dippolito	Edward P. Dippolito Sr.
Date	Signature (Seller)	Indicate if Power of Attorney or Attorney in Fact
Date	Signature (Seller)	Indicate if Power of Attorney or Attorney in Fact

RTF-1 (Rev. 3/2/22)
MUST SUBMIT IN DUPLICATE

STATE OF NEW JERSEY
AFFIDAVIT OF CONSIDERATION FOR USE BY SELLER
(Chapter 49, **P.L.**1968, as amended through Chapter 33, **P.L.** 2006) **(N.J.S.A.** 46:15-5 et seq.)
BEFORE COMPLETING THIS AFFIDAVIT, PLEASE READ THE INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM.

STATE OF NEW JERSEY
} SS. County Municipal Code
COUNTY Union 2011

FOR RECORDER'S USE ONLY		
Consideration	$ $1.00	E
RTF paid by seller	$ $0.00	
Date 11/04/24	By Alzate	

MUNICIPALITY OF PROPERTY LOCATION Borough of New Providence

*Use symbol "C" to indicate that fee is exclusively for county use.

(1) PARTY OR LEGAL REPRESENTATIVE (*See Instructions #3 and #4 on reverse side*)

Deponent, Edward P. Dippolito, Sr. (**Name**), being duly sworn according to law upon his/her oath, deposes and says that he/she is the Grantor (**Grantor, Legal Representative, Corporate Officer, Officer of Title Company, Lending Institution, etc.**) in a deed dated 10-31-2024 transferring real property identified as Block number 180 Lot number 40&41(New Lots 40.01&41.01) located at 915-917 Central Avenue, New Providence, NJ 07974 (**Street Address, Town**) and annexed thereto.

(2) CONSIDERATION $1.00 (*Instructions #1 and #5 on reverse side*) ■ no prior mortgage to which property is subject.

(3) Property transferred is Class 4A 4B 4C (circle one). If property transferred is Class 4A, calculation in Section 3A below is required.

(3A) **REQUIRED CALCULATION OF EQUALIZED VALUATION FOR ALL CLASS 4A (COMMERCIAL) PROPERTY TRANSACTIONS:**
(*See Instructions #5A and #7 on reverse side*)
Total Assessed Valuation ÷ Director's Ratio = Equalized Assessed Valuation

$________ ÷ ________% = $________

If Director's Ratio is less than 100%, the equalized valuation will be an amount greater than the assessed value. If Director's Ratio is equal to or in excess of 100%, the assessed value will be equal to the equalized valuation.

(4) FULL EXEMPTION FROM FEE (*See Instruction #8 on reverse side*)
Deponent states that this deed transaction is fully exempt from the Realty Transfer Fee imposed by **C.** 49, **P.L.** 1968, as amended through **C.** 66, **P.L.** 2004, for the following reason(s). Mere reference to exemption symbol is insufficient. Explain in detail.
Which confirms or corrects a deed previously recorded - Deed dated 09/19/24 and recorded on 10/16/24 in book 6559 at pages 383-393

(5) PARTIAL EXEMPTION FROM FEE (*Instruction #9 on reverse side*)
NOTE: All boxes below apply to grantor(s) *only*. **ALL BOXES IN APPROPRIATE CATEGORY MUST BE CHECKED**. Failure to do so will void claim for partial exemption. Deponent claims that this deed transaction is exempt from State portions of the Basic, Supplemental, and General Purpose Fees, as applicable, imposed by **C.** 176, **P.L.** 1975, **C.** 113, **P.L.** 2004, and **C.** 66, **P.L.** 2004 for the following reason(s):

A. **SENIOR CITIZEN** Grantor(s) ☐ 62 years of age or over. * (*Instruction #9 on reverse side for A or B*)
B. { **BLIND PERSON** Grantor(s) ☐ legally blind or; *
DISABLED PERSON Grantor(s) ☐ permanently and totally disabled ☐ receiving disability payments ☐ not gainfully employed*

Senior citizens, blind persons, or disabled persons must also meet **all of the following** criteria:
☐ Owned and occupied by grantor(s) at time of sale. ☐ Resident of State of New Jersey.
☐ One or two-family residential premises. ☐ Owners as joint tenants must all qualify.

*IN CASE OF HUSBAND AND WIFE, PARTNERS IN A CIVIL UNION COUPLE, ONLY ONE GRANTOR NEED QUALIFY IF TENANTS BY THE ENTIRETY.

C. **LOW AND MODERATE INCOME HOUSING** (*Instruction #9 on reverse side*) **IF APPLIES ALL BOXES MUST BE CHECKED.**
☐ Affordable according to H.U.D. standards. ☐ Reserved for occupancy.
☐ Meets income requirements of region. ☐ Subject to resale controls.

(6) NEW CONSTRUCTION (*Instructions #2, #10 and #12 on reverse side*) **IF APPLIES ALL BOXES MUST BE CHECKED.**
☐ Entirely new improvement ☐ Not previously occupied.
☐ Not previously used for any purpose. ☐ "**NEW CONSTRUCTION**" printed clearly at top of first page of the deed.

(7) RELATED LEGAL ENTITIES TO LEGAL ENTITIES (*Instructions #5, #12, #14 on reverse side*) **IF APPLIES ALL BOXES MUST BE CHECKED.**
☐ No prior mortgage assumed or to which property is subject at time of sale.
☐ No contributions to capital by either grantor or grantee legal entity.
☐ No stock or money exchanged by or between grantor or grantee legal entities.

(8) INTERCOMPANY TRANSFER **IF APPLIES ALL BOXES MUST BE CHECKED.** (*Instruction #15 on reverse side*)
☐ Intercompany transfer between combined group members as part of the unitary business
☐ Combined group NU ID number **(Required)** ________

(9) Deponent makes this Affidavit to induce county clerk or register of deeds to record the deed and accept the fee submitted herewith in accordance with the provisions of Chapter 49, **P.L.** 1968, as amended through Chapter 33, **P.L.** 2006.

Subscribed and sworn to before me this 31 day of October, 2024

Edward P. Dippolito
Signature of Deponent
915 Central Avenue
New Providence, NJ 07974
Deponent Address

Edward P. Dippolito, Sr.
Grantor Name
915 Central Ave
New Providence, NJ 07974
Grantor Address at Time of Sale

Jorge Cruz, Esq.
Attorney at Law of the
State of New Jersey

XXX-XX-X 738
Last three digits in Grantor's Social Security Number

Dempsey, Dempsey & Sheehan
Name/Company of Settlement Officer

FOR OFFICIAL USE ONLY			
Instrument Number 41776	County UNION		
Deed Number	Book 6561	Page 2945	
Deed Dated 10/31/24	Date Recorded 11/04/24		

County recording officers shall forward one copy of each RTF-1 form when Section 3A is completed to: **STATE OF NEW JERSEY**
PO BOX 251
TRENTON, NJ 08695-0251
ATTENTION: REALTY TRANSFER FEE UNIT

The Director of the Division of Taxation in the Department of the Treasury has prescribed this form as required by law, and may not be altered or amended without prior approval of the Director. For information on the Realty Transfer Fee or to print a copy of this Affidavit, visit the Division of Taxation website at: **https://www.state.nj.us/treasury/taxation/lpt/localtax.shtml**

SCHEDULE A
METES & BOUNDS DESCRIPTION
OF LOTS 40 & 41, BLOCK 180

ENSURPLAN, INC.
PROFESSIONAL ENGINEERS AND LAND SURVEYORS
CERTIFICATE OF AUTHORIZATION NO. 24GA27997700
P.O. BOX 4304
WARREN, NEW JERSEY 07059-0304

(732) 469-0400

August 12, 2024

File No: 29767

METES & BOUNDS DESCRIPTION OF
LOT 40 & LOT 41 IN BLOCK 180
BOROUGH OF NEW PROVIDENCE, UNION COUNTY, NEW JERSEY.

BEGINNING at a point in the Northerly line of Central Avenue (66' R.O.W.); said point being formed by the intersection of the common line of Lot 40 and Lot 39 with the Northerly line of Central Avenue and RUNNING THENCE:

1. North 44°–08'-00" West, 150.00 feet along the Northerly line of Central Avenue to a point;
2. North 45°–52'-00" East, 243.60 feet along the common line of Lot 41 and Lot 42 to a point;
3. South 44°–08'-00" East, 150.00 feet along the common line of Lot 41 and Lot 40 with Lot 45 to a point;
4. South 45°–52'-00" West, 243.60 along the common line of Lot 40 with Lots 38 and 39 to a point in the Northerly line of Central Avenue; said point being the point and place of BEGINNING.

Containing 36,540 Square Feet or 0.839 Acres (more or less).

Being the same premise described in Deeds recorded in the Union County Clerk's Office in Deed Book 6482 at Page 498 (Lot 40) and in Deed Book 6491 at Page 459 (Lot 41).

Description prepared in accord with a map entitled. "Minor Subdivision Survey and Sketch Plat, 915-917 Central Avenue, Lots 40 & 41 in Block 180 situated in the Borough of New Providence, Union County, New Jersey" dated September 21, 2023 and prepared by Ensurplan, Inc.

Nancy J. Scott
Nancy J. Scott, Professional Land Surveyor
New Jersey License No. GS35875

9-12-2024
Date

SCHEDULE B
METES & BOUNDS DESCRIPTION
NEW LOTS 40.01, BLOCK 180

ENSURPLAN, INC.

PROFESSIONAL ENGINEERS AND LAND SURVEYORS
CERTIFICATE OF AUTHORIZATION NO. 24GA27997700
P.O. BOX 4304
WARREN, NEW JERSEY 07059-0304

(732) 469-0400

August 12, 2024
Revised October 30, 2024

File No: 29767

METES & BOUNDS DESCRIPTION OF
NEW LOT 40.01 IN BLOCK 180
BOROUGH OF NEW PROVIDENCE, UNION COUNTY, NEW JERSEY.

BEGINNING at a point in the Northerly line of Central Avenue (66' R.O.W.); said point being formed by the intersection of the common line of New Lot 40.01 and Lot 39 with the Northerly line of Central Avenue and RUNNING THENCE:

1. North 44°–08'-00" West, 75.00 feet along the Northerly line of Central Avenue to a point;
2. North 45°–52'-00" East, 243.60 feet along the division line New Lot 40.01 and New Lot 41.01 to a point;
3. South 44°–08'-00" East, 75.00 feet along the common line of New Lot 40.01 and Lot 45 to a point;
4. South 45°–52'-00" West, 243.60 along the common line of Lot 40.01 with Lots 38 and 39 to a point in the Northerly line of Central Avenue; said point being the point and place of BEGINNING.

Containing 18,270 Square Feet or 0.4194 Acres (more or less).

Description prepared in accord with a map entitled. "Minor Subdivision Survey and Sketch Plat, 915-917 Central Avenue, Lots 40 & 41 in Block 180 situated in the Borough of New Providence, Union County, New Jersey" dated September 21, 2023 and prepared by Ensurplan, Inc.

Nancy J. Scott, Professional Land Surveyor
New Jersey License No. GS35875

10-30-2024
Date

SCHEDULE C
METES & BOUNDS DESCRIPTION
NEW LOTS 41.01, BLOCK 180

ENSURPLAN, INC.
PROFESSIONAL ENGINEERS AND LAND SURVEYORS
CERTIFICATE OF AUTHORIZATION NO. 24GA27997700
P.O. BOX 4304
WARREN, NEW JERSEY 07059-0304

(732) 469-0400

August 12, 2024
October 30, 2024

File No: 29767

METES & BOUNDS DESCRIPTION OF
NEW LOT 41.01 IN BLOCK 180
BOROUGH OF NEW PROVIDENCE, UNION COUNTY, NEW JERSEY.

BEGINNING at a point in the Northerly line of Central Avenue (66' R.O.W.); said point being formed by the intersection of the common line of New Lot 41.01 and New Lot 40.01 with the Northerly line of Central Avenue and RUNNING THENCE:

1. North 44°–08'-00" West, 75.00 feet along the Northerly line of Central Avenue to a point;
2. North 45°–52'-00" East, 243.60 feet along the division line New Lot 41.01 and Lot 42 to a point;
3. South 44°–08'-00" East, 75.00 feet along the common line of New Lot 41.01 and Lot 45 to a point;
4. South 45°–52'-00" West, 243.60 along the common line of New Lot 41.01 and New Lot 40.01 to a point in the Northerly line of Central Avenue; said point being the point and place of BEGINNING.

Containing 18,270 Square Feet or 0.4194 Acres (more or less).

Description prepared in accord with a map entitled. "Minor Subdivision Survey and Sketch Plat, 915-917 Central Avenue, Lots 40 & 41 in Block 180 situated in the Borough of New Providence, Union County, New Jersey" dated September 21, 2023 and prepared by Ensurplan, Inc.

Nancy J. Scott, Professional Land Surveyor
New Jersey License No. GS35875

10-30-2024
Date

CHECK

HUDSON AMERICAN ABSTRACT, LLC DBA ENSURE TITLE Inst.# 41776

DEED Recording Fee Paid $145.00 RT Fee

END OF DOCUMENT

Resolution # 2024-07 Application #2024-02

BOROUGH OF NEW PROVIDENCE
PLANNING BOARD

915 Central Ave LLC
915-917 Central Avenue

RESOLUTION

WHEREAS, 915 Central Ave LLC (the "Applicant") has applied to the Borough of New Providence Planning Board (the "Board") for minor subdivision approval and the following variance relief relating to the subdivision of property designated as Block 180, Lot 40 and 41 on the Borough Tax Map and more commonly known as 915-917 Central Avenue, which is located in the R-2 Residential Zone (the "Property" or the "Site"), into two (2) identical lots consisting of 18,270 square feet (Proposed Lots 40.1 and 41.1) and the construction of fully conforming dwellings on each lot:

1. As to Proposed Lot 40.1, bulk variance relief for a proposed lot width of 75 feet at the setback line, whereas the minimum required lot width is 110 feet at the setback line, pursuant to Section 310-22 of the Land Use Procedures Ordinance of the Borough of New Providence (the "Ordinance"); and
2. As to Proposed Lot 41.1, bulk variance relief for a proposed lot width of 75 feet at the setback line, whereas the minimum required lot width is 110 feet at the setback line, pursuant to Section 310-22 of the Ordinance; and

WHEREAS, a public hearing on notice was held on such application on June 4, 2024, at which time interested citizens were afforded an opportunity to appear and be heard; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant and members of the public, and any reports from consultants and reviewing agencies, has made the following factual findings and conclusions:

1. The Property is located at 915-917 Central Avenue in the R-2 Single-Family Residential District. Combined, the Site includes 150 feet of frontage along Central Avenue and

measures 36,540 square feet (0.84 acres). The Property is currently developed as a single lot with a two-story, single-family dwelling with two (2) one-story extensions, a frame garage, paved driveway, and various site improvements. Within the northern corner of the Property is a slightly wooded area. The Property is surrounded by other single-family residences and is located in proximity to the stretch of Central Avenue which includes offices, commercial establishments, and higher-density residential units.

2. A prior applicant previously sought, but was denied, minor subdivision approval with bulk variance relief, as outlined in the Borough's Planning Board Resolution #95-15, which was memorialized on December 5, 1995. The then-applicants applied to subdivide the lot into (1) front lot measuring 15,263 square feet and one (1) rear flag lot measuring approximately 21,277 square feet. The then-applicants required bulk variance relief for an insufficient lot width at the right-of-way line, at the front-yard setback, and additional 40 feet beyond the front yard setback, for excessive building and lot coverage, and for an insufficient accessory structure setback. This application was ultimately denied based on the Board's determination that flag lots were not appropriate for this area of the Borough (as they were not permitted by the Borough Ordinance). The Board also concluded that the proposed dwelling located on the flag lot would negatively affect the privacy of neighboring residences and that the proposed stormwater management measures were inadequate, considering the Property's existing drainage issues.

3. The current Applicant proposes the demolition of the existing two-story dwelling, frame garage, and related improvements. The Applicant proposes to subdivide the Property into two (2) identical lots (Proposed Lot 40.1 and Proposed Lot 41.1). Each lot will consist of 18,270 square feet (0.42 acres). The Applicant subsequently proposes to construct one (1) new single-family dwelling on each new lot (i.e., two (2) new dwellings total).

4. Each new single-family dwelling will be two (2) stories tall and will include a private driveway from the Central Avenue right-of-way. Each dwelling will feature a front porch and attached rear deck. Within each proposed lot, the overall structures and impervious areas will encompass 3,072 square feet (16.8%) of the overall square footage. Both dwellings are proposed to be fully conforming and will not require any use or bulk variance relief.

5. Bartholomew A. Sheehan, Jr. Esq., entered his appearance on behalf of the Applicant and provided an overview of the proposal. He explained that the Property is currently improved with a single-family dwelling with a substantial accessory structure (garage). Mr. Sheehan noted that the proposed subdivision will result in two fully conforming lots (aside from the lot width at the setback) with fully conforming dwellings to be constructed on each lot. He contended that the subdivided lots are a more appropriate size and are more consistent with the lot sizes in the immediate neighborhood.

6. Mr. Sheehan noted that a prior property owner had previously sought subdivision relief for the same Property, but that said application was denied. He explained that the current application is sufficiently different than the prior application in that the lots are now both conforming as to lot area, a flag lot is no longer proposed, and only a lot width at the setback variance is requested. On discussion of the doctrine of *res judicata*, the Board concurred with Mr. Sheehan that the application was not barred and that the Board could hear the application.

7. Having determined that the application was not barred by *res judicata*, Mr. Sheehan advised that each proposed lot will contain 18,270 square feet, whereas the minimum lot area is 15,000 square feet. He contended that the proposed subdivision will lead to improved zoning and planning that will benefit the community, particularly since many of the adjacent lots are also nonconforming as to lot width. Mr. Sheehan further contended that the requested relief for the non-

conforming lot width at the setback line deviations could be granted pursuant to N.J.S.A. 40:55D-70(c)(2) in that granting the requested relief would advance the purposes of the Municipal Land Use Law and the benefits of granting the requested relief would substantially outweigh the detriment associated therewith. He noted that the proposal promotes the goals of the Master Plan and is consistent with the specific goal of preserving the existing character of the neighborhood.

8. The Board Professionals, Keith Lynch, Director of Planning and Development, and M. McKinley Mertz, P.P., A.I.C.P., the Board Planner, were duly sworn according to law.

9. William S. Scott, P.E., having an address of P.O. Box 4304, Warren, was duly sworn according to law, provided his qualifications, and was accepted by the Board as an expert in the field of civil engineering. Referencing the Minor Subdivision Survey and Sketch Plat he prepared, dated September 21, 2023 (the "Plans"), Mr. Scott described the existing conditions as including a single-family dwelling with a frame garage and an expansive parking area constructed of concrete and pavement. The rear yard of the Property is wooded and vacant.

10. Mr. Scott described that, as part of the subdivision, all of the existing improvements would be removed and the Property would be subdivided into two identical lots consisting of 18,270 square feet. Both lots are proposed to be improved with two-story single-family dwellings with side-loaded garages to preserve the neighbors' privacy and reduce the likelihood of headlight glare onto the adjacent properties. Mr. Scott noted that both dwellings are identical in layout, but the exterior of each dwelling will include unique architectural elements to provide visual interest.

11. Mr. Scott noted that the only variance relief the Applicant is seeking is for the proposed lot width at the setback for both lots. The proposed lot width at the setback is 75 feet, whereas the minimum required lot width at the setback is 110 feet.

12. Referencing Sheet 2 (Grading and Soil Erosion Control) of the Plans, Mr. Scott testified that the Applicant is proposing a concept for stormwater management. He noted that the proposed improvements decrease the impervious coverage by 800 square feet, which he contended will result in a measurable decrease in stormwater runoff. Mr. Scott explained that, as was noted in the resolution denying the prior application for subdivision approval, stormwater management to the rear of the Property was a problem. He contended that the proposed system will capture stormwater runoff and direct it towards the street where there is an existing stormwater inlet. Mr. Scott confirmed that the sump pumps will also be piped into the existing stormwater management system and contended that the proposed drainage measures will substantially reduce stormwater runoff. He further confirmed that the proposal only involves the disturbance of 50% of the lots as the rear of the proposed lots will remain wooded.

13. On questioning, the Applicant confirmed that both of the proposed dwellings will be fully conforming and acknowledged that if they do not fully conform, the Applicant will need to return to the Board for additional variance relief. On discussion of the requested lot width at the setback variance relief, Mr. Scott noted that the overwhelming majority of the lots in the neighborhood do not comply with the minimum required lot width at the setback of 110 feet.

14. On questioning, Mr. Scott contended that only two lots in the neighborhood conform with the minimum required lot width, one of which is a commercial lot. On discussion of the wooded area to the rear of the proposed dwellings, Mr. Scott advised that the intent is to preserve the trees in the wooded area and noted that the development of the lots will comply with the proposed limit of disturbance shown on the plans. On questioning, the Applicant confirmed that the proposed driveway widths will be conforming at 12 feet.

15. M. McKinley Mertz, the Board Planner, advised that the Applicant does not require [redacted] Lot 41.1.

16. Christopher Maier, having an address of 143 Passaic Avenue, Summit, was duly sworn according to law, explained that he has been a residential developer for 35 years and has constructed numerous dwellings in Summit, New Jersey.

17. Mr. Maier introduced into evidence, as **Exhibit A-1**, Architectural Plans for a Single-Family House located at 17 Butler Parkway in Summit, prepared by Wellisch Architects, LLC dated March 21, 2012 and, as **Exhibit A-2**, Architectural Plans for a Single-Family House located at 65 Butler Parkway in Summit, also prepared by Wellisch Architects, LLC, dated October 22, 2014. Referencing Exhibits A-1 and A-2, Mr. Maier explained that the proposed dwellings have a stone façade and a side-loaded garage. On questioning, he confirmed that the exterior of the proposed dwellings will not be exactly identical. He further confirmed that both dwellings will be fully conforming with all development regulations.

18. On questioning as to the tree removal, Mr. Maier confirmed that only two (2) trees are proposed to be removed and the rest of the trees will be preserved. On questioning as to additional landscaping, Mr. Maier explained that the right (south) side of the Property has evergreens and other trees so no additional landscaping is necessary. On the left side and between the properties, he will add *arbor vitae* to provide the future occupants with additional privacy. On

discussion, Mr. Lynch advised that the Applicant will need to plant at least three (3) replacement trees on each lot having a caliper of at least 1.5".

19. On questioning, Mr. Maier stipulated, as a condition of approval, that the construction of the dwellings would be in strict compliance with the plans submitted and discussed by the Board. Mr. Maier confirmed that the existing fencing along Proposed Lot 41.1 will remain. On questioning as to whether Mr. Maier had attempted to purchase adjacent Lot 42, Mr. Maier advised that he had not because it is a fully developed lot.

20. No member of the public commented on, or objected to, the Applicant's proposal.

DECISION

21. After considering the evidence submitted and testimony provided, the Board, by a vote of 6 to 1, finds that the Applicant has demonstrated an entitlement to the requested relief pursuant to N.J.S.A. 40:55D-70(c).

The "c(2)" Variance Relief – Positive Criteria:

22. As to the positive criteria for the requested lot width at the setback variance relief for Proposed Lots 40.1 and 41.1, the Board finds that the Applicant has demonstrated an entitlement to same pursuant to N.J.S.A. 40:55D-70(c)(2). Specifically, the Board finds that the Applicant has demonstrated that granting the requested relief will advance the purposes of the Municipal Land Use Law ("MLUL") and that the benefits to the community to be derived therefrom will substantially outweigh any detriments associated therewith. In this regard, the Board finds that the proposed development will provide a desirable visual environment, improve the housing stock, provide sufficient light, air and open space, and otherwise promote the general welfare. Here, the Board recognizes that the existing lot is oversized for the neighborhood and that subdividing the Property into Proposed Lots 40.1 and 41.1 will render the lots more consistent

with the neighborhood, thereby providing a better planning alternative. In this regard, the Board accepts the unrefuted expert testimony that the majority of the lots in the neighborhood are non-conforming as to lot width at the setback. The Board finds that the Applicant has demonstrated that the benefits to the community of granting the requested relief substantially outweigh the detriment associated therewith, particularly given the reduced coverage and improved stormwater management measures and limited disturbance. The Board also recognizes that the Applicants have stipulated to constructing fully conforming dwellings in accordance with the plans presented to the Board. For these reasons, the Board finds that the Applicant has satisfied the positive criteria for the requested subsection c(2) bulk variance relief.

The "c(1)" and "c(2)" Variance Relief – Negative Criteria:

23. As to the negative criteria for all of the requested bulk variance relief, the Board finds that the Applicant has demonstrated that the proposal will not result in either substantial detriment to the public good or substantial impairment of the Master Plan and Zoning Ordinance. As to the "substantial detriment" prong of the negative criteria, the Board recognizes that the proposed lots and dwellings will be aesthetically pleasing and finds that same will not be out of character with the existing neighborhood. The Board further recognizes that no member of the public objected to the proposal. As such, the Board finds that the proposal will not result in substantial detriment to the public good.

24. As to the "substantial impairment" prong of the negative criteria, the Board finds that granting the requested relief certainly does not rise to the level of a rezoning of the Property particularly since single-family dwellings are permitted in the zone. As such, the Board finds that the proposal will not result in substantial impairment of the Master Plan or Zoning Ordinance.

25. For the reasons set forth above, the Board finds that the Applicant has satisfied both the positive and negative criteria for the requested bulk variance relief pursuant to N.J.S.A. 40:55D-70(c)(2).

WHEREAS, the Board took action on this application on June 4, 2024, and this Resolution constitutes a Resolution of Memorialization of the action taken in accordance with N.J.S.A. 40:55D-10(g); and

NOW, THEREFORE, be it resolved by the Borough of New Providence Planning Board, on this 18th day of June 2024, that the application of 915 Central Ave LLC, for the requested relief, as aforesaid, be, and hereby is granted, subject to the following conditions:

1. Any and all outstanding escrow fees shall be paid in full and the escrow account shall be replenished to the level required by Ordinance within 30 days of the adoption of a Resolution, within 30 days of written notice that a deficiency exists in the escrow account, prior to signing the site plan and/or subdivision plat, prior to the issuance of a zoning permit, prior to the issuance of construction permits, and prior to the issuance of a temporary and/or permanent certificate of occupancy, completion or compliance (whichever is applicable);

2. The Applicant shall pay the fees of the Board professionals, including, but not limited to, the Board Attorney, Board Engineer, and Board Planner;

3. The Applicant shall construct the proposed dwellings in strict conformance with the plans submitted to the Board as Exhibits A-1 and A-2 and any deviation from those plans shall require the Applicant to return to the Board for further approval;

4. The Applicant shall plant at least three (3) replacement trees having a caliper of no less than 1.5" on each lot, the species of which shall be subject to the review and approval of the Director of Planning and Development, Mr. Lynch;

5. The proposed stormwater management measures shall be subject to the review and approval of the Borough Engineer;

6. The proposed driveway widths shall not exceed 12 feet;

7. The Applicant shall preserve the existing trees that were testified to remain, as well as the trees to the rear of the proposed lots;

8. The Applicant shall plant *arbor vitae* along the shared property line of Proposed Lot 40.1 and Proposed Lot 41.1 to provide a buffer between the properties;

The undersigned Secretary of the Borough of New Providence Planning Board does hereby certify that the within resolution of memorialization was adopted by this Board pursuant to N.J.S.A. 40:55D-10(g) at its meeting on July 2, 2024.

Margaret Koontz

Margaret Koontz, Secretary

Robert Lesnewich, Chairman

APPENDIX D

BOROUGH OF NEW PROVIDENCE
RECREATION AND OPEN SPACE INVENTORY (ROSI)

Recreation and Open Space Inventory (ROSI)

You are about to search the Recreation and Open Space Inventory (ROSI) database maintained by the Green Acres Program and the Office of Transactions and Public Land Administration.

This database includes municipal, county and nonprofit parkland encumbered by as a condition of Green Acres funding. It does not include State owned parkland or lands preserved through other sources of funding.

For information on State held parkland, please contact the Public Land Compliance Section staff person assigned to the county in which the property is located.

For information on preserved lands not encumbered with Green Acres restrictions, please contact the landowner.

WHAT IS A ROSI?

- Each local unit (municipality or county) is required to prepare a ROSI as a condition of applying for and receiving Green Acres funding.

- The ROSI lists all Green Acres-funded properties ("funded parkland") as well as all other lands held for conservation and/or recreation purposes at the time the local unit last received funding from Green Acres ("unfunded parkland").

- Lands listed on a ROSI include those owned, leased, or otherwise controlled by the local unit and may include land owned in fee, land leased by the local unit for recreation purposes, land owned by a private entity upon which the local unit holds a conservation easement, or any land in which the local unit holds a specific recreation and/or conservation interest.

DISCLAIMERS

- Although the Department works with Local Units to reconcile ROSI information as part of the funding process, it relies in good faith on the accuracy of the information provided by the Local Unit(s) in maintaining the accuracy of our database.
- Because Green Acres restrictions are contractual and statutory in nature, a property may be subject to Green Acres restrictions even if it is omitted from a ROSI.
- The tax block and lot numbering of properties listed on the ROSI may have changed since the ROSI was submitted, and typographical errors or other errors may have occurred when the ROSI was submitted to the Department. The information in this database should be confirmed with the property owner and the Department, and should not be relied upon to determine that the property is **not** encumbered with Green Acres restrictions.
- If there is a question as to whether a parcel should or should not be included on the ROSI, please see the Green Acres Rules, specifically N.J.A.C. 7:36-25.3, for guidance and then contact the Local Unit.
- All questions concerning proposed uses of Green Acres restricted lands should first be addressed first to the Local Unit and then the appropriate Public Land Compliance Section staff person assigned to the county in which the property is located.

Any discrepancies, whether in the form of an incorrect block/lot listing or parcels missing from the ROSI, should be brought to the attention of Nancy Lawrence.

Facility Name: If followed by - DIV = parcel was entirely diverted; if followed by - P/DIV = parcel was partially diverted; and if followed by - COMP = parcel was a compensation piece for previous diversion.

Interest: CR: Conservation Restriction; Fee: Fee Simple; Lease: Leased land

Type: M - Municipal; C - County; N - Non Profit

☑ I agree to these terms & Conditions

County: UNION

Municipality: NEW PROVIDENCE BORO Search

County: UNION **Municipality:** NEW PROVIDENCE BORO

Block	Lot	Facility Name	Interest	Type
10	2	PASSAIC RIVER PARK	FEE	C
10	6	PASSAIC RIVER PARK	FEE	C
103	25	PASSAIC RIVER PARK	FEE	C
11	6	PASSAIC RIVER PARK	FEE	C
110	14	MADISON-PITNEY AVE	FEE	M
121	32	GROVE PARK	FEE	M
124	2	CLEARWATER PARK	FEE	M
13	1	PASSAIC RIVER PARK	FEE	C
13	13	PASSAIC RIVER PARK	FEE	C
136	17	BORO PARKLAND	FEE	M
14	1	PASSAIC RIVER PARK	FEE	C
14	2	PASSAIC RIVER PARK	FEE	M
14	6	PASSAIC RIVER PARK	FEE	C
163	12	VETERANS MEMORIAL PARK	FEE	M

Block	Lot	Facility Name	Interest	Type
163	39	VETERANS MEMORIAL PARK	FEE	M
163	40	BORO PARKLAND	FEE	M
163	41	BORO PARKLAND	FEE	M
163	42	BORO PARKLAND	FEE	M
171	13	COMMUNITY POOL	FEE	M
185	20	BORO PARKLAND	FEE	M
185	7	BORO PARKLAND	FEE	M
201	17	MORRIS AVENUE	FEE	M
210	24	MORRIS AVENUE	FEE	M
210	34	BORO PARKLAND	FEE	M
210	35	BORO PARKLAND	FEE	M
232	22	BORO PARKLAND	FEE	M
239	1	BORO PARKLAND	FEE	M
241	49	LIONS PARK	FEE	M
244	26	BORO PARKLAND	FEE	M
244	7	BORO PARKLAND	FEE	M
25	23	PASSAIC RIVER PARK	FEE	M
25	25	PASSAIC RIVER PARK	FEE	C
25	26	PASSAIC RIVER PARK	FEE	C
25	30	PASSAIC RIVER PARK	FEE	C
270	31	BORO PARKLAND	FEE	M
271	42	BORO PARKLAND	FEE	M
271	46.02	HILLVIEW FIELD	FEE	M
283	41	LENCI TRACT - HICKORY	FEE	M
300	1	LENCI TRACT - JOHNSON	FEE	M
341	25	WARNER FIELD	FEE	M
35	14	PASSAIC RIVER PARK	FEE	C
353	4	WARNER FIELD	FEE	M
373	16	BIRD SANTUARY	FEE	M

Block	Lot	Facility Name	Interest	Type
38	12	PASSAIC RIVER PARK	FEE	M
41	33	SALT BROOK PARK	FEE	M
41	36	BORO PARKLAND	FEE	M
44	7	BORO PARKLAND	FEE	M
45	1	PASSAIC RIVER PARK	FEE	C
45	13	SALT BROOK PARK	FEE	M
51	1	CENTENNIAL PARK	FEE	M
53	25	LINCOLN FIELD	FEE	M
53	4	PUBLIC LIBRARY	FEE	M
63	17	ELKWOOD - CLINTON AVE	FEE	M
63	22	MADISON AVE	FEE	M
76	1	PASSAIC RIVER PARK	FEE	C
76	35.02	OAKWOOD PARK	FEE	C
76	35.02	OAKWOOD PARK	FEE	M
85	32	OAKWOOD PARK	FEE	C
85	34	OAKWOOD PARK	FEE	C
90	14	OAKWOOD PARK	FEE	C
92	6	PASSAIC RIVER PARK	FEE	C

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