

**TO:** Members of the Board

**FROM:** Bruce Steadman  
Executive Director and Secretary

**DATE:** January 18, 2017

**SUBJECT:** Agenda for Board Meeting of the Authority

1. **Call to Order – James V. Gorman, Chairman**
2. **Pledge of Allegiance**
3. **Notice of Public Meeting - Roll Call – Bruce Steadman, Secretary**
4. **Approval of Previous Month’s Board Meeting Minutes**
5. **Welcome – James V. Gorman, Chairman**
6. **Secretary’s Report**
7. **Treasurer’s Report**
8. **Public Comment Regarding Board Action Items**
9. **Executive Director’s Report:**
  - Update on the Phase 2 Economic Development Conveyance (EDC)
  - Update on Requests for Proposals (RFPs) and Contracts
  - Update on Requests for Offers to Purchase (RFOTPs)
  - Update on Marketing Effort
  - Action Items for Next Month
10. **Committee Reports**
  - Audit Committee – Robert Lucky, Chairman
  - Real Estate Committee – James V. Gorman, Chairman
  - Environmental Staff Advisory Committee – Kenneth J. Kloo, Chairman
  - Historical Preservation Staff Advisory Committee – Bruce Steadman, Interim Chairman
  - Housing Staff Advisory Committee – Gina Fischetti, Chairwoman
  - Veterans Staff Advisory Committee – Lillian Burry, Chairwoman

11. **Board Actions**

- a. Consideration of Approval of Use-Type Variances for Parcel C in Tinton Falls
- b. Consideration of Approval of Memorandum of Understanding with Two Rivers Water Reclamation Authority for Survey and Design Work

12. **Other Items**

13. **Public Comment Regarding any FMERA Business**

- Responses to questions submitted online or in writing

14. **Adjournment**

**Fort Monmouth Economic Revitalization Authority  
Board Meeting  
December 14, 2016  
FMERA Offices, 502 Brewer Avenue, Oceanport, NJ**

**MINUTES OF THE MEETING**

**Members of the Authority present:**

- James V. Gorman – Chairman, Fort Monmouth Economic Revitalization Authority (FMERA) – V
- Lillian Burry – Monmouth County Freeholder – V
- Gerry Turning – Mayor of Tinton Falls – V
- Joseph Irace – Oceanport Borough Council President – V (representing Mayor of Oceanport)
- Dr. Robert Lucky – Public Member – V
- Donna Sullivan – Director of Real Estate, NJ Economic Development Authority – V
- Tom Huth – Assistant Counsel, Authorities Unit, Office of the Governor – V
- Gina Fischetti, Chief Counsel, Local Planning Services, NJ Department of Community Affairs
- William Riviere, Principal Planner, NJ Department of Transportation

V – Denotes Voting Member

**Members not present:**

- Dennis Connelly – Mayor of Eatontown – V
- Kenneth J. Kloo, Director, Site Remediation Program, NJ Department of Environmental Protection
- John Raue, Senior Policy Advisor to the Commissioner, NJ Department of Labor & Workforce Development

**Also present:**

- Bruce Steadman, FMERA Executive Director
- Edward Pillsbury, Deputy Attorney General (DAG)
- FMERA staff

The meeting was called to order by Chairman James V. Gorman at 7:05p.m. and who led the meeting in the Pledge of Allegiance to the flag of the United States of America.

In accordance with the Open Public Meetings Act, FMERA Secretary Bruce Steadman announced that the notice of the meeting was sent to the Asbury Park Press and the Star Ledger at least 48 hours prior to the meeting, and that the meeting notice has been duly posted on the Secretary of State's bulletin board at the State House, and the FMERA website.

The first item of business as the approval of the November 2<sup>nd</sup> regular meeting minutes. A motion was made to approve the minutes by Lillian Burry and seconded by Gerald Turning.

AYes: 5

Robert Lucky abstained from voting stating he was not at the November meeting.

Joseph Irace abstained from voting stating he was not at the November meeting.

**WELCOME**

Chairman James V. Gorman welcomed attendees to the meeting. Mr. Gorman stated that copies of the Board package were available at the door, and the Board package was posted to the FMERA website in the afternoon to give the public the opportunity to review the information in advance of the meeting.

Mr. Gorman, on behalf of the Authority, expressed deepest condolences to the family of Al Koeppé on his passing last week. Mr. Gorman stated that in addition to Al Koeppé's Chairmanship of the NJ Economic Development Authority, he also served as the FMERA Chairman and was responsible for staffing the Authority.

Mr. Gorman stated that speaking personally, he will miss Al's advice and counsel, his good sense of humor and his straight forward manner. May he rest in peace.

Mr. Gorman stated that the Board would consider four board actions: 1) Consideration of Approval of FMERA's 2017 Budget and Authorization of FMERA's Executive Director to submit grant requests to the Office of Economic Adjustment as Necessary; 2) Consideration of Approval of Conditional Access and Infrastructure Agreement for Officer Housing Parcel; 3) Consideration of Approval to extend the Exclusive Negotiations Parcel for a Purchase and Sale & Redevelopment Agreement for Parcel B; and 4) Consideration of Approval of a Purchase and Sale Agreement for the Main Post Chapel.

The Chairman went on to state that there will be two public comment periods at the meeting based on the Authority's public meetings protocol, 3 minutes per speaker for the first, and 5 minutes per speaker for the second. The Chairman reiterated his request for the public's cooperation in keeping comments as brief as possible. The Chairman continued by stating that in his role as Chairman he is required to conduct an orderly meeting and complete the meeting agenda in a reasonable time period. The Chairman concluded by stating that FMERA continues to welcome the public's constructive comments and ideas.

#### **SECRETARY'S REPORT**

Bruce Steadman stated that there was no secretary's report.

#### **TREASURER'S REPORT**

Jennifer Lepore, Senior Finance Officer stated that FMERA staff presented the 2017 Consolidated Budget to the Audit Committee at the December 8<sup>th</sup> meeting. Based on their review, the Audit Committee recommended that the 2017 Consolidated Budget be submitted to the Board at tonight's meeting.

Ms. Lepore stated that the 2016 Budget Results were as follows:

- 2016 Grant revenue was slightly lower than budgeted as contractual expenses were lower than projected, and grant revenue is reflective of the expenses incurred.
- EDC expenses are projected to be under budget for 2016 due to the delay in the closing with the Army on the Phase 2 property. Because of the delay, the Authority did not incur the projected carrying costs associated with the property.
- The Authority is projecting a net loss for 2016 as a result of delays in property sales. FMERA was not able to close and receive the revenue on most of the parcels that were projected to be sold during the year. However, this loss was covered by the Authority's EDC Cash reserves, and on a cumulative basis since inception, the Authority is cash flow positive.

The Monmouth County Improvement Authority issued \$33,525,000 in taxable notes and loaned the proceeds to FMERA in connection with the Authority's November 17, 2016 purchase of the Phase 2 properties from the Army. The notes were issued in two series: Series 2016A in the amount of \$24,370,000 with a term of one year and bearing interest at the rate of 1.375% per annum; and Series 2016B in the amount of \$10,155,000 with a one-year term but subject to a six month call with interest at 1.75% per annum. The notes are backed by a Monmouth County guaranty which resulted in the notes receiving the highest credit rating from the three rating agencies. FMERA anticipates that the loan will be fully amortized within five years.

## **PUBLIC COMMENT REGARDING BOARD AGENDA ITEMS (3 minutes re: Agenda Items)**

Tom Mahedy of Wall Township stated that he is opposed to the board action regarding the budget because NJEDA has given millions to large corporations. Mr. Mahedy stated that the Officer Housing should be given to the veterans. Mr. Mahedy asserted that the gas station site in Tinton Falls that Monmouth County will be purchasing is contaminated and will affect the people at the Teen Center and Trinity Hall. Mr. Mahedy asked what is being to protect the students at Trinity Hall and the visitors of the Teen Center during the demolition of the Myer Center.

Mr. Steadman stated that there is a Memorandum of Understanding between the NJEDA and FMERA for the demolition of the Myer Center. Accordingly, NJEDA will contract with an engineering firm who will prepare the necessary design plans, safety plan, and associated documents and permits for the safe demolition of the Myer Center. This should address the various aspects of a large demolition project, such as noise, traffic, safety, environmental considerations, communication of schedule to neighboring property owners and visitors, and/or other issues. Mr. Steadman stated that the gas station site is subject to an Army carve-out, and that the Army continues to work toward a NJEDA No Further Action (NFA) letter.

## **EXECUTIVE DIRECTOR'S REPORT**

Kara Kopach, Senior Marketing Officer stated that FMERA and the Army executed a Phase 2 Memorandum of Agreement (MOA) authorizing the transfer of the balance of the Main Post, and FMERA acquired title to the property from the Army on November 17, 2016. The transfer paves the way for FMERA to begin redevelopment of nearly one square mile of property in Eatontown and Oceanport. FMERA wishes to acknowledge the County of Monmouth, DoD's BRAC Office and the Army Corps of Engineers for their contributions to this monumental event.

The following is a summary of the status of RFPs and Contracts that FMERA has issued:

### Auctioneer

- The Auctioneer's Group has conducted 3 auctions this month: the Vail Hall DMS Switch, a furniture auction in buildings 1206 – 1210, and a fixtures and equipment auction in buildings 1206-1210. During January and February, the auctioneer will be prepping for additional auctions.

### Utilities

- FMERA continues to plan for upgrades to utility systems, and to work with the public utilities and our subcontractors to ensure required utilities are safe and operational. FMERA is working with the Army contractor group to transfer the Phase 2 utility accounts to FMERA.
- The Oceanport Engineer, under an MOU, is completing work on design of a water main extension to accommodate the historic district development, the fitness center, FMERA office and additional pending sales.
- JCP&L has started to evaluate the Phase 2 electrical system in anticipation of the transfer from FMERA.
- FMERA is working toward an MOU with Two Rivers Water Reclamation Authority to define the terms and responsibilities for the future maintenance and operation of the existing sanitary sewer system and the transition to a proposed new system serving the Oceanport area of the Fort.

### Suneagles Golf Course

- Course conditions and weather are both above average for this time of year. This resulted in play being up considerably. The feedback has been fantastic. The course is currently being prepared for winter.

### Property Management/Maintenance

- FMERA's property management/maintenance team, Chenega Operations Services and the Army Caretakers have been keeping the property presentable and secure, and monitoring buildings and properties for current marketing purposes. The process of shutting down utilities and draining buildings

that are planned for demolition has begun. Thank you to the County Highway District, the Oceanport DPW, the Eatontown DPW and the Tinton Falls DPW for their help and support.

#### Marina

- The marina is well into the holiday season with many special events and holiday parties planned.

Dave Nuse, Director of Real Estate Development, gave the following town-by-town summary of the status of redevelopment projects.

In Oceanport, FMERA has executed contracts on 3 parcels:

- Officer Housing, consisting of 117 historic housing units, where RPM Development is the selected purchaser;
- Fitness Center, where FM Partners, LLC, is proposing to renovate and expand the facility;
- Russel Hall, the 40,000 square-foot former Garrison Headquarters building, to TetherView Property Management, LLC, a private cloud computing services company from New York.
- Dance Hall, a 16,000 square-foot former recreation building on Brewer Avenue, to AP Development Partners, for commercial and retail uses, including entertainment and restaurant purposes.

FMERA is in negotiations for the sale and redevelopment of the following 4 properties:

- Nurses Quarters, a 24-unit residential complex on Main Street adjacent to the former Patterson Army Hospital;
- Marina, currently approved for exclusive negotiations with AP Development Partners, LLC, and contemplated for a marina/public boat ramp and restaurant.
- Squier Hall Complex, an approximately 31-acre site currently under negotiations with the sole bidder, that is slated for office/research, institutional/civic (including educational) and open space/recreation uses. The future developer will be required to retain Squier Hall, which is listed on the National Register of Historic Places. Sale of the parcel, and all Phase 2 parcels, is contingent on the execution of the Phase 2 Economic Development Conveyance Agreement with the Army.
- Main Post Chapel, an approximately 16,372 square foot building on 5 acres that is slated for reuse as a house of worship. FMERA received one proposal to the Request for Bids on October 7, 2016 and staff will present a recommendation at tonight's meeting to enter into a sale agreement with the bidder.

FMERA has received Board approval to issue RFOTPs for several other properties in Oceanport, including Barker Circle, Allison Hall, and the Lodging Area.

In Eatontown, FMERA is in negotiations for the sale and redevelopment of 3 properties:

- Howard Commons on Pinebrook Road, zoned for up to 275 homes and up to 15,000 square feet of retail space, where FMERA is in negotiations with the lead proposer;
- Parcel B, an expanded parcel including up to 89 acres for a mixed-use town center along Route 35 to include approximately 250,000 square feet of retail space and 302 housing units, where Fort Monmouth Parcel B Redevelopment, LLC, has been approved for exclusive negotiations. Staff will present a recommendation to extend the negotiations period in order to present a final contract to the Board.
- Eatontown Barracks, 6 buildings on Semaphore Avenue on an approximately 4.4-acre parcel, where FMERA received one proposal for an arts/cultural center use. The proposal has been reviewed by an independent evaluation committee for compliance with the RFOTP, and FMERA has begun discussions with the proposer.

FMERA issued an RFOTP for the Suneagles Golf Course on October 7, 2016, and received four proposals on December 7<sup>th</sup>. FMERA sought proposals for a use consistent with the plan, namely reuse of the Golf Course and construction of a hotel/conference center, or for an alternate use which includes the reuse of the Golf Course and up to 75 residential units within the 10-acre former Megill Housing area. An evaluation committee will be formed to score the proposals in the coming weeks.

In Tinton Falls, FMERA closed on two properties this year:

- Building 2525, sold to RADAR Properties in February, which will lease the building to Aaski Technology and other tenants for technology and office uses;
- Child Development Center, sold to Trinity Hall in March, and relocated the all girls high school to the site as their new home.

FMERA has executed and/or approved contracts on another five projects:

- Parcels C and C1, with Lennar Corporation, approved for 288 residential units over the two parcels, and up to 58,000 square feet of retail development;
- Fabrications Shops (Pinebrook Road Commerce Center), 45,000 square feet of light industrial and flex office space buildings along Pinebrook Road for sale to Pinebrook Commerce Center, LLC;
- Pistol Range and Satellite Road Parcel, under contract with Kiely Realty Group for the reuse and upgrades to the former Pistol Range, and additional office and commercial uses on the combined approximately 5 acre parcel.
- Parcel F-3, the former gas station and convenience store along Hope Road, which the Monmouth County Park System will utilize in conjunction with the adjacent Recreation Center and Swimming Pool, to expand services and public open space amenities.
- Recreation Center and Swimming Pool, which is currently open to the public through a lease with the County.

FMERA is in negotiations for a contract related to the sale and redevelopment of the Charles Wood Fire Station, an approximately 4 acre parcel along Corregidor Road in the Tinton Falls Reuse Area. FMERA received 5 proposals in response to the RFOTP, and an independent evaluation committee scored those proposals and recommended FMERA begin negotiations with the highest scoring bidder. FMERA sought proposals to redevelop the site for civic/institutional or commercial/retail uses.

FMERA has also received Board approval to issue an RFOTP for Parcel F-2, which includes Building 2719, and will evaluate options for issuing an updated RFOTP for Parcel F-1, the Myer Center site.

Candice Valente, Senior Planning and Development Officer, provided the following update on efforts to market the Fort.

FMERA and Cushman & Wakefield (Cushman), the Authority's Master Broker, continue to conduct several tours per week, as the Fort begins a new round of property sales with the transfer of the Phase 2 property. FMERA will be organizing an informational press event early next year, to provide interested members of the media with a chance to learn more about the Fort's next phase of redevelopment. Several contracted purchasers will be available to answer questions about their future projects and plans for redevelopment.

Please refer to our website, [www.fortmonmouthnj.com](http://www.fortmonmouthnj.com), for more information and to sign up for our monthly digital newsletters.

Bruce Steadman gave an update on FMERA action items:

- Continued work with the N.J. Department of Environmental Protection to identify and resolve environmental issues of concern
- Continued meetings and tours with interested prospective employers and investors
- Continued outreach to our stakeholders in the 3 host municipalities, the County and others
- Continued collaboration with the NJEDA Trenton Office on marketing and business development opportunities

Mr. Steadman thanked the FMERA staff for a tremendous year, and noted their hard work on the some 18 ongoing projects and the successful closing with the Army and Monmouth County.

Joseph Irace thanked FMERA staff for their work over the past year and the transparency and openness that has taken place with Oceanport through meetings and discussions. Mr. Irace stated that there are a lot of positive redevelopment projects forecasted for Oceanport and he appreciated all that is being done by the FMERA staff.

Chairman Gorman stated that he would like FMERA to hold small lot auctions for the public in early spring 2017 as has been discussed at previous meetings, based on the Authority's new ownership of the Phase 2 EDC personal property.

Lillian Burry stated that the target date for the opening of Route 537 (Avenue of Memories) is schedule for January 17, 2017.

## **COMMITTEE REPORTS**

### a) **AUDIT COMMITTEE (ROBERT LUCKY, CHAIRMAN)**

Robert Lucky stated that the Committee met on December 8<sup>th</sup> and discussed the following:

- The Committee was given a presentation by the Authority's auditor's Clifton, Larson, Allen detailing the Authority's 2016 audit which will begin in February 2017.
- The Committee reviewed the 2017 consolidated budget. The budget includes the Economic Development Conveyance (EDC) Budget and the non-EDC budget. The Committee discussed the following budget items:
  - The 17 parcels projected to sell in 2017 and the subsequent net earnings to FMERA.
  - 2016 Grant revenue was lower than budgeted as contractual expenses were lower than projected.
  - EDC expenses are projected to be under budget for 2016 due to the delay in the closing with the Army on the Phase 2 property.
  - The Committee reached a consensus and agreed to present the 2017 consolidated budget to the Board for approval.

### b) **REAL ESTATE COMMITTEE (JAMES V. GORMAN, CHAIRMAN)**

Chairman Gorman stated that the Committee met on December 7<sup>th</sup> and discussed the following:

- Discussion regarding new redevelopment tasks which would include prioritizing projects towards those that create jobs and provide economic vitality to the local community. FMERA staff will present the redevelopment ideas at the next meeting.
- Discussion regarding a Conditional Agreement and Infrastructure Agreement with RPM Development for the Officer Housing. The Committee reached a consensus and agreed to recommend approval to the Board.
- Discussion regarding the request to approve an extension to the exclusive negotiations period for the purchase agreement for Parcel B. The Committee reached a consensus and agreed to recommend approval to the Board.
- Discussion regarding the Purchase and Sale Agreement for the Main Post Chapel. The committee discussed the terms of the contract as well as the timeline for closing and occupying the building. The Committee reached a consensus and agreed to recommend approval to the Board.
- Discussion regarding other items:
  - Fort Monmouth Trails
  - Lane Hall
  - Oceanport Municipal Complex
  - Suneagles Golf Course



c) ENVIRONMENTAL STAFF ADVISORY COMMITTEE (KENNETH J. KLOO, CHAIRMAN)

Bruce Steadman, on behalf of Kenneth J. Kloo stated that the Committee met on December 5<sup>th</sup> and discussed the following:

- Summary of the Phase II financing and closing process, noting that the Army will continue to maintain an on-site presence as they work through the environmental carve-outs.
  - Discussion regarding Parcels 28, 38 and 69, which are all environmental carve-outs that have not been deeded to FMERA. The Army received No Further Action (NFA) determinations for all three sites from the NJ DEP and is currently drafting Finding of Suitability to Transfer (FOST) reports for all three parcels.
  - Update on Parcel 68, related to a former dry-cleaning operation which is located along Avenue of Memories, where contaminants detected an on-site ground water exceed DEP standards. The Committee discussed the remedial investigation begun by the Army, as well as the techniques for remediation of both the plume and the source material.
  - Summary of the current water flushing system performed by the Army caretaker staff. A new water main design for the Phase II property will be submitted to NJ American Water in the coming weeks. Discussion of the plans for the new water main construction, as well as a brief summary of the planned sanitary sewer infrastructure planned upgrades.
  - Discussion regarding the Title V Operating Permit that will be transferred from the Army to FMERA upon the closing of the Phase II property. FMERA will work to reduce the equipment and facilities that currently are considered as emission sources. The Committee discussed the intention to be recategorized as minor facility.
- d) Discussion regarding a Spill Prevention, Control and Countermeasures Plan (SPCCP) which exists for the Phase I property (both the Charles Wood Area and a portion of Parcel B). FMERA will update the existing plan to include the Phase II property within six months.
- e) Discussion regarding the status of closure plans for the Phase I and II landfills. The Committee also discussed the status of abatement and demolition plans for the Myer Center in Tinton Falls.

f) HISTORICAL PRESERVATION STAFF ADVISORY COMMITTEE (BRUCE STEADMAN, INTERIM CHAIRMAN)

Bruce Steadman stated that the Committee did not meet this month.

g) HOUSING STAFF ADVISORY COMMITTEE (GINA FISCHETTI, CHAIRPERSON)

Gina Fischetti stated that the Committee did not meet this month.

h) VETERANS STAFF ADVISORY COMMITTEE (FREEHOLDER LILLIAN BURRY, CHAIRPERSON)

Lillian Burry stated that the Committee did not meet this month.

**BOARD ACTIONS**

- A) The first item before the Board was Consideration of Approval of FMERA's 2017 Budget and Authorization of FMERA's Executive Director to submit grant requests to the Office of Economic Adjustment as necessary.

Candice Valente read a summary of the Board memo.

The resolution is attached hereto and marked Exhibit 1.

A motion was made by Robert Lucky and was seconded by Lillian Burry.

Motion to Approve: ROBERT LUCKY                      Second: LILLIAN BURRY  
AYes: 7

B) The second item before the Board was the Consideration of Approval of conditional access and infrastructure agreement for Officers Housing parcel

Candice Valente read a summary of the Board memo.

The resolution is attached hereto and marked Exhibit 2.

A motion was made by Lillian Burry and was seconded by Joseph Irace.

Motion to Approve:                      LILLIAN BURRY                      Second: JOSEPH IRACE  
AYes: 7

C) The third item before the Board was the Consideration of Approval to extend the Exclusive Negotiations Period for a Purchase and Sale & Redevelopment Agreement for Parcel B.

Candice Valente read a summary of the Board memo.

The resolution is attached hereto and marked Exhibit 3.

A motion was made by Donna Sullivan and was seconded by Robert Lucky.

Motion to Approve:                      DONNA SULLIVAN                      Second: ROBERT LUCKY  
AYes: 7

D) The fourth item before the Board was the Consideration of Approval of a Purchase and Sale Agreement for the Main Post Chapel.

Candice Valente read a summary of the Board memo.

The resolution is attached hereto and marked Exhibit 4.

A motion was made by Lillian Burry and was seconded by Joseph Irace.

Thomas Huth abstained from voting stating that Triumphant Life is one of his former partners in the Asbury Park initiative in which he was a Co-Chairman.

Motion to Approve:                      LILLIAN BURRY                      Second: JOSEPH IRACE  
AYes: 7

### **OTHER ITEMS**

Bruce Steadman welcomed Thomas Huth to the Board as the new Governor's Authority Unit representative. Mr. Huth is a former assistant prosecutor in the Essex County Prosecutor's Office and the Monmouth County Prosecutor's Office and has held numerous legal positions in his career. Mr. Huth is also very involved and active in many other outside activities including coaching youth basketball.

Lillian Burry stated that at the November Board meeting, Mayor Coffey asked if the County had taken on the ownership of Route 537 (Avenue of Memories). Ms. Burry stated that the County held a public hearing and a resolution was adopted based on the map of the extension of Route 537 in Fort Monmouth located in the Boroughs of Eatontown and Oceanport.

**PUBLIC COMMENT REGARDING ANY FMERA BUSINESS (5 minutes re: any FMERA business)**

Mr. Mahedy stated that the Restoration Advisory Board (RAB) has not met, and it is a Federal statute/rule that the meetings should be held and open to the public. Mr. Mahedy asserted that the police at Fort Monmouth are not notified as to where the contamination is located at the Fort. Mr. Mahedy stated that he has concern for the people of Tinton Falls located near the Myer Center during the demolition. Mr. Mahedy asked if there is a federal statute to have checks and balances for the auctions. Mr. Mahedy asked who is buying the pistol range and what is the purchase price.

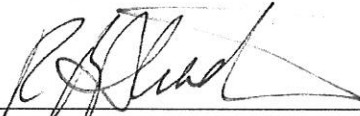
Mr. Steadman answered Mr. Mahedy by stating that the Restoration Advisory Board (RAB) is an Army-directed group of public and private entities that meet to discuss environmental issues, and that FMERA does not have management responsibilities for the RAB. Mr. Steadman stated that the Army's records regarding carve-outs and environmental issues, which are available to the public, do not indicate any significant environmental issues adjacent to or near the police stations. Mr. Steadman stated that FMERA cannot conduct auctions until they own the property. Mr. Steadman stated that the auctions are conducted under procedures that are reviewed and approved by the Attorney General's Office.

Dave Nuse stated that there is an executed Purchase and Sale and Redevelopment Agreement with Kiely Realty Group for the indoor pistol range, and Kiely will be purchasing two properties to form the pistol range property for \$2.876MM.

Mr. Steadman stated that the gas station on the Fort was operated by the Army, and where there is a small carve-out area that is still being evaluated and cleaned up by the Army and the expectation is that a No Further Action (NFA) letter will be issued by the NJDEP in the near future FMERA will then require upon Army's receipt of the NFA letter.

There being no further business, on a motion by Lillian Burry seconded by Robert Lucky and unanimously approved by all voting members present, the meeting was adjourned at 8:05p.m.

Certification: The foregoing and attachments represent a true and complete summary of the actions taken by the Fort Monmouth Economic Revitalization Authority at its Board meeting.

  
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Bruce Steadman - Secretary

**ADOPTED**  
**December 14, 2016**

Resolution Regarding  
**2017 Consolidated Budget and the Office of Economic Adjustment Grant Requests**

**WHEREAS**, the Legislature enacted the Fort Monmouth Economic Revitalization Authority Act (Act), P.L. 2010, c. 51, to create the Fort Monmouth Economic Revitalization Authority (FMERA or Authority); and

**WHEREAS**, the 2017 Consolidated Budget includes an Economic Development Conveyance (EDC) Budget, representing the projected 2017 sales and financial activity under the approved Phase 1 and Phase 2 EDC Agreements, encompassing the sale of seventeen parcels; and

**WHEREAS**, the 2017 Consolidated Budget also includes a Non-EDC Budget, representing the funding of qualified expenses received by the U.S. Department of Defense's Office of Economic Adjustment (OEA) and the requisite local match from the State of New Jersey, which funding and local match end on June 30, 2017; and

**WHEREAS**, the Audit Committee reviewed the 2017 Consolidated Budget and recommends it to the Authority for approval.

**THEREFORE, BE IT RESOLVED THAT:**

1. The Authority approves the 2017 Consolidated Budget, as described in the attached memorandum.
2. The Authority authorizes the Executive Director to take all necessary actions to submit grant requests to the Office of Economic Adjustment for federal funds in an amount not to exceed \$1,011,000 to support the Authority's operations for the 2017 calendar year as necessary.
3. This resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays, and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor of the State of New Jersey for his approval, unless during such 10-day period the Governor of the State of New Jersey shall approve the same, in which case such action shall become effective upon such approval, as provided by the Act.

ATTACHMENT

Dated: December 14, 2016

**EXHIBIT 1**

**ADOPTED**  
**December 14, 2016**

**Resolution Regarding  
Authorization for FMERA to Enter into Conditional Access Agreement & Infrastructure  
Agreement with RPM Development**

**WHEREAS**, in April 2015, the FMERA Board authorized staff to enter into a Purchase and Sale Agreement & Redevelopment Agreement (PSARA) with RPM Development, LLC (RPM), for the Officer Housing parcel in the Oceanport Reuse Area of Fort Monmouth; and

**WHEREAS**, the terms of the PSARA included RPM's payment of \$8,262,817 and contribution of up to \$1 million toward on- and off-site infrastructure obligations; closing will occur within 30 days of satisfaction of the conditions precedent, which include execution of a Phase 2 Economic Development Conveyance Agreement with the Army and FMERA's receipt of title from the Army; and

**WHEREAS**, the PSARA was executed on July 29, 2015 and RPM subsequently began their due diligence activities and secured several approvals; and

**WHEREAS**, as a condition precedent to closing with RPM, the parties negotiated a Conditional Access Agreement and Infrastructure Agreement to detail the obligations of both the Purchaser (RPM) and Seller (FMERA) for utility upgrades and installations, as well as provide the access rights granted to the Purchaser to begin improvements to the buildings and land; and

**WHEREAS**, negotiations between RPM and FMERA have led to the attached Agreement, with the following material terms: FMERA grants RPM and its employees, agents, consultants, sub-consultants, contractors, and sub-contractors the right to access the property; operate and park vehicles and equipment; and erect way-finding and other signage, subject to FMERA's Land Use Rules; FMERA agrees to install any additional fencing required to shield the North Post development from construction related to the historic Buildings 270 and 271, and to remove the barbed wire fencing along a portion of Oceanport Avenue within 90 days of completion of renovations to model homes; FMERA and RPM renegotiated the off-site infrastructure payment to \$700,000, which is due upon closing with FMERA and the purchaser will bear the costs of all infrastructure improvements within the Officer Housing parcel; and

**WHEREAS**, FMERA has agreed that within six (6) months of the effective date of the Agreement, FMERA will enter into a Memorandum of Understanding with TRWRA for the design and engineering of upgrades to the sanitary sewer system and pumping system.; and

**WHEREAS**, the Real Estate Committee has reviewed this request and recommends that it be forwarded to the Board for approval.

**THEREFORE, BE IT RESOLVED THAT:**

1. The Authority approves the Conditional Access Agreement and

Infrastructure Agreement with RPM Development for the Officer Housing Parcel in Oceanport, on terms substantially consistent to those set forth in the attached memorandum and with final terms acceptable to the Executive Director and the Attorney General's Office, and authorizes the Executive Director to execute the Agreement and take any necessary actions to effectuate the selection of RPM Development as the purchaser of the Officer Housing Parcel.

2. This resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays, and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor of the State of New Jersey for his approval, unless during such 10-day period the Governor of the State of New Jersey shall approve the same, in which case such action shall become effective upon such approval, as provided by the Act.

Dated: December 14, 2016  
ATTACHMENT

**EXHIBIT 2**

**ADOPTED**  
**December 14, 2016**

Resolution Regarding  
**Approval to Extend the Exclusive Negotiating Period with Fort Monmouth Parcel B  
Redevelopment, LLC, for Parcel B**

**WHEREAS**, on February 10, 2015, FMERA issued and publicly advertised a Request for Offers to Purchase (RFOTP) with a response date of July 10, 2015, in connection with the planned redevelopment of Parcel B in Eatontown; and

**WHEREAS**, Parcel B is a 77-acre parcel located in the Eatontown Reuse Area, containing 13 obsolete buildings slated for demolition in the Fort Monmouth Reuse and Redevelopment Plan (Reuse Plan), which could accommodate approximately 250,000 square feet of retail and other commercial uses, along with 302 housing units; and

**WHEREAS**, FMERA received five proposals for Parcel B, which were scored independently by an evaluation committee, and Fort Monmouth Parcel B Redevelopment, LLC, (Parcel B Redevelopment) received the highest score and submitted the highest price proposal, and the proposal included a viable and fair proposal for the optional 12-acre property; and

**WHEREAS**, the Board authorized staff to enter into exclusive negotiations with Parcel B Redevelopment in February 2016 because staff determined during the evaluation process that there is a high likelihood that negotiating with Fort Monmouth Parcel B Redevelopment, LLC, will lead to an acceptable sales contract between the parties; and

**WHEREAS**, the exclusive negotiating period commenced on October 3, 2016 and by letter dated November 4, 2016, the Executive Director extended the exclusive negotiating period for an additional thirty days as permitted by the Authority's Sales Rules; and

**WHEREAS**, FMERA staff and Parcel B Redevelopment have made significant progress toward the negotiation of a mutually acceptable Purchase and Sale Agreement and Redevelopment Agreement (PSARA) for the parcel, and staff believes that there is a likelihood that further negotiation will result in agreement over business terms; and

**WHEREAS**, the Real Estate Committee has reviewed and discussed extending the exclusive negotiating period and recommends approving an extension for an additional seventy-five (75) days to the full Board.

**THEREFORE, BE IT RESOLVED THAT:**

1. The Authority authorizes an extension of seventy-five (75) days of the exclusive negotiating period, as set forth in the attached memorandum, and authorizes the Executive Director to take all necessary actions to effectuate the extension.

2. This resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays, and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor of the State of New Jersey for his approval, unless during such 10-day period the Governor of the State of New Jersey shall approve the same, in which case such action shall become effective upon such approval, as provided by the Act.

ATTACHMENT

Dated: December 14, 2016

**EXHIBIT 3**



**ADOPTED**  
**December 14, 2016**

Resolution Regarding  
**Authorization for FMERA to Enter into a Purchase and Sale Agreement with Triumphant  
Life Church Assembly of God for the Chapel Parcel**

**WHEREAS**, on September 2, 2016, FMERA issued and publicly advertised a Request for Sealed Bids (RFB) for the Chapel Parcel, an approximately 5 acre parcel of land including Building #500, the former Main Post Chapel, and the accompanying paved and parking areas, in the Oceanport Reuse Area; and

**WHEREAS**, the Chapel was slated for reuse as a house of worship in the Fort Monmouth Reuse and Redevelopment Plan (Reuse Plan) and is located in the Fort's Historic District, although the building itself is not considered historic; and

**WHEREAS**, FMERA received one proposal for the property on October 7, 2016, and an evaluation committee evaluated and deemed the proposal from Triumphant Life Church Assembly of God (Triumphant Life) compliant; and

**WHEREAS**, the proposal from Triumphant Life includes reuse of the property as the location for their house of worship and community outreach center; and

**WHEREAS**, negotiations with Triumphant Life have resulted in the attached Purchase and Sale Agreement (PSA); and

**WHEREAS**, the terms of the proposed PSA include Triumphant Life's payment of \$1,000,000 for the property; initial closing will occur within 30 days of satisfaction of the conditions precedent, which include Triumphant Life completing due diligence and receipt of a final remediation document; and

**WHEREAS**, additional terms of the PSA include: Triumphant Life will be responsible for constructing a 115-space parking lot on the Property within twelve (12) months of closing and FMERA will have the right to repurchase the property if construction is not timely commenced or completed; Triumphant Life will incur a minimum investment of approximately \$500,000 to complete the Project; and the Purchaser will also be obligated to create 10 permanent, part-time jobs at the property within eighteen (18) months of completing the initial renovation and receipt of certificate of occupancy; and

**WHEREAS**, the Real Estate Committee has reviewed this transaction and recommends that the PSA be forwarded to the Board for approval.

**THEREFORE, BE IT RESOLVED THAT:**

1. The Authority approves the selection of Triumphant Life Church Assembly

of God as the purchaser of the Chapel Parcel and associated property in Oceanport pursuant to the September 2, 2016 Requests for Sealed Bids (RFB), on terms substantially consistent to those set forth in the attached memorandum and the attached Purchase and Sale Agreement (PSA) and with final terms acceptable to the Executive Director and the Attorney General's Office, and authorizes the Executive Director to execute the PSA and take any necessary actions to effectuate the selection of Triumphant Life as the purchaser.

2. This resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays, and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor of the State of New Jersey for his approval, unless during such 10-day period the Governor of the State of New Jersey shall approve the same, in which case such action shall become effective upon such approval, as provided by the Act.

ATTACHMENT

Dated: December 14, 2016

**EXHIBIT 4**

**MEMORANDUM**

TO: Members of the Board

FROM: Bruce Steadman  
Executive Director

DATE: January 18, 2017

SUBJECT: Monthly Status Report

**Summary**

The following are brief descriptions of the Fort Monmouth Economic Revitalization Authority (FMERA) staff's monthly activities which include an Update on the 2016 Annual Report; Update on Meetings with Army Representatives; Update on Requests for Proposals (RFPs) and Other Contracts; Update on Requests for Offers to Purchase (RFOTPs); Update on Marketing Effort; and Action Items for Next Month.

**Treasurer's Report**

**2016 Comprehensive Annual Report of the Authority**

FMERA staff is beginning to prepare the Authority's 2016 Annual Report for presentation to the Audit Committee with the audited financial statements, which serve as FMERA's comprehensive annual report to meet the requirements of Executive Order No. 37 (2006). It is expected that a draft report and statements will be available for review in mid-March, and finals presented to the Board in April.

The Authority's independent auditors, Clifton Larson Allen, will begin work on their audit of the Authority's operations in early February. The auditors will report on the Authority's financial statements and accompanying notes, as well as report on the Authority's internal controls and compliance in accordance with Government Auditing Standards and OMB Circular A-133. Field work will begin the week of February 27.

**Executive Director's Report**

1. **Update on Phase 2 Economic Development Conveyance (EDC)**  
As reported last month, FMERA and the Army executed a Phase 2 Economic Development Conveyance (EDC) Agreement authorizing the transfer of the balance of the Main Post acreage. FMERA acquired title to the 563 acres from the Army on November 17, 2016. The transfer paved the way for FMERA to begin redevelopment of nearly one square mile of property in Eatontown and Oceanport, and enabled traffic to flow as of yesterday on the Avenue of Memories, also known

as County Route 537 Extension, for the first time since September 11, 2001. FMERA and the Army continue to have weekly conference calls regarding the approximately 40 carve-outs, totaling 100+ acres, that FMERA did not take title to. These 40 areas were carved out of the Phase 2 EDC transfer because they have ongoing environmental work. Army and the NJ Department of Environmental Protection (DEP) continue to work on the carve-outs with the goal of eventual transfer to FMERA when the environmental work is completed to the satisfaction of the NJ DEP.

2. Update on RFPs and Contracts

The following is a summary of the status of RFPs and Contracts that FMERA has issued:

- Auctioneer: The Auctioneer's Group is finalizing the results for the December Auctions and working with the successful bidders to remove their purchases from the buildings. They have scheduled a large auction of the contents of two 45,000 sf warehouses for March 18. Plans are underway for a small lot general public auction on Saturday May 13, which will give individuals an opportunity to take home a piece of Fort Monmouth, be it memorabilia or a desk or a lamp. We are also planning an auction of the contents of the Lodging Area buildings which contain residential furniture.
- Utilities: FMERA is working with the Army contractor group to transfer all Phase 2 utility accounts to FMERA. A water main extension has been designed, under a Memorandum of Understanding (MOU) with the Borough of Oceanport, to serve a large part of the Phase 2 property. That application will be submitted to New Jersey American Water in the coming weeks. JCP&L has started to evaluate the Phase 2 electrical system in anticipation of the transfer from FMERA. Staff will present a recommendation to approve an MOU with Two Rivers Water Reclamation Authority for the survey and design work for replacement sewer system in the Oceanport section of the Fort.
- Suneagles Golf Course: Our operator reports that play has been slow due to the temperatures and snow, although the course reopened for play on January 12<sup>th</sup>, holding 43 rounds. Leaf removal and mulching, irrigation system and pump station winterization, and snow mold fungicide application in greens was completed. Two cup system on greens has been implemented as well as goose control.
- Property Management/Maintenance: Chenega Operations Services (COS) and the Army caretakers continue to monitor buildings and property for safety, security and marketing purposes. COS and FMERA staff are now in the process of shutting down utilities and draining buildings that are planned for demolition and adjusting temperatures in buildings to be reused in an attempt to reduce utility usage.
- Security Guard Services: FMERA issued an RFP for Security Services on December 9, 2016. Proposals were due January 9<sup>th</sup> and 5 proposals were received. Staff hopes to identify a successful bidder for approval at the February Board meeting.

3. Update on RFOTPs

The following is a town-by-town summary of the status of our redevelopment projects.

In **Oceanport**, FMERA recently closed on the Officer Housing parcels on January 13<sup>th</sup>. RPM Development will be renovating the 117 historic housing units, creating 68 market-rate for sale units, and 48 rental units. Twenty (20%) percent of the rental units will be available to low- and moderate-income households. This closing marks the first residential project on the Fort, as well as the first Phase 2 property transaction.

Also in Oceanport, FMERA has executed contracts on 4 parcels:

- Fitness Center, where FM Partners, LLC, is proposing to renovate and expand the facility;
- Russel Hall, the 40,000 square-foot former Garrison Headquarters building, to TetherView Property Management, LLC, a private cloud computing services company from New York.
- Dance Hall, a 16,000 square-foot former recreation building on Brewer Avenue, to AP Development Partners, for commercial and retail uses, including entertainment and restaurant purposes.
- Main Post Chapel, an approximately 16,372 square foot building on 5 acres that is slated for reuse as a house of worship, under contract to Triumphant Life Church.

FMERA is in negotiations for the sale and redevelopment of the following 3 properties:

- Nurses Quarters, a 24-unit residential complex on Main Street adjacent to the former Patterson Army Hospital;
- the Marina, currently approved for exclusive negotiations with AP Development Partners, LLC, and currently operating as a marina/public boat ramp and restaurant.
- Squier Hall Complex, an approximately 31-acre site currently under negotiations with the sole bidder, that is slated for office/research, institutional/civic (including educational) and open space/recreation uses. The future developer will be required to retain Squier Hall, which is listed on the National Register of Historic Places.

On December 29<sup>th</sup>, FMERA issued two RFOTPs for the Lodging Area and Allison Hall. The Lodging Area RFOTP is seeking proposals for medium density residential, institutional/civic, and/or office/research development of the approximately 15-acre site. The Allison Hall RFOTP is seeking proposals to reuse the historic Allison Hall for a boutique hotel, as well as retail, office/research and open space/recreation uses in the approximately 13-acre parcel. Proposals that include both parcels in a comprehensive redevelopment project will receive additional points. Proposals in response to both RFOTPs are due on March 31.

FMERA received authorization from the Board to issue an RFOTP for Barker Circle, also in the historic district in Oceanport.

In **Eatontown**, FMERA is in negotiations for the sale and redevelopment of 3 properties:

- Howard Commons on Pinebrook Road, zoned for up to 275 homes and up to 15,000 square feet of retail space, where FMERA is in negotiations with the lead proposer;
- Parcel B, an expanded parcel including up to 89 acres for a mixed-use town center along Route 35 to include up to 350,000 square feet of retail space and other commercial space and 302 housing units, where Fort Monmouth Parcel B Redevelopment, LLC, has been approved for exclusive negotiations.
- Eatontown Barracks, 6 buildings on Semaphore Avenue on an approximately 4.4-acre parcel, where FMERA received one proposal for an arts/cultural center use. FMERA is in negotiations with the proposer and expects to present a recommendation to the Board shortly.

FMERA issued an RFOTP for the Suneagles Golf Course on October 7, 2016, and received four proposals on December 7. FMERA sought proposals for a use consistent with the plan, namely reuse of the Golf Course and construction of a hotel/conference center, or for an alternate use which includes the reuse of the Golf Course and up to 75 residential units within the 10-acre former Megill Housing area. An evaluation committee has been formed to begin scoring the proposals.

In **Tinton Falls**, FMERA has executed contracts on five projects:

- Parcels C and C1, with Lennar Corporation, approved for 288 residential units over the two parcels, and up to 58,000 square feet of retail development;
- Fabrications Shops (Pinebrook Road Commerce Center), 45,000 square feet of light industrial and flex office space buildings along Pinebrook Road for sale to Pinebrook Commerce Center, LLC;
- Pistol Range and Satellite Road Parcel, under contract with Kiely Realty Group for the reuse and upgrades of the former Pistol Range, and additional office and commercial uses on the combined approximately 5-acre parcel.
- Parcel F-3, the former gas station and convenience store along Hope Road, which the Monmouth County Park System will utilize in conjunction with the adjacent Recreation Center and Swimming Pool, to expand services and public open space amenities.
- Recreation Center and Swimming Pool, under contract to the Monmouth County Park System, is currently open to the public through a lease with the County.

FMERA is in negotiations with the lead bidder for a contract related to the sale and redevelopment of the Charles Wood Fire Station, an approximately 4 acre parcel along Corregidor Road in the Tinton Falls Reuse Area.

FMERA has also received Board approval to issue an RFOTP for Parcel F-2, which includes Building 2719, and will evaluate options for issuing an updated RFOTP for Parcel F-1, the Myer Center site.


4. Marketing Update

FMERA and Cushman & Wakefield (Cushman), the Authority's Master Broker, continue to conduct several tours per week. FMERA will host an informational media event at the Marina in Oceanport next week, to provide members of the media with a chance to learn more about the Fort's next phase of redevelopment. Several contracted purchasers will be available to answer questions about their future projects and plans for redevelopment.

Please refer to our website, [www.fortmonmouthnj.com](http://www.fortmonmouthnj.com), for more information and to sign up for our monthly digital newsletters.

5. Action Items for Next Month.

- Continued work with the N.J. Department of Environmental Protection to identify and resolve environmental issues of concern
- Continued meetings and tours with interested prospective employers and investors
- Continued outreach to our stakeholders in the 3 host municipalities, the County and others
- Continued collaboration with the NJEDA Trenton Office on marketing and business development opportunities

Bruce Steadman  
Approved By: Bruce Steadman 

Prepared by: Candice Valente

**ADOPTED**  
**August 17, 2016**

Resolution Regarding  
**Application for Use-Type Variances at Parcel C in Tinton Falls**

**WHEREAS**, the FMERA Act, N.J.S.A. 52:27I-34(e), and the FMERA Land Use Rules, in N.J.A.C. 19:31C-3.21(b), grant FMERA sole and exclusive jurisdiction to grant certain use-type variances from the requirements of the Reuse Plan and Land Use Rules; and

**WHEREAS**, an application for use-type variances in relation to the development of Parcel C was submitted by Lennar Corporation, the contracted purchaser of Parcels C and C1 in Tinton Falls; and

**WHEREAS**, pursuant to the Land Use Rules, a public hearing was noticed and held at the FMERA offices on December 21, 2016; and

**WHEREAS**, a Hearing Officer has prepared a report based on the evidence presented and transcripts of the hearing, which includes the Hearing Officer's recommendations to the Board; and

**WHEREAS**, the Hearing Officer recommends that the Application for use-type variance approval pursuant to N.J.A.C. 19:31C-3.21(b)(1)(i) for the addition of an accessory drive-thru to an approved restaurant or cafe and a height variance for townhouses pursuant to N.J.A.C. 19:31C-3.21(b)(1)(v) be approved. However, the hearing officer recommends that the drive-thru variance pursuant to N.J.A.C. 19:31C-3.21(b)(1)(i) be limited to a café/coffee shop uses only and to continue the prohibition of an accessory drive-thru for any other restaurant; and

**WHEREAS**, FMERA staff recommends the adoption of the Hearing Officer's recommendations with the addition of the following definition of café/coffee shop: an informal restaurant primarily offering coffee, tea, and other beverages, and where light refreshments and limited menu meals may also be sold; and

**WHEREAS**, the attached report, evidence and transcript of the hearing includes the determinations made by the Hearing Officer to reach her recommendations in detail; and

**WHEREAS**, FMERA staff has reviewed the report and recommends Board approval of the recommendations.

**THEREFORE, BE IT RESOLVED THAT:**

1. For the reasons articulated in the Hearing Officer's report and based on the evidence and transcript of the hearing, the Authority adopts the Hearing Officer's findings of fact contained in the attached report for the use-type variance application submitted by Lennar Corporation for Parcel C in Tinton Falls and incorporates and memorializes the findings of fact as if recited here.

2. For the reasons articulated in the Hearing Officer's report and based on the evidence and transcript of the hearing, the Authority adopts the Hearing Officer's recommendations contained in the attached report with the addition of the definition of café/coffee shop recited herein for the use-type variance application submitted by Lennar Corporation for Parcel C in Tinton Falls and incorporates and memorializes the adopted recommendations as if recited here.

3. This resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays, and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor of the State of New Jersey for his approval, unless during such 10-day period the Governor of the State of New Jersey shall approve the same, in which case such action shall become effective upon such approval, as provided by the Act.

ATTACHMENT

Dated: January 18, 2017

**EXHIBIT 1**



**MEMORANDUM**

**TO:** Members of the Board

**FROM:** Bruce Steadman  
Executive Director

**RE:** Transmittal of Hearing Officer Recommendation for Use-Type Variances for Parcel C in Tinton Falls

**DATE:** January 18, 2017

Request

I am requesting that the Board of Members approve the recommendations set forth in the report prepared by the public hearing officer in relation to the application for use-type variances submitted by the applicant for Parcel C in Tinton Falls, with an addition to include a definition for café/coffee shop as described below.

Background

The Fort Monmouth Reuse and Redevelopment Plan (Reuse Plan) serves as the Plan for the redevelopment and revitalization of Fort Monmouth to be implemented by FMERA. FMERA's Land Use Rules, subsequently adopted in 2013, N.J.A.C. 19:31C-3 et seq. (Land Use Rules), grant the Authority the "sole and exclusive jurisdiction to grant, for special reasons shown, a variance from the requirements of the Reuse Plan or this subchapter to permit" specific use-type variances. In accordance with the Land Use Rules, prior to the Board approving a use-type variance, a public hearing must be held for the applicant to present evidence that granting of the variance will not substantially impair the intent and purpose of the Reuse Plan and the Land Use Rules, and that the variance can be granted without substantial detriment to the public good.

An application for use-type variances was submitted by Lennar Corporation, the contracted purchaser of Parcels C and C1 in Tinton Falls. Pursuant to the Land Use Rules, a public hearing was noticed and held at the FMERA offices on December 21, 2016. A Hearing Officer has prepared a report based on the evidence presented and transcripts of the hearing. The report includes the Hearing Officer's recommendations to the Board.

The Hearing Officer recommends that the Application for use-type variance approval pursuant to N.J.A.C. 19:31C-3.21(b)(1)(i) for the addition of an accessory drive-thru to an approved restaurant or cafe and a height variance for townhouses pursuant to N.J.A.C. 19:31C-3.21(b)(1)(v) be approved. However, the hearing officer recommends that the drive-thru variance pursuant to

N.J.A.C. 19:31C-3.21(b)(1)(i) be limited to a café/coffee shop uses only and to continue the prohibition of an accessory drive-thru for any other restaurant.

After review of the Hearing Officer's report, FMERA staff recommends that the Board adopt the Hearing Officer's recommendations with the addition of the following definition of a café/coffee shop: an informal restaurant primarily offering coffee, tea, and other beverages, and where light refreshments and limited menu meals may also be sold.

The attached report provides the determinations made by the Hearing Officer to reach her recommendation in detail.

Recommendation

I am requesting that the Board of Members approve the recommendations set forth in the report prepared by the Hearing Officer in relation to the application for use-type variances submitted by the applicant for Parcel C in Tinton Falls, with the addition described above.

  
Bruce Steadman

Attachments: Hearing Officer Report  
Copies of Evidence and Transcript from Public Hearing  
Prepared by: Candice Valente

**TO:** Members of the FMERA Board

**FROM:** Kara A. Kopach, Hearing Officer

**COPY:** Bruce Steadman, Executive Director

**SUBJECT:** Hearing Officer's Report and Recommendation  
U.S. Home Corporation, d.b.a. Lennar  
Borough of Tinton Falls  
Part of Block 101, Lot 1  
Parcel C: Bounded by Tinton Avenue, Municipal Drive and Corregidor Road  
Use-Variance Approval Pursuant to N.J.A.C. 19:31C-3.21(b)(1)(i),  
19:31C-3.21(b)(1)(v), and 19:31C-3.21(b)(1)(iv)

**DATE:** January 18, 2017

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### EXECUTIVE SUMMARY

On December 21, 2016, the Fort Monmouth Economic Revitalization Authority (the "Authority") heard testimony and public comment on the above-subject application. The Applicant, U.S. Home Corporation, d.b.a. Lennar (the "Applicant"), seeks approval for three use-type variances pursuant to N.J.A.C. 19:31C-3.21(b)(1)(i), N.J.A.C. 19:31C-3.21(b)(1)(v), and N.J.A.C. 19:31C-3.21(b)(1)(iv) for its proposal to redevelop Parcel C on the Charles wood Section of Fort Monmouth. The existing parcel is bounded by Tinton Avenue, Municipal Drive and Corregidor Road. Specifically, the Applicant seeks a use-type variance pursuant to N.J.A.C. 19:31C-3.21(b)(1)(i) to permit a restaurant or café with an accessory drive-thru where drive-thru restaurants are prohibited pursuant to N.J.A.C. 19:31C-3.4(a)(1)(iii); a use-type variance pursuant to N.J.A.C. 19:31C-3.21(b)(1)(v) to permit the height of the proposed townhouses to be three (3) stories/forty-two (42) feet, where a maximum height of two and a half (2.5) stories/thirty-five (35) feet is permitted pursuant to N.J.A.C. 19:31C-3.5(c)(2)(i); and if necessary a use-type variance pursuant to 19:31C-3.21(b)(1)(iv) to permit floor area ratio (FAR) of .35 for a 1.25 acre of land in the 40 acre parcel which exceeds both the FAR permitted in the Tech Office/R&D Campus and the Town Center.

During the hearing, the Applicant presented adequate evidence and testimony to satisfy the requirements of the Authority's Reuse Plan and Land Use Rules for the grant of the requested relief for N.J.A.C. 19:31C-3.21(b)(1)(i) and N.J.A.C. 19:31C-3.21(b)(1)(v). The Hearing Officer evaluated the use-type variances per the criteria set forth in N.J.A.C. 19:31C-3.21(b)(7). The evidence and testimony demonstrated that the development proposal generally conforms to the site plan standards and technical requirements of the

Reuse Plan and the Land Use Rules of the Authority. The relatively minor deviations from Amendment #3 and FMERA's regulations to permit townhouses to move to habitable areas above the high-water table and to incorporate a drive thru cafe along Tinton Avenue enhance the Parcel redevelopment and promote the Reuse Plan and do not adversely impact the site or the surrounding community. Therefore, for the reasons more fully outlined below, the Hearing Officer recommends that the use-type variance application for N.J.A.C. 19:31C-3.21(b)(1)(i) and N.J.A.C. 19:31C-3.21(b)(1)(v) be approved by the Authority.

For the purposes of the use-type variance pursuant to 19:31C-3.21(b)(1)(iv) to permit floor area ratio (FAR) of .35 for a 1.25 acre of land in the 40-acre parcel proposed to be subdivided from such parcel at a later date and which exceeds both the FAR permitted in the Tech Office/R&D Campus and the Town Center, the Hearing Officer cannot recommend the Authority approve the use-type variance request at this time. Based on the evidence and testimony provided, the Hearing Officer finds that the FAR for the entire 40-acre parcel is compliant with the Reuse Plan and Land Use Rules and therefore a use-type variance is not required for a Parcel wide plan. However, the proposed site plan and subdivision plan submitted in connection with the application and depicting proposed future lots were not final nor definitive so the Hearing Officer cannot provide a finding that the proposed lots are FAR compliant, nor can the Hearing Officer agree to a use-type variance to allow for a FAR exceedance when the FAR exceedance is not definitively determined. Therefore, the Hearing Officer recommends the Authority abstain from voting on the FAR use-type variance.

## INTRODUCTION

### Application Information

U.S. Home Corporation, d.b.a. Lennar  
Borough of Tinton Falls  
Part of Block 101, Lot 1  
Parcel C: Bounded by Tinton Avenue, Municipal Drive and Corregidor Road  
Use-Variance Approval Pursuant to N.J.A.C. 19:31C-3.21(b)(1)(i), 19:31C-3.21(b)(1)(v),  
and 19:31C-3.21(b)(1)(iv)  
Zones include: Town Center, Hemphill Neighborhood & Tech/Office/R&D Campus

A hearing on the Application was conducted in accordance with the requirements of the N.J.A.C. 19:31C-3.26.

The Applicant seeks approval for three use-type variances pursuant to N.J.A.C. 19:31C-3.21(b)(1)(i), 19:31C-3.21(b)(1)(v), and 19:31C-3.21(b)(1)(iv) to facilitate its proposal to redevelop Parcel C on the Charles wood Section of Fort Monmouth.

## Evidence List

- A-0 Application Packet
- A-1 Aerial Existing Condition Exhibit, prepared by Kimley-Horn
- A-2 Use Variance Application Exhibit – C-300, prepared by Kimley-Horn
- A-3 Conceptual Architectural Plan – A1.0 (Stacked townhome), prepared by Alberto & Associates.
- A-4 Conceptual Architectural Plan – A1.1 (townhome), prepared by Alberto & Associates
- A-5 Tinton Avenue/Retail Driveway Cross Section Exhibit, prepared by Kimley-Horn
  
- B-1 Planning Consultant Report by Elizabeth Leheny, AICP, P.P.

### **FINDINGS OF FACT**

The Applicant seeks approval for three use-type variances pursuant to N.J.A.C. 19:31C-3.21(b)(1)(i), 19:31C-3.21(b)(1)(v), and 19:31C-3.21(b)(1)(iv) to facilitate its proposal to redevelop Parcel C on the Charles wood Section of Fort Monmouth.

The attorney for the Applicant, Peter Carton, Esq., introduced the application generally and provided background regarding the specific relief sought by the Applicant.

The Applicant presented the testimony of Tony W. Diggin, P.E., a licensed engineer, who was qualified as an expert in engineering. Mr. Diggin testified as to the proposed site plan development, including retail and residential site location, exterior elevations, floor area ratio (FAR) impact to the site, and the modification of the retail restaurant on Tinton Avenue to include an ancillary drive thru.

Mr. Diggin identified the variance relief sought in connection with the application. Specifically, the Applicant seeks a use-type variance pursuant to N.J.A.C. 19:31C-3.21(b)(1)(i) to permit a restaurant or café with an accessory drive-thru where drive-thru restaurants are prohibited pursuant to N.J.A.C. 19:31C-3.4(a)(1)(iii); a use-type variance pursuant to N.J.A.C. 19:31C-3.21(b)(1)(v) to permit the height of the proposed townhouses to be three (3) stories/forty-two (42) feet, where a maximum height of two and a half (2.5) stories/thirty-five (35) feet is permitted pursuant to N.J.A.C. 19:31C-3.5(c)(2)(i); and if necessary a use-type variance pursuant to 19:31C-3.21(b)(1)(iv) to permit floor area ratio (FAR) of .35 for a 1.25 acre of land in the 40 acre parcel which exceeds both the FAR permitted in the Tech Office/R&D Campus and the Town Center.

With respect to use-type variance N.J.A.C. 19:31C-3.21(b)(1)(i) to permit a restaurant or café with an accessory drive-thru where drive-thru restaurants are prohibited pursuant to N.J.A.C. 19:31C-3.4(a)(1)(iii), Mr. Diggin testified that while restaurants and cafes are a permitted use for this section of the Parcel on Tinton Avenue, the addition of a drive-thru to a restaurant or café on the site requires a use-type variance. Mr. Diggin testified this proposed drive-thru would be for a café and would occupy 2,100 sq. ft. or 3% of the roughly 70,860 sq. ft. non-residential use on the site. Mr. Diggin notes the requested drive-thru is

located between two (2) approved more intense drive thru uses (a bank and a pharmacy) on Tinton Avenue which is in the auto-dependent section of Parcel C. He indicates the Applicant was mindful of the impact to the surrounding neighbors on Tinton Avenue and so the location of the driveway to this drive thru was positioned in such a way to minimize the impact to the residences across the street. This includes having the cars face due south while waiting for orders to be processed at the drive thru. He testified it is the Applicant's intention to create a landscape berm two (2) to three (3) feet which will be planted with an evergreen screen as well as low-lying shrubs to further screen the drive thru and avoid negatively impacting the residential neighbors.

With respect to use-type variance N.J.A.C. 19:31C-3.21(b)(1)(v) to permit the height of the proposed townhouses to be three (3) stories/forty-two (42) feet where a maximum height of two and a half (2.5) stories/thirty-five (35) feet is permitted pursuant to N.J.A.C. 19:31C-3.5(c)(2)(i), Mr. Diggin testified that Applicant was seeking the seven (7) foot change in height due to the discovery of a high groundwater table during due diligence and therefore the developer had to eliminate the basement living space. To account for this lost living space, Mr. Diggin testified that the Applicant now seeks to build the additional seven (7) foot living space at grade. Mr. Diggin indicated that the proposed forty-two (42) height is in excess of the ten percent of the maximum permitted height of a townhouse but is consistent with the permitted forty-five (45) foot height for stacked flats on the site. Further, Mr. Diggin relayed that this use-type variance for height was not out of context with other buildings in the area and on adjacent parcels which include the CommVault campus with a Corporate Headquarters which reaches seventy feet (70) at the top of the mechanical screens and the adjacent F-1 Parcel which includes the Myers Center which stands between seventy (70) and eighty (80) feet. Finally, Mr. Diggin indicated that this change from below grade to grade living space does not impact the residential density of the parcel and therefore does not disturb the Authority's residential requirement for the Borough of Tinton Falls.

For the purposes of the use-type variance pursuant to 19:31C-3.21(b)(1)(iv) to permit floor area ratio (FAR) of .35 for a 1.25 acre of land in the 40-acre parcel proposed to be subdivided from such parcel at a later date and which exceeds both the FAR permitted in the Tech Office/R&D Campus and the Town Center, the Hearing Officer cannot recommend the Authority approve the use-type variance request at this time. Based on the evidence and testimony provided, the Hearing Officer finds that the FAR for the entire 40-acre parcel is compliant with the Reuse Plan and Land Use Rules and therefore a use-type variance is not required for a Parcel wide plan. However, the proposed site plan and subdivision plan submitted in connection with the application and depicting proposed future lots were not final nor definitive so the Hearing Officer cannot provide a finding that the proposed lots are FAR compliant, nor can the Hearing Officer agree to a use-type variance to allow for a FAR exceedance when the FAR exceedance is not definitively determined. Therefore, the Hearing Officer recommends the Authority abstain from voting on the FAR use-type variance.

The Applicant presented the testimony of Paul N. Ricci, AICP, P.P., who was qualified as an expert in the field of professional planning. Mr. Ricci described the location of the site, existing conditions and development proposal.

Mr. Ricci identified the variance relief sought in connection with the application. Specifically, the Applicant seeks a use-type variance pursuant to N.J.A.C. 19:31C-3.21(b)(1)(i) to permit a restaurant or café with an accessory drive-thru where drive-thru restaurants are prohibited pursuant to N.J.A.C. 19:31C-3.4(a)(1)(iii); a use-type variance pursuant to N.J.A.C. 19:31C-3.21(b)(1)(v) to permit the height of the proposed townhouses to be three (3) stories/forty-two (42) feet, where a maximum height of two and a half (2.5) stories/thirty-five (35) feet is permitted pursuant to N.J.A.C. 19:31C-3.5(c)(2)(i); and if necessary a use-type variance pursuant to 19:31C-3.21(b)(1)(iv) to permit floor area ratio (FAR) of .35 for a 1.25 acre of land in the 40 acre parcel which exceeds both the FAR permitted in the Tech Office/R&D Campus and the Town Center.

With respect to use-type variance N.J.A.C. 19:31C-3.21(b)(1)(i) to permit a restaurant or café with an accessory drive-thru where drive-thru restaurants are prohibited pursuant to N.J.A.C. 19:31C-3.4(a)(1)(iii), Mr. Ricci testified that this section of Parcel C near Tinton Avenue is the auto-dominant section of Parcel C and therefore is particularly suited for the proposed drive thru café because it is adjacent to two approved drive thru facilities and therefore conforms with the character of this section of the site. From a market perspective, Mr. Ricci noted a drive thru café is needed to adequately market that part of the site. Mr. Ricci testified that he believes that it will help overall tract development as a mixed-use smart growth concept. To mitigate impact to the surrounding neighbors, Mr. Ricci testified that the Applicant will ensure cars are oriented to the south while waiting for drive thru orders and berms will be added to minimize light impact. He indicated that landscaping would also be utilized to minimize the view of the parking area or circulation on the site and that due to these buffers, adjacent property owners would only really view the upper half/top of the drive-thru building. Mr. Ricci testified that the overall site's aesthetic and character would be maintained through the berms and landscaping. Further, Mr. Ricci testified that he believed that when the Reuse Plan was written and adopted, coffee drive thrus were not as common place as today and the addition of the drive thru would not impair the purpose and intent of the Reuse Plan. Mr. Ricci testified that the Applicant was not proposing a fast-food, hamburger joint or pizzeria. Instead, Mr. Ricci testified that Applicant's intention was to build a Starbucks, Dunkin Donuts or other coffee oriented drive through. Mr. Ricci addressed the public comments from Lou Miceli, CommVault's Senior Vice-President (an adjacent property owner) who expressed concern about a fast food drive thru by reiterating that it is not the Applicant's desire to construct a burger joint or the type of fast food restaurant but to have a more coffee-oriented use.

With respect to use-type variance N.J.A.C. 19:31C-3.21(b)(1)(v) to permit the height of the proposed townhouses to be three (3) stories/forty-two (42) feet where a maximum height of two and a half (2.5) stories/thirty-five (35) feet is permitted pursuant to N.J.A.C. 19:31C-3.5(c)(2)(i), Mr. Ricci testified that the Reuse Plan height requirements were to allow for appropriate light, air, open space and to regulate appropriate development. He noted that increasing the townhouses to forty-two (42) feet does not really change the

character of the development because the parcel is shared with forty-five (45) foot stacked townhouses and the townhouses are largely internalized to the tract overall. Mr. Ricci stated that the change in height does not change or impact adjacent developments because the surrounding developments include buildings upwards of seventy (70) feet to the east and to the south. Therefore, Mr. Ricci noted, the change still maintains the overarching character of the Redevelopment in that area. He testified that the change in height is not a substantial departure from the Reuse Plan and creates a more practical floor plan (at grade) for the residents. Due to the high-water table, Mr. Ricci noted the height change would eliminate the potential flooding on the property and the maintenance costs attributable to the individual property owners. Mr. Ricci indicated that the variance does not add additional floor space to each townhouse but simply preserves planned floor space by increasing the height after eliminating the basement living space. Mr. Ricci reiterated that the forty-two (42) foot townhouse height is in line with the current marketplace trends and therefore will not be out of character with this form of development.

With respect to use-type variance pursuant to 19:31C-3.21(b)(1)(iv) to permit floor area ratio (FAR) of .35 for a 1.25 acre of land in the 40-acre parcel which exceeds both the FAR permitted in the Tech Office/R&D Campus and the Town Center, Mr. Ricci testified that he did not believe that the FAR was an issue that required a use-type variance because the applicant essentially built what was requested and approved under Amendment #3 – Alternate Development Scenario of the Reuse Plan. He noted that future subdivisions on the site may reflect a FAR exceedance, but will not change the form, mass, density and intensity of the project as envisioned under the Reuse Plan. Mr. Ricci testified that the Applicant proposed the same amount of building area/floor area as anticipated in the Reuse Plan. Further, Mr. Ricci indicated that this site plan is clearly advancing the purposes of the Reuse Plan as part of this application and he does not see any substantial detriment to the public good, the surrounding property owners, existing zoning, or existing homes/structures from any of the use-type variances because it is not a substantial departure from the Reuse Plan and instead is almost 100% consistent in terms of layout and form. He testified that the plan changes are backed by the marketplace or changes in circumstances since the original Reuse Plan adoption and therefore, they are allowable and created to allow development in the Reuse Plan to move forward.

Elizabeth Leheny, AICP, P.P., was qualified as an expert in professional planning and provided testimony on behalf of the Authority. Ms. Leheny supported approval of the application for the drive thru café and increase in height for the townhouses.

## **CONCLUSIONS OF LAW**

### **Use-Type Variance Approval**

Pursuant to N.J.A.C. 19:31-3.21(b)(7), 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 Authority's staff's recommendation, that:



1. 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 Land Use Rules.
2. 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
3. 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;
4. The variance will not have a substantial adverse environmental impact;
5. The variance will not substantially impair the intent and purpose of the Reuse Plan or the Land Use Rules; and
6. The granting of the variance will not be materially or detrimental or injurious to other property or improvements in the neighborhood of the subject property.

**Variance Pursuant to N.J.A.C. 19:31C-3.21(b)(1)(i)**

For variances requested pursuant to N.J.A.C. 19:31C-3.21(b)(1)(i), an applicant must demonstrate to the satisfaction of the Authority that special reasons exist for granting of such variance, that the granting of the requested variance will not substantially impair the intent and purpose of the Reuse Plan, and that the variance can be granted without substantial detriment to the public good.

The Applicant seeks a use- type variance pursuant to N.J.A.C. 19:31C-3.21(b)(1)(i) to permit a restaurant or café with an accessory drive-thru where drive-thru restaurants are prohibited pursuant to N.J.A.C. 19:31C-3.4(a)(1)(iii).

- 1. 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 Land Use Rules.**

The Authority is to grant a use variance only in particular cases and for special reasons. In this case, the Applicant seeks to insert an accessory drive-thru to a Reuse Plan approved 2,100 square foot restaurant or café on Tinton Avenue. The location of the restaurant or café is between two other Reuse Plan approved drive-thru facilities and is consistent with the auto-dominated section of this Parcel. At the time of the adoption of the Reuse Plan, café style drive thrus were less commonplace and Applicant is seeking for the Reuse Plan to be modified to include this marketplace driver.

In considering whether the purposes of the Reuse Plan and Land Use Rules are advanced by a showing of special reasons, the Hearing Officer concludes that the Applicant has

demonstrated that the application advances the purposes of the Reuse Plan by promoting the general welfare, promoting the free flow of traffic and creating a more marketable retail component on Tinton Avenue.

- 2. 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;**

If the Authority grants a use-type variance, the Applicant must have demonstrated to the Board that the granting of the requested variance will not substantially impair the intent and purpose of the Reuse Plan and will be without substantial detriment to the public good. Although restaurant and cafes with drive-thrus are not generally permitted, the proposed location of the café with drive thru along Tinton Avenue is particularly suited to the auto-oriented use. The proposed drive-thru uses, including the café, front on Tinton Avenue with speed of 40 miles an hour and a design speed of 45 miles an hour. Applicant balanced their development plan to focus auto-oriented retail on the Tinton Avenue section of the Parcel and pedestrian oriented retail near the Municipal Drive section of the Parcel. Further, permitting a drive-thru in connection with the café allows applicant to promote a healthier, more balanced concept to the site which further promotes the Reuse plan.

With regards to the use-type variance avoiding substantial public detriment, the drive thru café represents a relative small portion of the overall proposed retail space. The site would be located between two other Reuse Plan approved drive thru facilities and faces an auto-dominant roadway. Applicant will build landscaping and berms to avoid the impact of headlight glare on other property owners.

Due to the existing nature of Tinton Avenue, the setback of the high school and other residences in the area, along with Applicant's indication that the use will be limited to a café or coffee shop there is no substantial detriment to the public.

Here, the Hearing Officer concludes, based on the evidence and testimony, that the grant of the requested variance will not result in any substantial detriment to the public good and is not inconsistent with the intent and purpose of the Reuse Plan and Land Use Rules.

- 3. 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**

Here, the Hearing officer concludes, based on the evidence and testimony, that the grant of the requested variance will not result in any impact to the existing infrastructure nor will it decrease the ability of said infrastructure to perform in an efficient and safe manner.

- 4. The variance will not have a substantial adverse environmental impact**

Here, the Hearing officer concludes, based on the evidence and testimony, that the grant of the requested variance will not result in any substantial adverse environmental impact.

**5. The variance will not substantially impair the intent and purpose of the Reuse Plan or the Land Use Rules**

Applicant is seeking to add an accessory drive-thru to a Reuse Plan approved restaurant/café. The targeted location for the drive-thru is in between two other Reuse Plan permitted drive thrus and in close proximity to Tinton Avenue. It promotes the concept of a mixed-use development by focusing its placement in an auto-dominated area and avoids the pedestrian side of the development near Municipal Drive. Here, the Hearing officer concludes, based on the evidence and testimony, that the grant of the requested variance will not result in any substantial impairment of the intent and purpose of the Reuse Plan or the Land Use Rules. Instead, Hearing officer believes this variance promotes the Reuse Plan's intention of successful redevelopment.

**6. The granting of the variance will not be materially or detrimental or injurious to other property or improvements in the neighborhood of the subject property.**

As recognized in Amendment #3, the Property is located near the Tinton Falls Municipal Complex, near the CommVault development and along Tinton Avenue. The drive-thru café will be in close proximity to other auto-oriented uses which are approved under the Reuse Plan. While there was one concern from CommVault regarding the drive-thru being of a fast-food nature, Applicant addressed this concern both through written application and in expert testimony. If given approval for this use-type, applicant is seeking to put a café or coffee shop into the location not another version of a fast food establishment. Therefore, CommVault's concerns regarding a fast food establishment are addressed and resolved. Here, the Hearing officer concludes, based on the evidence and testimony, that the grant of the requested variance will not be materially detrimental to other property or improvements in the neighborhood of the Property.

Based on the analysis, the hearing officer recommends that this variance be limited to a café/coffee shop uses only and to continue the prohibition of an accessory drive-thru for any other restaurant.. With this limitation, the requested variance meets all of the criteria set forth in N.J.A.C. 19:31C-3.21(b)(7).

**Variance Pursuant to N.J.A.C. 19:31C-3.21(b)(1)(v)**

For variances requested pursuant to N.J.A.C. 19:31C-3.21(b)(1)(v), an applicant must demonstrate to the satisfaction of the Authority that special reasons exist for granting of such variance, that the granting of the requested variance will not substantially impair the intent and purpose of the Reuse Plan, and that the variance can be granted without substantial detriment to the public good.

The Applicant seeks a use-type variance pursuant to N.J.C.A. 19:31C-3.21(b)(1)(v) to permit the height of the proposed townhouses to be three (3) stories and forty-two (42) feet, where a maximum height of 2.5 stories and thirty-five (35) feet is permitted pursuant to N.J.A.C. 19:31C-3.5(c)(2)(i)

- 1. 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 Land Use Rules.**

The Authority is to grant a use variance only in particular cases and for special reasons. In this application, applicant seeks to increase the height of the townhouses by seven (7) feet. While this is a departure from the Reuse Plan and Land Use Rules, the height is consistent with the permitted height for stacked townhomes on the site.

The specific need for the additional seven (7) feet is directly related to the high-water table on the property. Applicant originally intended for the townhouses to have basements but now the basements were eliminated due to concerns with frequent flooding or the requirement of physical engineering controls. The original design would be considered energy inefficient and contrary to Leadership in Energy and Environmental Design (LEED) Principles. By moving the living space to grade, applicant removed burdensome costs from the home owner and maintained anticipated square footage and density.

In considering whether the purposes of the Reuse Plan and Land Use Rules are advanced by a showing of special reasons, the Hearing Officer concludes that the applicant has demonstrated that the application advances the purposes of the Reuse Plan by promoting the general welfare, promoting LEED principles, and maintaining anticipated living space and residential density on the site.

- 2. 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;**

If the Authority grants a use-type variance, the Applicant must have demonstrated that the granting of the requested variance will not substantially impair the intent and purpose of the Reuse Plan and will be without substantial detriment to the public good. Although the height of the townhouses will be increased, this will alleviate frequent flooding and water damage on and around the site. It will also reduce the need for engineering controls required for energy efficiency and maintenance. Allowing for the height increase allows for the living space in the townhouses to be maintained and allows the applicant to build the required residential units on the site. Further, the new height of the townhouses would still be shorter than the proposed stacked flats so the units will remain in accordance with Amendment #3.

Here, the Hearing Officer concludes, based on the evidence and testimony, that the grant of the requested variance will not result in any substantial detriment to the public good is not inconsistent with the intent and purpose of the Reuse Plan and Land Use Rules.

- 3. 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**

Here, the Hearing officer concludes, based on the evidence and testimony, that the grant of the requested variance will not result in any impact to the existing infrastructure nor will it decrease the ability of said infrastructure to perform in an efficient and safe manner. The Project proposal is consistent with the uses, infrastructure, and transportation plan set forth in Amendment #3.

- 4. The variance will not have a substantial adverse environmental impact**

Here, the Hearing officer concludes, based on the evidence and testimony, that the grant of the requested variance will not result in any substantial adverse environmental impact. In fact, the height variance will have an overall positive environmental impact by reducing interference with the water table and reducing the need for expensive and intrusive engineering controls.

- 5. The variance will not substantially impair the intent and purpose of the Reuse Plan or the Land Use Rules**

While this variance is a departure from the Reuse Plan and Land Use Rules, the new proposed height is consistent with the permitted height for stacked townhomes on the site. The townhouses still qualify as low density and will be constructed per the permitted density in Amendment #3. Therefore, the Hearing officer concludes, based on the evidence and testimony, that the grant of the requested variance will not result in any substantial impairment of the intent and purpose of the Reuse Plan or the Land Use Rules. Instead, Hearing officer believes this variance promotes the Reuse Plan's intention of successful redevelopment.

- 6. The granting of the variance will not be materially or detrimental or injurious to other property or improvements in the neighborhood of the subject property.**

As recognized in Amendment #3, the Property is located near the Tinton Falls Municipal Complex, near the CommVault development and along Tinton Avenue. The adjoining Parcels in this section of Charles wood have existing buildings which stand between seventy (70) and eighty (80) feet. Therefore, the Hearing officer concludes, based on the evidence and testimony, that the grant of the requested variance to increase the townhouse

height to forty-two (42) feet will not be materially detrimental to other property or improvements in the neighborhood of the Property.

Accordingly, the requested variance meets all of the criteria set forth in N.J.A.C. 19:31C-3.21(b)(7).

**Variance Pursuant to 19:31C-3.21(b)(1)(iv)**

Based on the evidence and testimony provided, the Hearing Officer finds that the FAR for the entire 40-acre parcel is compliant with the Reuse Plan and Land Use Rules and therefore a use-type variance is not required for a Parcel wide plan. Therefore, an analysis of this use-type variance is not necessary for this report.

For the purposes of the use-type variance pursuant to 19:31C-3.21(b)(1)(iv) to permit floor area ratio (FAR) of .35 for a 1.25 acre of land in the 40-acre parcel proposed to be subdivided from such parcel at a later date and which exceeds both the FAR permitted in the Tech Office/R&D Campus and the Town Center, the Hearing Officer cannot recommend the Authority approve the use-type variance request at this time. Based on the evidence and testimony provided, the Hearing Officer finds that the FAR for the entire 40-acre parcel is compliant with the Reuse Plan and Land Use Rules and therefore a use-type variance is not required for a Parcel wide plan. However, the proposed site plan and subdivision plan submitted in connection with the application and depicting proposed future lots were not final nor definitive so the Hearing Officer cannot provide a finding that the proposed lots are FAR compliant, nor can the Hearing Officer agree to a use-type variance to allow for a FAR exceedance when the FAR exceedance is not definitively determined. Therefore, the Hearing Officer recommends the Authority abstain from voting on the FAR use-type variance.

**RECOMMENDATION**

For all of the foregoing reasons, the Hearing Officer recommends that the Application for use-type variance approval pursuant to N.J.A.C. 19:31C-3.21(b)(1)(i) for the addition of an accessory drive-thru to an approved restaurant or cafe and a height variance for townhouses pursuant to N.J.A.C. 19:31C-3.21(b)(1)(v) be approved. However, the hearing officer recommends that the drive-thru variance pursuant to N.J.A.C. 19:31C-3.21(b)(1)(i) be limited to a café/coffee shop uses only and to continue the prohibition of an accessory drive-thru for any other restaurant.

The grant of approval of this Application shall be expressly conditioned upon the Applicant complying with all conditions of prior approvals, satisfying all representations made by the Applicant or by others on its behalf during the hearing on this matter before the Hearing Officer.

The grant of approval shall be further conditioned upon compliance with all applicable requirements of the FMERA Reuse Plan and Land use rules. Any approval granted in accordance herewith shall be further expressly conditioned upon the Applicant obtaining all other necessary governmental approvals, and compliance with all Federal, State and local laws.

**ATTACHMENT**

[The attachment that the preceding memo refers to has been removed from this full agenda.]





**ADOPTED**  
**January 18, 2017**

Resolution Regarding  
**Approval of Memorandum of Understanding with Two Rivers Water Reclamation Authority for Planning, Survey, and Design of New Sanitary Sewer Infrastructure**

**WHEREAS**, in September 2016, the Board approved the dedication of up to \$300,000 to reimburse TRWRA for design and engineering of new sanitary sewer infrastructure as work is completed; and

**WHEREAS**, FMERA and TRWRA negotiated the attached Memorandum of Understanding (MOU), regarding the Design and Engineering Work for replacement sewer mains and effluent pumping system for the Oceanport section and which confirms that the Parties intend to work together to replace the existing sewer system in the Oceanport section of the former Fort Monmouth in order to prepare that area for redevelopment and reuse; and

**WHEREAS**, FMERA and TRWRA intend to negotiate a subsequent MOU to address the construction and installation of improvements for replacement sewer mains and effluent pumping system, subject to the approval of the FMERA Board; and

**WHEREAS**, the Real Estate Committee has reviewed this request and recommends Board approval.

**THEREFORE, BE IT RESOLVED THAT:**

1. For the reasons expressed in the attached memorandum, the Board authorizes the execution of a Memorandum of Understanding with Two Rivers Water Reclamation Authority (TRWRA) for the planning, survey and design for a replacement sewer system for the portion of the former Fort Monmouth located within the Borough of Oceanport. The Executive Director or other staff authorized to execute documents pursuant to Operating Authority is authorized to do and perform all acts necessary to effectuate this action.

2. This resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays, and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor of the State of New Jersey for his approval, unless during such 10-day period the Governor of the State of New Jersey shall approve the same, in which case such action shall become effective upon such approval, as provided by the Act.

Dated: January 18, 2017

**EXHIBIT 2**

**MEMORANDUM**

**TO:** Members of the Board

**FROM:** Bruce Steadman  
Executive Director

**RE:** Request to approve a Memorandum of Understanding between the Fort Monmouth Economic Revitalization Authority and the Two Rivers Water Reclamation Authority

**DATE:** January 18, 2017

**Request**

I am requesting Members of the Board of Directors' approval of a Memorandum of Understanding ("MOU") which will confirm the mutual understanding and intention between the Fort Monmouth Economic Revitalization Authority ("FMERA") and the Two Rivers Water Reclamation Authority ("TRWRA") regarding the interagency agreement for the planning (including preparation of all applications and associated, prerequisite environmental and engineering services), survey and design for a replacement sewer service for the portion of the former Fort Monmouth US Army military base located within the Borough of Oceanport.

**Background**

Governor Christie signed P.L. 2010 c. 51 on August 17, 2010 to create the Fort Monmouth Economic Revitalization Authority (FMERA or the Authority). The economies, environment, and quality of life of the host municipalities, Monmouth County, and the State will benefit from the efficient, coordinated, and comprehensive redevelopment and revitalization of Fort Monmouth.

At the September 21, 2016 Board meeting the Board approved the dedication of up to \$300,000 to reimburse Two Rivers Water Reclamation Authority (TRWRA) for design and engineering of new sanitary sewer infrastructure as work is completed with \$70,000 of OEA grant funds being allocated to reimburse TRWRA for an initial deliverable to enable RPM to construct their section of the proposed system. This MOU confirms that the Parties intend to work together to replace the United States of America's (hereinafter "USA") "Local Sewer System" existing sewer system in the Oceanport section of the former Fort Monmouth US Army military base in order to prepare that area for redevelopment and reuse. The Parties enter into this MOU to reflect the mutual understanding of the Parties relative to the Design and Engineering Work (as defined in the MOU) for replacement sewer mains and effluent pumping system for the Oceanport section of the former

Fort Monmouth US Army military base.

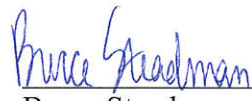

The Parties intend to negotiate a subsequent Memorandum of Understanding to address the construction and installation of improvements for replacement sewer mains and effluent pumping system for the Oceanport section of the former Fort Monmouth US Army military base. The subsequent Memorandum of Understanding for construction and installation will be presented to the Members for approval before it is signed by FMERA.

The attached MOU is in substantially final form. The final document will be subject to the approval of FMERA's Executive Director and the Attorney General's Office.

The Real Estate Committee has reviewed the request and recommends Board approval of the MOU with TRWRA.

**Recommendation**

In summary, I am requesting Members of the Board of Directors' approval of a Memorandum of Understanding ("MOU") which will confirm the mutual understanding and intention between the Fort Monmouth Economic Revitalization Authority ("FMERA") and the Two Rivers Water Reclamation Authority ("TRWRA") regarding the interagency agreement for the planning (including preparation of all applications and associated, prerequisite environmental and engineering services), survey and design for a replacement sewer service for the portion of the former Fort Monmouth US Army military base located within the Borough of Oceanport.

  
Bruce Steadman 

Attachment: Memorandum of Understanding  
Prepared by: Rick Harrison

ATTACHMENT

[The attachment that the preceding memo refers to has been removed from this full agenda.]

