

**AMENDED  
1999 - 2025  
HOUSING ELEMENT AND  
FAIR SHARE PLAN**

**TOWNSHIP OF MONROE  
MIDDLESEX COUNTY, NEW JERSEY**

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**Prepared by  
Mark A. Remsa, P.P., L.L.A., A.I.C.P., A.S.L.A.  
10 Dewberry Court  
Mount Laurel, New Jersey 08054**

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**Mark A. Remsa, New Jersey Professional Planner  
License No. LI-004039**

The original document has been signed and sealed.

## Introduction

In accordance with the procedure adopted *In the Matter of the Adoption of N.J.A.C. 5.96 and 5.97* by the Supreme Court of New Jersey, on June 9, 2015, the Township of Monroe (Monroe Township) submitted its complaint for declaratory judgment and preliminary and permanent injunctive relief for seeking the judicial equivalent of Substantive Certification and protection to prohibit any exclusionary zoning action and any builder's remedy action. Through the judicial process it was determined that Monroe Township's 1999 – 2025 affordable housing obligation was 1,133 units, which consisted of the 1,000-unit cap plus 133 units that are one-third of the court-estimated Gap Period obligation of 399 units. The balance of 266 units, which represents two-thirds of the Gap Period, will be added to future obligations in the following manner: the second one-third consisting of 133 will be added to the 2025 – 2035 Prospective Need, and the third one-third consisting of 133 will added to the 2035 – 2045 Prospective Need.

On October 5, 2016, the Superior Court of Middlesex County issued a Declaratory Judgment of Compliance and Repose approving Monroe Township's 1999 – 2025 Housing Element and Fair Share Plan and providing Monroe Township protection against any exclusionary zoning action and any builder's remedy action. The Court issued a supplemental order confirming the conditions imposed by the Court's Order granting a Conditional Final Judgment of Compliance and Repose have been satisfied on April 19, 2017.

Monroe Township seeks to amend its 1999 – 2025 Housing Element and Fair Share Plan by providing an additional 43 affordable housing units to its Municipally Sponsored/100% Affordable Housing project thereby bringing the total number of affordable units to 80 in the project. The initial project approved by the court was to have 37 affordable units for veterans and their families. As of preparing this amendment, Monroe Township is negotiating an agreement with Conifer, the affordable housing developer it selected to design, build, operate and maintain the 80-unit affordable housing project. During the developer selection process, Monroe Township learned that providing additional affordable units beyond 37 in the project would improve cost efficiencies in delivering the affordable units as well as providing various support services to the residents of the project. The project will comprise 37 affordable units for veterans and their families and 43 affordable units that will have a veteran preference and may be occupied by non-veteran families should there be insufficient veteran demand for the housing.

Monroe Township's court-approved 1999 – 2025 Spending Plan allocated \$10,930,400.00 toward the Municipally Sponsored/100% Affordable Housing project. Monroe Township does not seek an amendment to its Spending Plan because it intends to expend the same amount of funds on the modified project. The financial proposal submitted by Conifer, the affordable housing developer

selected by the Township, indicates Monroe Township's \$10.9 million contribution is satisfactory to assist in the development of the 80-unit project.

Further, Monroe Township seeks to amend its 1999 – 2025 Housing Element and Fair Share Plan (Plan) by removing a parcel of land, known as VC-2 Overlay Zone: SP II Inclusionary Development (Block 4, Lots 7, 8 and 14.01 and part of Lot 9), from the Plan and eliminating the VC-2 Overlay Zone, which provides for a mix of inclusionary housing and commercial development, from the base zoning (HD Highway Development) for the parcel of land. The reason for removing the parcel of land from the Plan is the land cannot be developed to the extent to which the Plan originally contemplated due to environmental constraints caused by the presence of an eagle nest recently discovered on the land. The New Jersey Department of Environmental Protection imposes a mandatory 660-foot buffer from an eagle nest to the nearest edge of development. As a result of providing this buffer, only slightly more than one third of the land can be developed. The removal of this land from the Plan will result in loss of 43 affordable family rental units, of which 6 were supposed to be for very low-income families. To address this loss of affordable units, Monroe Township's Municipally Sponsored/100% Affordable Housing project will be increased by 43 affordable units that include the 6 very low-income units.

Furthermore, Monroe Township seeks to amend its Plan to reflect a change in the type of affordable housing units that were produced in the inclusionary housing development identified as Toll Brothers/Monroe Chase Sarlo Conversion Inclusionary Development. The court-approved Plan indicated this inclusionary housing development would produce 26 affordable rental units of which 3 units would be for very-low income families, receive a 26-unit rental bonus and accrue 52 total credits. While preparing its midpoint report for the court, Monroe Township learned that the 26 affordable units were produced as affordable for-sale units without any of the 3 very low-income affordable units required in the Plan. Since Monroe Township has a surplus in affordable family rentals to which rental bonuses could apply, Monroe Township seeks to apply the 26 rental bonuses to the inclusionary development identified as Monroe 33 Developers Inclusionary Development, which did not have any rental bonuses in the court-approved Plan. As of preparing this amendment, the Monroe 33 Developers Inclusionary Development was completed and certificates of occupancy issued for 30 affordable family rental units. The 3 required very low-income affordable units will be transferred to the modified Monroe Township's Municipally Sponsored/100% Affordable Housing 80-unit project.

Bottom line as a result of the amendment to the Plan: Monroe Township will maintain the same number of (1) affordable housing credits (1,133), (2) affordable units (850) previously approved by the court and (3) very low-income affordable units (147).

**SATISFACTION OF 1999 - 2025 OBLIGATION**

Monroe Township’s 1999 – 2025 affordable housing obligation, court-approved 1999 – 2025 Plan and proposed amendment to the Plan are summarized in Table 1. The court-approved Plan and the amendment to the Plan maintain the obligation of 1,133 credits. The 1999 – 2025 rental obligation was 283 units, and the court-approved Plan proposed 850 rental units. Due to the change from 26 affordable rental units to 26 affordable for-sale units in the development of Toll Brothers/Monroe Chase, the amendment proposes a total of 824 affordable rental units, which far exceed the 1999 – 2025 affordable rental obligation of 283 units. The 1999 – 2025 family rental obligation was 142 units. The court-approved Plan proposed 567 affordable family rental units. Again, due to the change in the Toll Brothers/Monroe Chase development, the amendment to the Plan proposes a reduction of 26 affordable family rental units thus totaling 541 units, which far exceed the required obligation. The 1999 – 2025 very low-income obligation was 111 units. The amendment to the Plan maintains the 147 affordable very-low income units in the court-approved Plan. The amendment to the Plan proposes no change to the 1999 – 2025 affordable age-restricted unit limitation of 283 and the 283 affordable age-restricted units proposed in the court-approved Plan.

<b>Table 1: Approved 1999-2025 Plan vs. Proposed Amendment to 1999-2025 Plan</b>				
Description	Required 1999-2025 Obligation	Court Approved Plan	Amendment to 1999-2025 Plan	Difference between Court Approved Plan and Proposed Amendment
Obligation	1,133	1,133	1,133	0
Rental Obligation	283	850	824	-26
Family Rental Requirement	142	567	541	-26
Very Low-Income Requirement	111	147	147	0
Age-Restricted Unit Limitation	283	283	283	0

**Table 2: Approved Plan: Affordable Units, Rental Bonuses,  
Total Credits & Very Low-Income Units**

Mechanism	Affordable Units			Rental Bonus	Total Credits	Very Low-Income Units
	Family Rental Units	Family For-Sale Units	Total Units			
Municipally Sponsored/100% Affordable	37	0	37	37	74	6
Toll Brothers/Monroe Chase	26	0	26	26	52	3
Monroe 33 Developers	30	0	30	0	30	4
SP II Inclusionary Development	43	0	43	0	43	6
<b>Total</b>	<b>136</b>	<b>0</b>	<b>136</b>	<b>63</b>	<b>199</b>	<b>19</b>

**Table 3: Proposed Amendment: Affordable Units, Rental Bonuses,  
Total Credits & Very Low-Income Units**

Mechanism	Affordable Units			Rental Bonus	Total Credits	Very Low-Inc. Units
	Family Rental Units	Family For-Sale Units	Total Units			
Municipally Sponsored/100% Affordable	80	0	80	37	117	15
Toll Brothers/Monroe Chase	0	26	26	0	26	0
Monroe 33 Developers	30	0	30	26	56	4
<b>Total</b>	<b>110</b>	<b>26</b>	<b>136</b>	<b>63</b>	<b>199</b>	<b>19</b>

Table 2 shows the distribution of affordable housing types (family rental units, family for-sale units and very low-income units), rental bonus and total affordable housing credits for the four court-approved affordable housing mechanisms that are part of this amendment of the Plan: the Monroe Township Municipally Sponsored/100% Affordable Housing development; Toll Brothers/Monroe Chase development; Monroe 33 Developers development; and SP II Inclusionary development. The total number of affordable family rental units for the four mechanisms was 136, and no affordable for-sale units were proposed in any of the four developments. A total of 63 rental bonuses were approved: 37 rental bonuses for the Monroe Township Municipally Sponsored/100% Affordable Housing development, and 26 rental bonuses for Toll Brothers/Monroe Chase development. With these rental bonuses a total of 199 affordable housing credits were approved. The court approved 19 very low-income affordable units among the four projects: 6 for the Monroe Township Municipally Sponsored/100% Affordable Housing development; 3 for Toll Brothers/Monroe Chase development; 4 for Monroe 33 Developers development; and 6 for SP II Inclusionary development.

Table 3 shows the amendment to the Plan, which consists of removing the SP II Inclusionary development, the change in affordable units types in the Toll Brothers/Monroe Chase development, and the redistribution of affordable units and rental bonuses. The Monroe Township Municipally Sponsored/100% Affordable Housing development will have a total of 80 affordable family rental units of which 15 will be very low-income affordable units and a total of 117 total affordable housing credits due to adding the court-approved 37 rental bonuses to the 80 affordable units. The Toll Brothers/Monroe Chase development will have 26 affordable for-sale units, no very low-income affordable units and a total of 26 affordable housing credits. Monroe 33 Developers development maintains the court-approved 30 affordable family rental units of which 4 are very low-income affordable units. With the 26 rental bonuses transferred from the Toll Brothers/Monroe Chase development, the Monroe 33 Developers development will have a total of 56 affordable housing credits. As a result of this amendment, the three mechanisms will maintain a total of 136 affordable housing units, 19 very low-income affordable units, 63 rental bonuses and 199 affordable housing credits – the same totals that were in the court-approved Plan.

A brief description of the Municipally Sponsored/100% Affordable Housing development is provided below. Also provided below is information about SP II Inclusionary Housing development that is affected by the eagle nest constraints. Since the developments for Toll Brothers/Monroe Chase and Monroe 33 Developers are completed and occupied, no further information about them is provided.

#### Municipally Sponsored/100% Affordable Housing Development

As a condition of Planning Board approval for a Sarlo conversion (resolution for Planning Board application no. PB 1089-10), K. Hovnanian at Monroe NJ

transferred a parcel of land identified as Block 41, Lot 14 to Monroe Township for the construction of a municipally sponsored/100% affordable housing development. According to the court-approved Plan, this development would consist of 37 affordable rental units for veterans and their families, of which 6 units would be for very low-income households. Monroe Township issued a request-for-proposal (RFP) for affordable housing developers to design, build, operate and maintain the 37-unit affordable housing development. During the RFP process, Monroe Township learned that there would be economic efficiencies in delivering the affordable housing units and providing support services to the residents of the development if the number of units within the development would be increased to at least 80 units. Monroe Township designated Conifer as the affordable housing developer for the project, which would comprise 80 affordable housing units of which 37 would be for veterans and their families and 43 would have a veteran preference and may be occupied by non-veteran families should there be insufficient veteran demand for the housing.

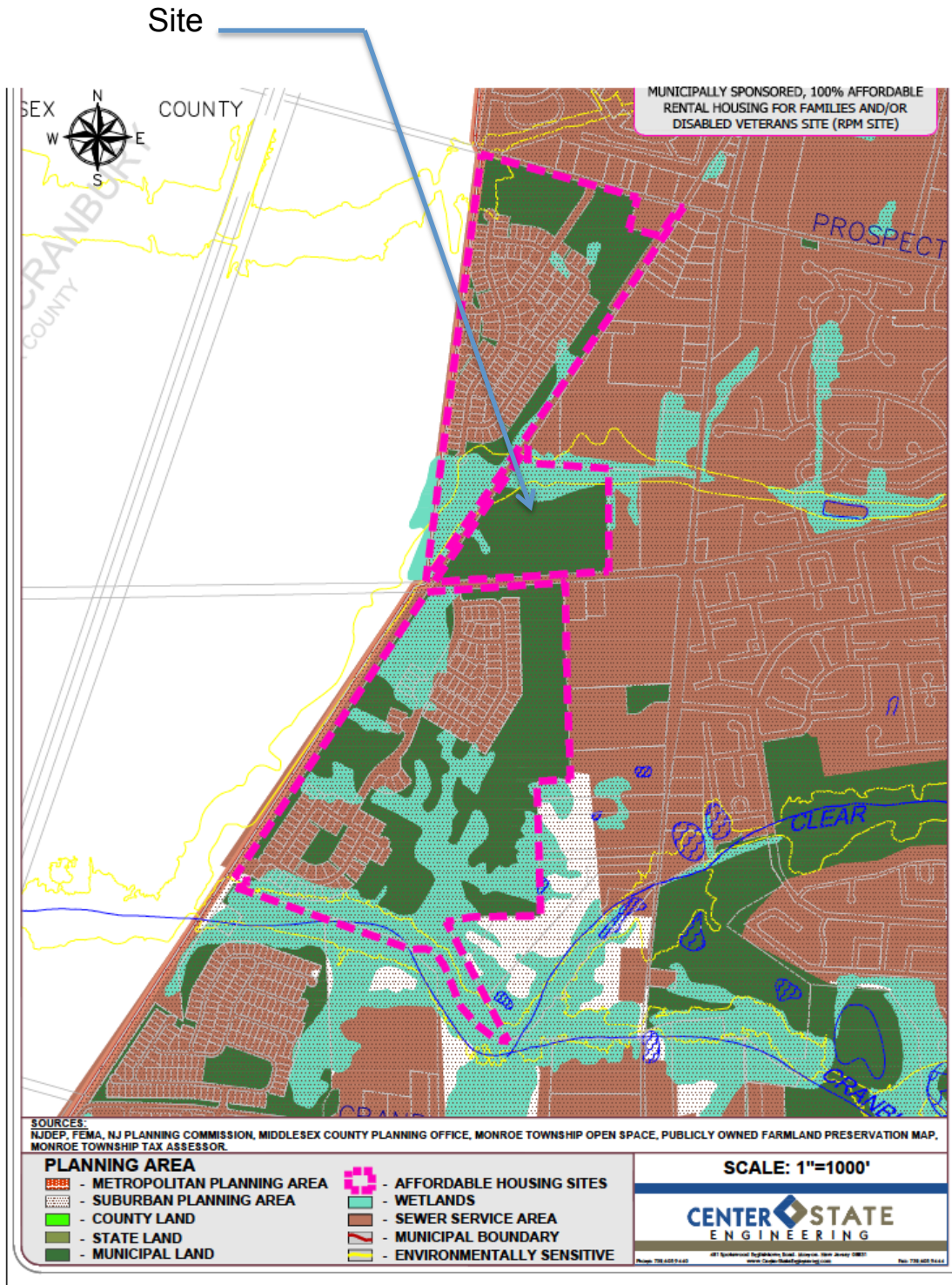
The amendment to the Plan proposes to increase the number of affordable rental units to 80 from 37. Of the 80 affordable units 37 would be for veterans and their families and 43 would have a veteran preference and may be occupied by non-veteran families should there be insufficient veteran demand for the housing. Fifteen of the affordable units would be made available to very low-income families. These very low-income units would account for 6 such units that were originally approved by the court for the Municipally Sponsored/100% Affordable development, the loss of 3 such units not built in the Toll Brothers/Monroe Chase development and the transfer of 6 such units from the removal of SP II Inclusionary development in the amendment.

Site details for the Municipally Sponsored/100% Affordable development are provided below.

Site Details (Map 1)

Site Identification:	Block 41, Lot 14
Site Location:	Cranbury-Half Acre Road
Current Use of Site:	Vacant, open field, park and wooded
Site Area:	25.1 acres
Site Development Constraints:	8.5 acres of freshwater wetlands
Net Developable Land:	16.6 acres
Total Proposed Dwelling Units:	80
Proposed Gross Density:	3.2 dwelling units/acre
Proposed Net Density:	4.8 dwelling units/acre
Planning Area:	Planning Area 2 Suburban
Sewer Service Area:	Yes, sewer available at site

# Map 1 – Municipally Sponsored/100% Affordable Housing Development





## SP II Inclusionary Housing Development

The site, on which the SP II Inclusionary Housing development consisting of a mix of housing and commercial uses was to occur, is removed from Monroe Township's Plan because the site cannot be developed to the extent to which the Plan originally contemplated due to environmental constraints caused by the presence of an eagle nest recently discovered on the land. As a result of the mandatory 660-foot buffer from an eagle nest to the nearest edge of development imposed by the New Jersey Department of Environmental Protection (NJDEP), the developable land on the site is significantly reduced.

The site details that were provided in the court-approved Plan are provided below. The details indicated there were 40.3 acres of developable land that provided a net density of 4.2 dwelling units per acre.

### Court-Approved Plan Site Details (Map 2)

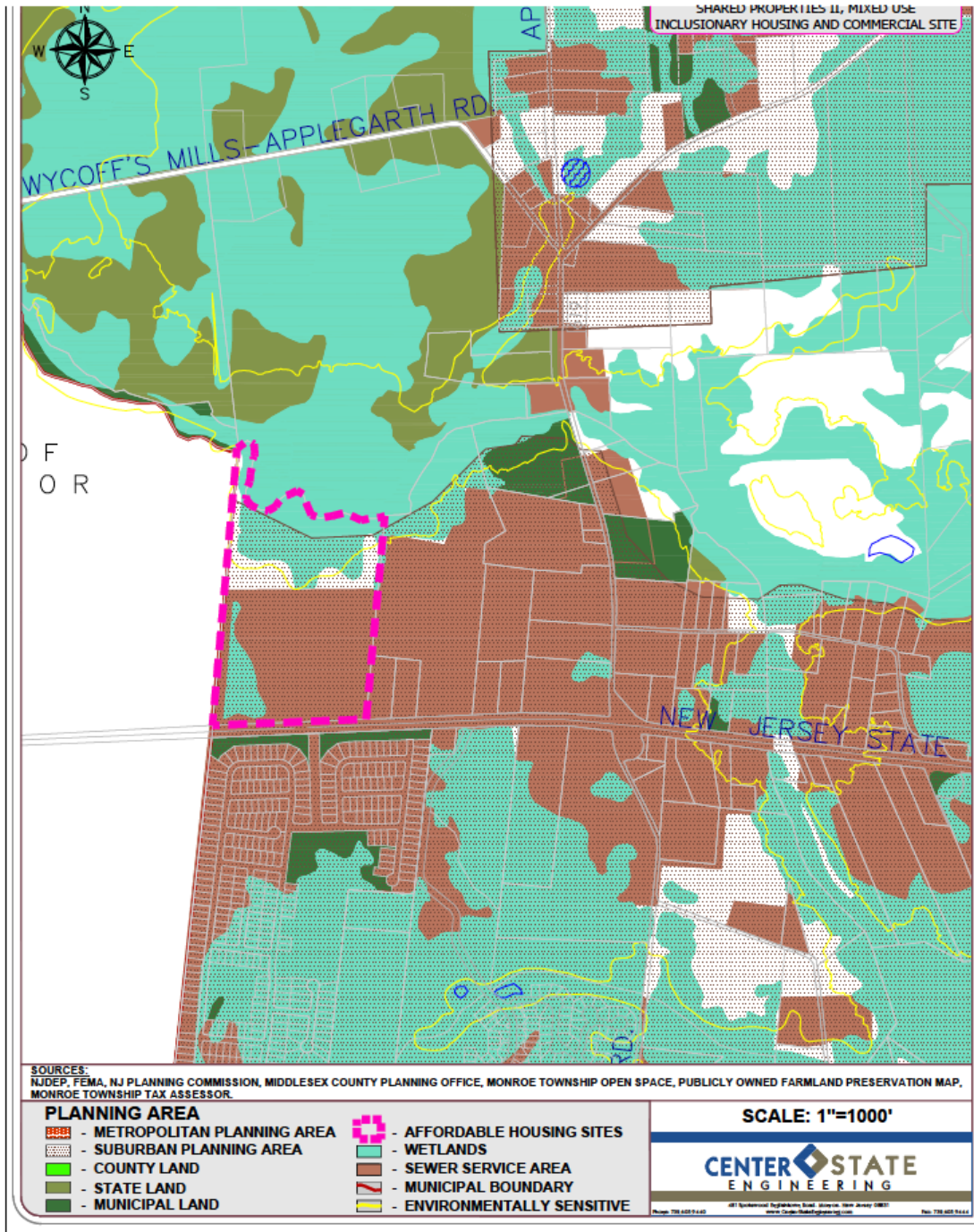
Site Identification:	Block 4, Lots 7, 8 & 14.01 & part of Lot 9
Site Location:	Applegarth Road and Route 33
Current Site Use:	Vacant, open fields and woodlands, and detached single-family dwelling
Site Area:	50.3 acres
Site Development Constraints:	10 acres wetlands
Net Developable Land:	40.3 acres
Total Proposed Dwelling Units:	172
Proposed Gross Density:	3.4 dwelling units/acre
Proposed Net Density:	4.3 dwelling units/acre
Planning Area:	Planning Area 2 Suburban
Sewer Service Area:	Yes, sewers will be extended to site

Applying the NJDEP buffer requirement reduces the amount of developable land from 40.3 acres to 18.12 acres, a 55.0% reduction, with a net density of 9.5 dwelling units per acre, an increase of 126%. The site details for the amendment are provided below.

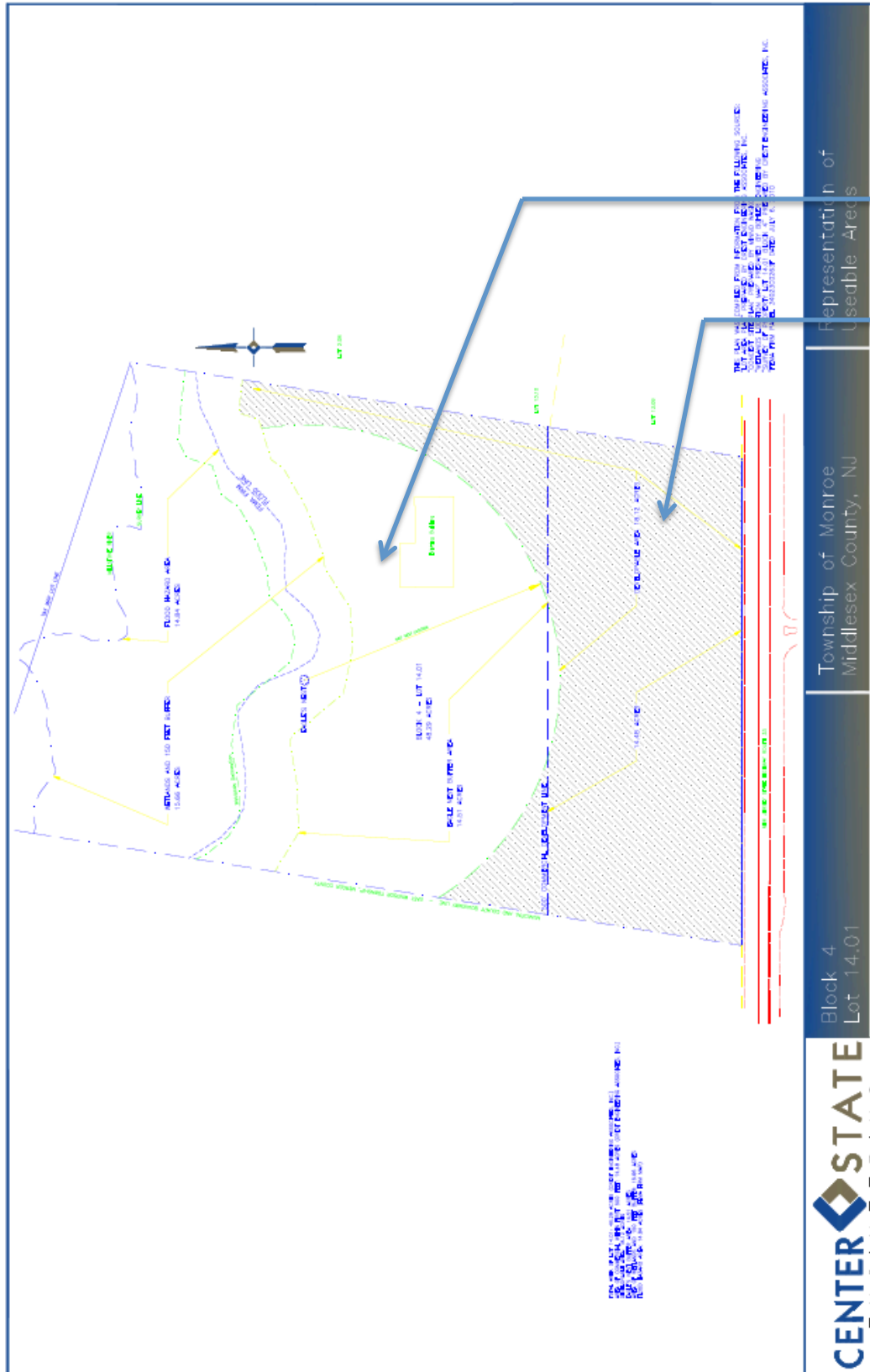
### Amended Plan Site Details – Site Area, Site Development Constraints, Net Developable Land and Resultant Net Density (Map 3)

Site Area:	48.29 acres (Based on current information provided by applicant of amended use variance that was denied)
Site Development Constraints:	30.17 acres eagle nest buffer, flood plain and wetlands (overlapping constraints not double counted)
Net Developable Land:	18.12 acres
Total Proposed Dwelling Units:	172
Proposed Net Density:	9.5 dwelling units/acre

## Map 2 – Court-Approved Plan: SP II Inclusionary Housing Development



### Map 3 – Amended Plan: SP II Inclusionary Housing Development Affected by Environmental Constraints



Total Lot Area = 48.29 acres

Total Environmental Constrained Land = 30.17 acres

Developable Land = 18.12 acres of which 14.48 acres are for commercial uses (79.9% of developable land)

Note: A full-scale map is available for review at the Monroe Twp. Planning Department

The majority of the developable land (79.9%) is located within the area zoned for commercial uses. The balance of developable land outside the commercially zoned area (20.1%) cannot be effectively developed with housing because the eagle nest buffer extends near the tract boundary thereby creating narrow strips of land that cannot accommodate the development of residential buildings, roadways and parking lots.

The VC-2 Village Center Overlay for the HD Highway Development zoning district was created to provide an opportunity for a mix of land uses consisting of commercial uses fronting directly along Route 33 and inclusionary housing set 500 feet from Route 33. The commercial uses would serve as a physical buffer between the highly traveled state highway and the residential areas that would back up to the woodlands along the Millstone River. Section 108-6.18.K.(1) of the Monroe Township Land Development Ordinance provides the following purpose of the VC-2 Overlay:

The purpose of the VC-2 Overlay is to promote a full range of commercial, office and residential land uses within a newly created, pedestrian-friendly, mixed-use environment that will serve local, community-wide and regional needs and create new employment opportunities. Pedestrian movement is encouraged to flow throughout the overlay zone area by generally permitting stores and shops and personal service establishments on the ground floor of buildings and promoting the use of upper floors for office and, in certain circumstances, residential dwelling units. Land uses within the overlay zone should be arranged to provide for highway-oriented commercial and office uses along Route 33. In order to create a neo-traditional downtown, less-intensive commercial and office uses mixed with residential uses on upper floors should be oriented toward the interior of the area along a primary access road that extends in a general north to northeast direction from Route 33 to Applegarth Road. The bulk of the residential uses should be developed in areas that are in the vicinity of the less intensive "downtown" and extend north from Route 33 toward the edge of woods along the Millstone River.

The lands immediately to the east of the SP II Inclusionary Development site are identified as Shared Properties I Mixed Use Inclusionary Housing and Commercial Site, which is one of the mechanisms for providing affordable housing in the court-approved Plan. These lands are developed according to the VC-2 Overlay with commercial development along Route 33 and the bulk of the inclusionary housing developed 500 feet from Route 33 and toward the Millstone River. Applying the 660-foot eagle nest buffer on the SP II Inclusionary Development site makes it impossible to achieve the purpose of the VC-2 Overlay. Because of the buffer requirement the area where residential development would have occurred must be kept in its current state, which is a

combination of woodlands and farmland. As a result of the buffer, any residential development would have to be located within the area designated for commercial development along Route 33 thereby compromising the planned land use pattern for the VC-2 Overlay. This residential development would have to occur in buildings taller than the maximum of 3 stories that is permitted in the VC-2 Overlay. Such significant deviations from the court-approved Plan and the VC-2 Overlay would render the development of the SP II Inclusionary Development site incompatible with the Shared Properties I Mixed Use Inclusionary Housing and Commercial site to the east, the residential townhouses that are two-and-one-half stories tall in neighboring East Windsor Township to the west, and the commercial land uses built along westbound Route 33.

On April 26, 2016, applicant SP II, LLC obtained an approval for a use variance and certain bulk variances to develop the SP II Inclusionary Development site with a mix of commercial and inclusionary housing under the VC-2 Overlay (Monroe Township Zoning Board of Adjustment application no. BA 5112-15). The concept plan that was part of this application showed a development that followed the intent and purpose of the VC-2 Overlay with commercial development situated along Route 33 and housing located about 500 feet from the state highway and toward the Millstone River. Applicant CT07 SPII LLC and DT07 SPII LLC made an application for a new use variance, a height variance and certain bulk variances (essentially amending application no. BA 5112-15) when it discovered an eagle nest existing on the site and learned of the NJDEP 660-foot buffer required between the nest and the nearest edge of development. The concept plan for the new use variance application departed from the one that was originally approved by loading all residential development, some over commercial uses in four-story buildings and some standing alone in four-story buildings, along Route 33 within the area that was supposed to be developed for only commercial uses. The Zoning Board of Adjustment denied the application for the new use variance, height variance and certain bulk variances. The resolution of denial was memorialized on April 30, 2019.

Given the facts that the Monroe Township Municipally Sponsored/100% Affordable Housing project can provide for the 43 affordable housing units that would have been in the SP II Inclusionary Development and that any residential development of the SP II Inclusionary Development site would violate the purpose and provisions of the VC-2 Overlay, the SP II Inclusionary Development site is removed from the amended Plan.

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