



2015 Reexamination of the Master Plan

Clinton Township
Hunterdon County, New Jersey

November 2015

Clarke Caton Hintz

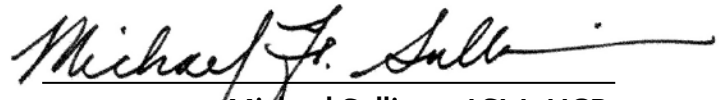


REEXAMINATION REPORT OF THE MASTER PLAN CLINTON TOWNSHIP

Prepared pursuant to *N.J.S.A. 40:55D-89* of the
New Jersey Municipal Land Use Law

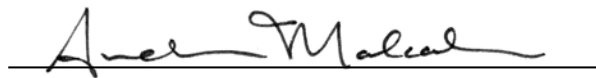
Adopted by the Clinton Township Planning Board
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Map Exhibits:

Recommended Action and Study Sites
Recommended Action and Study Sites – Inset
Annandale Highlands Center Study Area

Appendices:*

Draft Clinton Township Master Plan Highlands Element
Draft Clinton Township Highlands Land Use Ordinance

** The appendices are large documents which contain detailed mapping and can be downloaded from the Clinton Township website (<http://www.clintontwpnj.com/>). A print version of the appendices is also available for review at the Township Clerks office.*

I. INTRODUCTION

The municipal Master Plan is a document, adopted by the Planning Board, which is “a composite of one or more written or graphic proposals for the development of the municipality.”¹ The Master Plan is the principal document that proposes the manner and locations in which development, redevelopment, conservation and/or preservation should occur within a municipality. It is intended to guide the decisions made by public officials and those of private interests involving the use of land. Through its various elements, the Master Plan sets out a vision for the community in the coming years.

The Master Plan forms the legal foundation for the zoning ordinance and zoning map. New Jersey, among a handful of other states, specifically ties the planning of a community as embodied in the Master Plan with the zoning ordinance and zoning map. The zoning ordinance and map, which are adopted by the Township Committee, constitute the primary law governing the use of land at the local level. Under New Jersey’s Municipal Land Use Law *N.J.S.A. 40:55D-1 et seq.*, (hereinafter “MLUL”) a zoning ordinance must be substantially consistent with the land use plan element of the Master Plan.

A Reexamination Report is a review of previously adopted Master Plans, amendments and local development regulations to determine whether the ideas and policy guidelines set forth therein are still applicable. Under the Municipal Land Use Law, the Planning Board must conduct a general reexamination of its Master Plan and development regulations at least every ten years. Additionally, the Municipal Land Use Law now includes a waiver provision, where a municipality may waive the reexamination requirement through a determination by the State Planning Commission and the municipal Planning Board that the municipality is built-out, defined as there being no significant parcels, whether vacant or not, that currently have the capacity to be developed or redeveloped for additional use of the underlying land.

Five specific components must be considered in the Reexamination Report (*N.J.S.A. 40:55D-1-89*). These are:

- a. *The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.*
- b. *The extent to which such problems and objectives have been reduced or have increased subsequent to such date.*
- c. *The extent to which there have been significant changes in the assumptions, policies and objectives forming the basis for the master plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions,*

¹ *N.J.S.A. 40:55D-5*

circulation, conservation of natural resources, energy conservation, collection, disposition and recycling of designated recyclable materials, and changes in state, county and municipal policies and objectives.

- d. *The specific changes recommended for the master plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be prepared.*
- e. *The recommendations of the planning board concerning the incorporation of redevelopment plans adopted pursuant to the “Local Redevelopment and Housing Law,” P.L.1992, c.79 (C.40A:12A-1 et al.) into the land use plan element of the municipal master plan, and recommended changes, if any, in the local development regulations necessary to effectuate the redevelopment plans of the municipality.²*

A Reexamination Report may contain recommendations for the Planning Board to examine certain land use policies or regulations or amend or even prepare a new Master Plan. Alternatively, *“if the recommendations set forth in the Reexamination Report are themselves substantially in such form as might or could be set forth as an amendment or addendum to the Master Plan, the reexamination report, if adopted in accordance with the procedures [prescribed by the MLUL for adoption of a Master Plan], may be considered to be an amendment to the Master Plan.”³* This report was adopted in accordance with such procedures.

This Reexamination Report includes all of the required components pursuant to the Municipal Land Use Law. Section II identifies the Master plan elements and reexamination reports adopted by Clinton Township. Section III identifies the changes in assumptions, policies and objectives at the local, county and state levels. Section IV identifies the major problems and objectives at the time of adoption of the 2005 Reexamination Report, the extent to which they have changed and current recommendations; this section combines three components of a reexamination report for the sake of clarity and brevity. Section V provides a discussion of redevelopment planning in the Township.

² *N.J.S.A. 40:55D-89*

³ *New Jersey Zoning & Land Use Administration (Gann, 2015), section 8-4, p. 137.*

II. PRIOR PLANNING EFFORTS

Clinton Township has prepared and adopted various documents that constitute elements of the Master Plan. The Master Plan documents adopted in 1991 and 1992 included the following elements:

- Land Use Plan
- Circulation Plan
- Water & Sanitary Sewer Plan
- Community Facilities Plan
- Recreation & Open Space Plan
- Conservation Plan
- Historic Preservation Plan
- Recycling Plan

Reexamination Reports addressing the Master Plan were adopted in 1999 and 2005. The 1999 Reexamination Report included adoption of a new Land Use Plan Element and a new Circulation Plan Element. In 2001, a Bicycle Element was adopted as a component of the Circulation Plan Element. A new Open Space and Recreation Element was adopted in 2003, and a Stormwater Management Report was adopted in 2005. In 2006, new Goals and Objectives were adopted in conjunction with a new Land Use Plan Element.

In addition to the Master Plan documents noted above, the Planning Board adopted a Housing Plan Element and Fair Share Plan in 2000, and a new Housing Plan Element and Fair Share Plan in 2004. In 2007, a Third Round Housing Plan Element and Fair Share Plan was adopted, and subsequently amended in 2010. In May 2015, a new Housing Plan and Fair Share Plan was adopted.

III. CHANGES IN ASSUMPTIONS, POLICIES AND OBJECTIVES AT THE LOCAL, COUNTY AND STATE LEVELS

Several state, regional, county and local planning events have occurred subsequent to preparation of the 2005 Reexamination Report. The following section identifies the changes in assumptions, policies and objectives that have occurred and the impact on land use and planning policies in Clinton Township.

AFFORDABLE HOUSING RULES & LEGISLATION

On March 5, 2015, the Planning Board adopted a Housing Plan Element and Fair Share Plan (HPE&FSP) that addressed the Township's affordable housing obligation under the Council on Affordable Housing's (COAH) third iteration of its Third Round rules. This plan replaced the previous Third Round Plan which was adopted by the Board in 2007, and amended in 2010. The HPE&FSP was adopted in anticipation of the New Jersey Supreme Court issuing a ruling on a then motion in aid of litigant's rights that had been filed by Fair Share Housing Center (FSHC) seeking to return the review and approval of HPE&FSPs from COAH to the Superior Court.

Background

As background, the process and rules regarding municipal affordable housing obligations have been in turmoil over the past decade due to ongoing litigation. The key events and changes to affordable housing rules and legislation are summarized below:

Challenge to COAH's 2008 Third Round Rules

COAH's first iteration (2004) as well as its second iteration (2008) of its Third Round rules were challenged in an Appellate Division. The first iteration of the Third Round rules were invalidated in 2007, and on October 8, 2010, the Appellate Division invalidated several key provisions of COAH's second iteration of the Third Round rules, specifically, the "growth share" based rules governing fair share need and calculation.

Various parties brought the case to the New Jersey Supreme Court, which in 2013, directed COAH to revise and adopt a third iteration of its Third Round rules by March 8, 2011 using a methodology similar to COAH's first and second round methodologies. Subsequent delays in COAH's rule preparation and ensuing litigation led to the Court, on March 14, 2014, setting forth a schedule for adoption of COAH's rules.

Although ordered by the New Jersey Supreme Court to adopt a third iteration of the Third Round rules on or before October 22, 2014, COAH deadlocked 3-3 at its October 20, 2014 meeting and failed to adopt the new rules. This put COAH in violation of the Supreme Court's Order. A motion in aid of litigant's rights was then filed with the NJ Supreme Court by the Fair Share Housing Center (FSHC).

Transfer to Courts

On March 10, 2015, the Supreme Court issued a ruling on the motion in aid of litigant's rights (In re Adoption of N.J.A.C. 5:96 & 5:97, 221 N.J. 1 (2015)). This decision dissolved the substantive certification process established in the Fair Housing Act (FHA) because COAH caused it to become a futile administrative remedy, and held that the review and approval of all exclusionary zoning matters would now be heard by trial courts, rather than by COAH. The Supreme Court did not, however, rule on the precise methodology that would govern the calculation of fair share numbers. Instead, the Supreme Court offered general guidance and left it to the trial courts through the 15 designated Mount Laurel judges to decide.

The Supreme Court further held that, for a municipality to be protected from exclusionary zoning lawsuits, it had to file a declaratory judgement action seeking a judicial declaration that its HPE&FSP complies with the Third Round affordable housing obligation. It is expected that the Mount Laurel trial judges will review municipal plans much in the same manner as COAH previously did. Those towns whose plans are approved by the trial court will receive a Judgement of Repose, the court-equivalent of COAH's substantive certification.

The Township filed its declaratory judgement action on July 2, 2015. Pursuant to a Consent Order issued on August 13, 2015, the Township was granted temporary immunity from exclusionary lawsuits until December 2, 2015, to allow time for the Court to make a preliminary determination regarding the Township's fair share affordable housing obligation, and for the Township to file an amended HPE&FSP, if needed. On October 23, 2015, the Court entered an order extending the temporary immunity from December 2, 2015 through March 31, 2015 to allow the Township time to obtain and submit an affordable housing obligation fair share number expert report. The Township is continuing to develop options for providing affordable housing while the court's preliminary determination regarding its affordable housing obligation fair share number is pending.

Other Developments

In addition to judicial activity, there have been a number of efforts at statewide affordable housing reform over recent years.

Roberts Bill

The most significant occurred on July 17, 2008, when Governor Corzine signed P.L. 2008, c.46, known as the “Roberts Bill”, which amended the Fair Housing Act in a number of ways.

Key provisions of the Roberts bill include the following:

- Eliminated regional contribution agreements (“RCAs”);
- Added a requirement for 13% of third round affordable housing units to be restricted to very low income households (30% or less of median income);
- Established a statewide 2.5% nonresidential development fee instead of a nonresidential growth share delivery obligation for affordable housing; and
- Established a requirement that development fees be committed for expenditure within four years of being received by the municipality.

Trust Funds

In light of the “Roberts Bill”, on or about July 17, 2012 Governor Christie anticipated recouping \$140 million for the 2013 budget from uncommitted monies in municipal affordable housing trust funds which are four years old or older. However, on July 17, 2012 the Appellate Division issued an Order that outlined a process for municipalities to resolve disputes with COAH over their trust funds. In light of the March 10, 2015 Supreme Court decision to transfer responsibility to review and approve housing elements and fair share plans (housing plans) from COAH to designated Mount Laurel trial judge, on April 9, 2015 the Appellate Division issued a decision that transferred responsibility of review and approval of spending plans from COAH to designated Mount Laurel trial judges and it also enjoined COAH or any other part of the executive branch from engaging in any further attempt to seize affordable housing trust funds.

HIGHLANDS

Clinton Township is located within the New Jersey Highlands Region, which is protected by and subject to the provisions of the Highland Water Protection and Planning Act (*N.J.S.A. 13:20-1 et seq.*) Pursuant to the Highlands Act, the Highlands Regional Master Plan (RMP) was adopted by the Highlands Council on July 17, 2008 and became effective on September 8, 2008.

In December 2009, the Township Council adopted Resolution #144-09 and #145-09 petitioning the Highlands Council for conformance of its municipal planning documents with the goals, requirements, and provisions of the Highlands RMP. The Highlands Council

approved the petition on June 18, 2015 with conditions as set forth in the Final Consistency Review and Recommendations Report and the Highlands Implementation Plan and Schedule.

The passage of the Highlands Act, adoption of the RMP by the Highlands Council, and adoption by the Township Council of its resolutions to conform the municipal planning documents to the RMP, have altered and increased the objectives that must be addressed in the Township's Master Plan, including but not limited to incorporating a variety of Highlands Resource protections, providing an emphasis on infrastructure and environmental carrying capacities, and initiating a substantial modification to the methodology to be used in determining permitted densities of development within the municipality.

STATE PLAN

In April 2004, the State Planning Commission released a Preliminary Plan proposing amendments to the 2001 State Plan, triggering a third round of the State Plan Cross-Acceptance process. While significant input was gathered from municipalities and Counties during the Cross-Acceptance process, this Plan was never adopted.

Rather, a new State Plan, the State Strategic Plan: New Jersey's State Development & Redevelopment Plan, was drafted and released in 2012. This draft State Plan takes a significantly different approach than the 2001 State Plan with the elimination of Planning Areas in favor of "Investment Areas". The Plan identifies four investment areas to be used for identifying locations for growth, preservation and related investments (listed in descending order from the most developed to the least developed condition): Priority Growth, Alternate Growth, Limited Growth and Priority Preservation. The locations of the Investment Areas are determined not by a State Plan Map, as in the past, but by a criteria-based system applied during State agency decisions on investments, incentives and flexibility on State land use regulations, programs and operations.

After a series of public hearings at various locations throughout the State, the 2012 Plan was scheduled for adoption by the State Planning Commission on November 13, 2012. However, the adoption was delayed to further refine the Plan and to better account for the impact of Superstorm Sandy which occurred on October 30, 2012. No Plan revisions have been released to date and no further public hearings on the Plan have been scheduled. Until such time as a new State Plan is adopted, the 2001 State Plan remains in effect. The Township should monitor the State's efforts toward adopting a new State Plan and respond accordingly.

PERMIT EXTENSION ACT

In response to the “Great Recession”, which is defined as the period from December 2007 through June 2009, the Permit Extension Act was signed into law July 2008. It was extended three times with the most recent extension signed in December 2014. The Act suspends the tolling period for most state, county, and local permits and approvals in existence on or after January 1, 2007 through December 31, 2015, except that no tolling period shall extend beyond June 30, 2016. There are several exceptions to the Act, including but not limited to federal permits, permits for development in the Meadowlands and environmentally sensitive areas (Planning Area 4B, 5 or critical environmental sites as defined by the 2001 State Development and Redevelopment Plan). The recent extension also does not apply to Flood Hazard Permits.

TIME OF APPLICATION LAW

The “Time of Application” Law was signed on May 5, 2010 and took effect on May 5, 2011. The effect of this statutory change is that the municipal ordinance provisions that are in place at the time an application for development is filed are those which are applicable, regardless of whether or not an ordinance is amended subsequent to such an application. This is a departure from previously established case law, where courts in New Jersey have consistently held that the ordinance that is in place at the “time of decision” (the moment the Planning Board or Zoning Board of Adjustment votes on the application) is the law that applies to the application.

This provision has raised many concerns with municipalities. Principal among these is whether the new law will provide opportunities for developers to have their development rights “locked in” by submitting applications that are incomplete.

WIRELESS COMMUNICATIONS FACILITIES

There have been two changes to regulation of wireless telecommunication facilities. The first, the federal Middle Class Tax Relief Act of 2012 (the “Collocation Act”), prohibits municipalities from denying a request by an “eligible facility” to modify an existing wireless tower or base station if such a change does not “substantially change” the physical dimensions of the tower or base station. The term “substantial change” was further defined in the October 17, 2014 Report and Order issued by the Federal Communications Commission (FCC).

The second regulatory change is an amendment to the Municipal Land Use Law, *N.J.S.A. 40:55D-46.2*. This new section states applications for collated equipment on a wireless communications support structure shall not be subject to site plan review provided three

requirements are met: 1) the structure must have been previously approved; 2) the collocation shall not increase the overall height of the support structure by more than 10 percent, will not increase the width of the support structure, and shall not increase the existing equipment compound to more than 2,500 square feet; and 3) the collocation shall comply with all of the terms and conditions of the original approval and must not trigger the need for variance relief.

RENEWABLE ENERGY LEGISLATION

The New Jersey Legislature has been active since the 2005 Reexamination Report legislating to facilitate the production of alternative forms of energy. The following four new statutes, in particular, have changed the way alternative energy can be produced in New Jersey.

- **Industrial Zones.** The Municipal Land Use Law was amended March 31, 2009 to pre-empt local zoning authority and to permit, by right, solar, photovoltaic, and wind electrical generating facilities in every industrial district of a municipality. To be eligible for this permitted use, a tract must be a minimum size of 20 contiguous acres and entirely under one owner. Accordingly, this use may be permitted in some of the Township's larger industrial areas but may require lot consolidation in order to achieve the 20 acre minimum lot size.
- **Inherently Beneficial Use.** The Municipal Land Use Law was amended to define inherently beneficial uses and to include solar, wind and photovoltaic energy generating facilities in the definition.
- **Wind, Solar, and Biomass on Farms.** A law signed on January 16, 2009 restructured statutes regarding alternative energy and preserved farms, commercial farms, right to farm, and farmland assessment. In response, the State Agriculture Development Committee (SADC) adopted rules establishing an Agricultural Management Practice (an "AMP") for on-farm generation of solar energy which extends the protections of the Right to Farm Act to the generation of solar energy on commercial farms. Additionally, the Right to Farm Act was amended to permit and protect up to 10 acres or 2 megawatts (2MW) maximum production of electricity on commercial farms not subject to farmland preservation, provided the acreage of the electrical facility does not exceed a ratio of 1 acre of energy facility to 5 acres of agricultural acres, or approximately 17% of the farmland. Farms developing electrical facilities not exceeding these limits will remain eligible for farmland assessment for the entire farm including the area under the electric generating facility.
- **Solar Not Considered Impervious.** On April 22, 2010 an act that exempts solar panels from impervious surface or impervious cover designations was signed into law. It mandates that NJDEP shall not include solar panels in calculations of impervious surface or impervious cover, or agricultural impervious cover and

requires that municipal stormwater management plans and ordinances not be construed to prohibit solar panels to be constructed and installed on a site.

GREEN BUILDING & ENVIRONMENTAL SUSTAINABILITY PLAN ELEMENT

In August 2008, the Municipal Land Use Law was amended to include the Green Buildings and Environmental Sustainability Element in the list of permitted Master Plan Elements. The Element is permitted to address such topics as natural resources, renewable energy, impact of buildings on the global environment, ecosystem, stormwater and optimizing climatic conditions through site and building design. The Township may wish to incorporate this newly permitted element in a future master plan.

OPEN SPACE PRESERVATION

In November of 2014 New Jersey voters approved, via referendum, a constitutional amendment that will dedicate money from a business tax toward open space preservation. While it has not yet been decided how these funds will be allocated, the referendum will lead to a continuous funding stream for open space preservation and stewardship.

HUNTERDON COUNTY COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGY (CEDS)

The Hunterdon County CEDS plan was adopted and approved by the Federal government in the spring of 2015. Findings from research and public participation were compiled into a Strengths, Weaknesses, Opportunities and Threats (SWOT) Analysis and recommendations are provided to address those findings. The key recommendations from the document include:

- *Repurposing vacant and underutilized commercial and industrial properties to provide additional housing (affordability) and jobs (ratables).*
- *Implement transportation projects leading to the provision of public transit, addressing affordability challenges and automobile-dependency.*
- *Create a friendlier business environment through the provision of quality and adequate capacity infrastructure (water/sewer/broadband/electric redundancy) and workforce training, ensuring a healthier Hunterdon County labor supply.*
- *Channel development to appropriate areas, focusing on “centers of development,” maintaining and improving Hunterdon County’s current quality of life and rural atmosphere.*
- *Encourage collaboration and cross-education, communication, and sharing of information within the county and between municipalities creating a collective impact.*

- *Foster local economic development by enhancing the tourism industry in Hunterdon County through its cultural, recreational, historic, and agricultural assets.*

CHANGING SOCIOECONOMIC, REAL ESTATE, & INDUSTRY TRENDS

In addition to the economic development recommendations noted above, the 2015 Hunterdon County Comprehensive Economic Development Strategy (CEDS) plan includes findings regarding key socioeconomic, real estate, and industry trends in Hunterdon County. These include:

- Flat population and household growth;
- Rise in non-family households;
- Growth in age cohorts most likely to increase housing demand for smaller units (55-64);
- The number of young families and families with children in declining in Hunterdon County.
- High office vacancy rate;
- Rising median home sale and rental prices;
- Healthcare and social assistance industry will continue to grow;
- Lower wage occupations are growing fast.
- The decline in corporate campuses is evident as large employers downsize or leave the County. Large office spaces left behind will need to be repurposed or demolished.

The Township’s experience appears to be generally consistent with these County trends. The table below illustrates the declining population growth in the Township over the past two decades. Additionally, since the last census count in 2010, the Township’s population may have decreased slightly, based on the estimated 2013 population provided by the American Community Survey.

Year	Population	% Increase
1980	7,345	---
1990	10,816	43.3%
2000	12,957	19.8%
2010	13,478	4%
2013*	13,382*	0%*

**American Community Survey estimated population for 2013. (All other data based on U.S. Census)*

IV. MAJOR PROBLEMS AND OBJECTIVES AT THE TIME OF ADOPTION OF THE 2006 REEXAMINATION REPORT, THE EXTENT TO WHICH THEY HAVE CHANGED & CURRENT RECOMMENDATIONS

For the sake of clarity and brevity, three required components of a reexamination report have been combined into the following section.

A. 2005 REEXAMINATION REPORT OBJECTIVES

The 2005 Reexamination Report discussed ongoing efforts to address the following objectives:

1. Preserve farmland and support farming operations in the community.
2. Protect environmentally sensitive areas through open space acquisition and development regulations.
3. Address housing needs, especially for low and moderate-income housing.
4. Address continued growth in traffic on major highway corridors and local roads while maintain scenic character of the roadway.
5. Address demands on and needs for community facilities and services
6. Maintain a stable economy and a favorable property tax base despite limited growth in non-residential development.

All of these objectives remain relevant and are used as guiding principles in the recommendations herein.

B. 2005 REEXAMINATION REPORT RECOMMENDATIONS AND STATUS

The 2005 Reexamination Report provided a series of recommendations. Some of these have been addressed, some are no longer relevant and some remain as potential action items. The following provides a summary of the 2005 recommendations, an evaluation of their current relevance and current recommendations for Township planning policies and land use ordinances.

1. Master Plan Goals and Objectives

The 2005 Reexamination Report recommended that the goals and objectives of the Master Plan be revised to add two new goals:

- a. *Add a new goal articulating the rationale for reducing the nonresidential zones in scale and intensity, because of the significant overdevelopment of the nonresidential zones in terms of area; the fact that the nonresidential zones include properties slated for preservation; and, the fact that the former FAR standards did not differentiate between a property that has no constraints and a property that is severely constrained.*
- b. *Add a new goal that indicates that the densities provided in the residential zones should address the limitations established by groundwater quality and quantity.*

Addressed. The recommend new goals were included in an expanded list of Master Plan goals and objectives provided as part of the 2006 Land Use Plan.

2. Zoning Changes

The 2005 Reexamination plan recommended that certain properties be rezoned. The status of these zoning changes is summarized below:

- a. ROM-2 North of 78, East of Petticoat Lane. Rezone properties to be acquired by the Township as R1 or R1 Public.

Addressed. The properties were rezoned to be within the RC District, which replaced the RI district under new nomenclature introduced in the 2006 Land Use Plan.

- b. Former KB Toys Warehouse Site (Cokesbury Road). Stand-alone property in the ROM-2 should be added to ROM-1 that is across Cokesbury Road.

Addressed. This site was added to the ROM-I District.

- c. Nonresidential Lots, North Side of Beaver Avenue at Highfields Road. Change these two nonresidential lots on either side of the intersection, one used for office and the other used as the NJDOT maintenance yard, to the C-1 District.

Addressed. These lots were added to the C-1 District.

- d. ROC District. Rezone four lots fronting on Route 22 to C-2. These lots were not part of the settlement agreement establishing the ROC District, and should be changed to the C-2 to recognize their commercial character.

Addressed. These four lots were rezoned to be within the C-2 District.

- e. Harley Davidson Dealership. Rezone this site within the ROM-3 on the north side of Route 22, to be part of the adjacent C-2 District.

Addressed. This site was rezoned to be within the C-2 District.

- f. OB-1 District, west side of Route 31, north of Route 513. This area should be changed to the R-1 District, based on its inclusion in the Highlands Preservation Area.

Relevant/Action Item: In June 2006, this area was rezoned from OB-1 to the RC District, which replaced the R-1 district under new nomenclature introduced in the 2006 Land Use Plan. In June 2011, the Superior Court ruled that the 2006 Land Use Plan element and the rezoning were not arbitrary, capricious or unreasonable. However, the Court ruling, amended in August 2011, required that one lot within the area (Block 68, Lot 3) be re-zoned back to OB-1 based on a 1999 Consent Order that settled prior litigation. The Court ruling further provided that, should the owner of the lot fail to submit a complete application for the development of the site within a reasonable amount of time, the Township could then seek relief from the 1999 Consent Order to allow the rezoning. As a complete application for development of the site has not been filed, and more than a reasonable amount of time has passed since the 2011 amended ruling, it is recommend that the property be rezoned to be within the RC District to be consistent with the 2006 Land Use Plan, but that the Township first seek and obtain from the Court relief from the 1999 Consent Order before actually adopting an ordinance amendment re-zoning the lot.

- g. OB-2 District, north side of Beaver Avenue. Add the lot on the northeast corner of Center Street and Beaver Avenue to the OB-2 District because it has been a mixed use in the past and would be more consistent with adjacent zoning.

Addressed. Lot added to OB-2 District.

- h. Removal of OB-3 District. The only parcel in this district, on Gray Rock Road and Beaver Avenue, was purchased by the Clinton Township Board of Education, and a new Middle School currently is under construction on the property. The area should be changed to an R-2 District or, alternatively, to a new Public District.

Addressed. The Middle School site was rezoned to be within the RR-4 District, which, together with the RR-4S District, replaced the R-2 district under new nomenclature introduced in the 2006 Land Use.

- i. R-3 District between Allerton and Regional Roads, west of Route 31. The Town of Clinton sewage treatment plant does not have adequate capacity to serve this area. The area should be changed from the R-3 to the R-2 District.

Addressed. This area was rezoned to be within the RR-4S District, which, together with the RR-4 District, replaced the R-2 District under new nomenclature introduced in the 2006 Land Use Element.

3. Development Regulations

The 2005 Reexamination Report included a number of recommended changes to development regulations. The status of each item is provided.

- a. Definition of Building Height. Revise definition to measure building height to the top ridge line on a building rather than to the mid-point of the roof.

Relevant/Action Item. The building height definition was revised in 2006 to require that building height be measured to the level of the highest point of the roof surface, except in the case of sloping roofs in the RI and R2 Districts where building height is to be measured to the midpoint of the roof. The Board recommends that the definition be revised to be consistent for all zones, and has recently submitted a draft ordinance amendment to the Township Council for review.

- b. Building Height Limit. Increase from 26' to 35' in the C-1, and decrease from 46' to 35' in the OB-1 District.

Addressed.

- c. PDO Option in ROM-2. Eliminate PDO option in ROM-2, as no lots meet the minimum 250 acre lot size requirement.

Addressed.

- d. Permitted Density in the R-1, R-2, and R-3 District. Based on the recommendations of the 2003 “Evaluation of Groundwater Resources of Clinton Township, Hunterdon County, New Jersey” the maximum permitted density for development served by septic systems in the R-2 and R-3 Districts should be one unit per 4 acres, and in the R-1 District should be 9 acres.

Addressed. The 2006 Land Use Element replaced the R-1, R-2 and the R-3 Districts with the Rural Conservation (RC) and Rural Residential (RR-4 and RR-4S) Districts and established permitted densities in these districts consistent with recommendation of the 2005 Reexamination Report, which were then implemented through an amendment of the zoning ordinance.

- e. Sexually Oriented Businesses. The ordinance should be reviewed and revised, if necessary, by the Township Attorney to reflect the current state of statutory and case law on this matter.

Relevant/Action Item. This recommendation has yet to be addressed and remains valid.

- f. Plastic Garages. The ordinance standards addressing accessory buildings and structures should be reviewed so that these structures are curtailed or eliminated.

Addressed.

- g. Unclear Definitions. Review and revise unclear definitions in the zoning ordinance, including those affecting restaurants, fast-food restaurants and convenience stores.

Relevant/Action Item. This recommendation has yet to be addressed and remains valid.

- h. Noise Control. Revise noise control standards to order to address potential conflicts between adjoining land uses.

Relevant/Action Item. This recommendation has yet to be addressed and remains valid.

- i. Wellhead Protection. Amend development regulations to incorporate the relevant findings of the wellhead protection study.

Not Relevant/Revised Action. As part of the Township's conformance with the Highlands Regional Master Plan (RMP), a Highlands Land Development Ordinance will be adopted which includes wellhead protection measures.

- j. Irrigation. Consider an ordinance to require use of on-site well water for irrigation on residential properties where public water supplies are provided.

Not Relevant/Revised Action. As part of the Township's conformance with the Highlands Regional Master Plan (RMP), a Highlands Land Development Ordinance will be adopted which includes measures to protect public water supplies.

- k. Conservation Easements. Formulate recommendations from draft ordinance prepared by Environmental Commission to create a reasonable and enforceable ordinance.

Relevant/Action Item. This recommendation has yet to be address and remains valid.

- l. Recreation and Historic Preservation Standards. Review the Township's recreation and historic preservation standards for clarity and applicability.

Relevant/Action Item. This recommendation has yet to be address and remains valid.

4. **Extension of Molasses Hill Road**

An extension of Molasses Hill Road to this ROM-1 district is recommended to relieve traffic on Route 31 and Allerton Road and possibly connect to Bundt Park.

Not Addressed. No action recommended at this time.

5. **ROM-1 Planning Analysis**

The ROM-1 at Route 31 and Route 22 is a critical area for long-term planning, which consists largely of the Exxon property. A thorough analysis of the planning options for this portion of the ROM-1 zone is recommended.

Not Addressed. No action recommended at this time.

6. **Water and Sanitary Sewer Utility Plan Element Amendment**

The 2005 Reexamination Report recommended that this element be amended so that the areas to be served are consistent with the available capacity.

Not Relevant/Revised Action Item. As part of the Township’s conformance with the Highlands Regional Master Plan (RMP), a Highlands Element will be adopted which includes a Utility Service Plan. Additionally, a draft Wastewater Management Plan will be prepared by the Highlands Council in collaboration with the Township and NJDEP, and provided to the NJDEP for final review, public comment and adoption.

C. **OTHER RECOMMENDATIONS**

The following additional recommendations are in response to issues and concerns that have arisen since the 2005 Reexamination Report:

1. **Affordable Housing**

The recommendations below pertain to proposed and potential affordable housing sites in the Township. *(See also Section V, Redevelopment Planning, regarding affordable housing at proposed and potential redevelopment sites.)*

- a. **Marookian Site.** The Marookian site (Block 82, Lots 4 and 4.03) is a 139.3-acre Township-owned tract that is identified in the Township’s 2015 Housing Plan Element and Fair Share Plan (HPE&FSP) as a proposed site for affordable housing, with 119 affordable housing units proposed to be developed on a portion of the tract. The majority of the site is currently encumbered with a restriction limiting use of the property to open space purposes; however, the Township has had discussions indicating the feasibility of obtaining a “diversion” to enable the site to be developed with affordable housing if the Township restricts other acreage for open space. As discussed in Section II, the Township’s HPE&FSP is subject to review in the trial court process ordered by the Supreme Court ruling

of March 10, 2015, and the Township is continuing to develop options for providing affordable housing while the Court's determination is pending. If the Marookian site is retained as a proposed site for affordable housing site as part of the Township's approved HPE&FSP, then the Board recommends it be rezoned to be within a new Affordable Housing (AH) District.

- b. **Identification of Additional Affordable Housing Sites.** Since the adoption of the 2015 Housing Plan Element and Fair Share Plan, the Township has continued to seek additional sites for affordable housing, including the potential development of affordable housing at the Beaver Brook Homestead site (Block 60.03, Lot 26). A concept development plan presented to the Township Council on September 23, 2015 proposed 66 units of affordable housing at this site, and the Township recently authorized a preliminary investigation to determine whether the property would qualify as an area in need of redevelopment (See *Section V, Redevelopment Planning*). Should the proposed affordable housing development prove feasible, this site should be added to the Township's housing plan, in conjunction with any revisions required to the plan subject to review in the trial court process ordered by the Supreme Court ruling of March 10, 2015. Additionally, in order to create informed policies with respect to the location of affordable housing, it is recommended that an examination of potential sites be undertaken, pursuant to a set of comparative criteria, that reflects broader land use policies and ensures thoughtful integration of affordable housing within Clinton Township. The land use regulations and zoning designations of sites fulfilling such criteria should be amended accordingly as necessary. As noted below, the Township should also prepare a Highlands Map Adjustment Petition(s) where needed for affordable housing sites.

- c. **Alton Place.** Along the Township's border with the Town of Clinton, there is an approximately 16 acre lot (B. 79.07, Lot 1) located to the south of Alton Place within the RR-4s/PUD Overlay District that contains a single family residence. The property is bordered by residential condominium developments to the east and west, and by the Beaver Brook golf club to the south. The Board recommends that this site be examined for possible rezoning to the VR District to encourage residential redevelopment of this site at an appropriate density and with an inclusionary affordable housing component. The rezoning analysis should include an examination of the development capacity of the site in light of constraints on sewer and water service.

2. **Highlands Plan Conformance**

The Township's Petition for Plan Conformance approved by the Highlands Council on June 18, 2015 included an Implementation Plan Schedule that identifies the following Master Plan elements, development regulations, planning studies, and related documents to be addressed by the Township as part of the plan conformance process:

- a. **Housing Plan and Fair Share Plan.** As noted in Section II, the Township intends to amend its Housing Plan Element and Fair Share Plan, as needed, based on the Court's preliminary determination regarding its affordable housing obligation. The housing plan should also be amended to incorporate any new affordable housing sites as discussed above.
- b. **Highlands ERI.** The Township's Petition for Plan Conformance approved by the Highlands Council on June 18, 2015 included a proposed Highlands Environmental Resources Inventory (ERI) which identifies and depicts the natural and cultural resources present in Clinton Township. As an integral component of a master plan, an ERI functions as the basis for development of natural resources protection ordinances. The Planning previously adopted a Natural Resources Inventory in 2002. The Board recommends that the Highlands ERI be finalized and adopted as an amendment to the 2002 Natural Resources Inventory, and as a component of the Master Plan.
- c. **Highlands Master Plan Element.** The Township's Petition for Plan Conformance approved by the Highlands Council on June 18, 2015 included a proposed Highlands Element of the Municipal Master Plan, which is attached as an Appendix to this report. The Planning Board recommends that the proposed Highlands Element as approved by the Highlands Council be finalized and adopted as part of the Clinton Township Master Plan, including modifications to the underlying objectives, policies and standards of the Master Plan as outlined in the attached proposed Highlands Element.
- d. **Highlands Land Use Ordinance.** A copy of the proposed Highlands Land Use Ordinance that was included with the Township's Petition for Plan Conformance approved by the Highlands Council on June 18, 2015 is attached as an Appendix to this report. The Planning Board recommends that the specific changes to the Township's development regulations as detailed in the attached Highlands Land Use Ordinance, be adopted by the Township Council to implement the objectives, policies and standards as outlined in the Highlands Master Plan Element. In

addition, the Township recommends interim changes to the Township's development application checklist requirements effective until such time as the Highlands Land Use Ordinance is adopted and put into place by the Township Council. These changes would require that evidence of consistency with the Highlands Regional Master Plan be submitted with development applications as a requirement of application completeness.

- e. **Zoning Map.** The Township's zoning map should be amended to reflect the Highlands zones and districts.
- f. **Sustainable Economic Plan Element.** An economic development plan element is an optional element within a Master Plan. Under the MLUL, an Economic Development Plan element:

“considers all aspects of economic development and sustained economic vitality, including (a) a comparison of the types of employment expected to be provided by the economic development to be promoted with the characteristics of the labor pool resident in the municipality and nearby areas and (b) an analysis of the stability and diversity of the economic development to be promoted” (N.J.S.A. 40:55 D-28)

Adoption of a Sustainable Economic Plan Element, which focuses on promoting appropriate, sustainable and environmentally compatible economic development, is identified as an implementation item in the schedule accompanying the Township's approved Petition for Plan Conformance. To help implement the Master Plan objective of maintaining a stable economy and a favorable property tax base, it is recommended that a Sustainable Economic Plan Element be prepared and adopted.

- g. **Agricultural Retention/Farmland Preservation Plan Element.** A farmland preservation plan is another optional element within a Master Plan, and is required to include the following:
 - *An inventory of farm properties and a map illustrating significant areas of agricultural land;*
 - *A statement showing that municipal ordinances support and promote agriculture as a business; and*
 - *A plan for preserving as much farmland as possible in the short term by leveraging monies made available through the Farmland Preservation Planning Incentive Grant program which may include option agreements,*

installment purchases, and donations of permanent development easements, among other techniques.

Adoption of an Agricultural Retention/Farmland Preservation Plan Element, is identified as an implementation item in the schedule accompanying the Township's approved Petition for Plan Conformance. Development of this element is recommended to help address the Master Plan objective of preserving farmland and supporting farming operations in the community.

- h. **Affordable Housing Site Map Adjustment(s).** Currently proposed affordable housing sites as well as potential new affordable housing sites will need to be evaluated for consistency with the Highlands RMP. For sites where a Highlands Map Adjustment is required, the Township should prepare a petition requesting the map adjustment, supported by detailed mapping and planning analysis, including development of proposed resource management or mitigation plans as needed to be required as a condition of approval.
- i. **Highlands Center Designation Study – Annandale.** The Annandale area of Clinton Township began as a commercial center that developed around a depot of the New Jersey Central Railroad. It has since grown into a largely residential center, and provides easy access to area highways, including Route 78, Route 22 and Route 31, in addition to the NJ Transit rail line. The area has the potential for redevelopment and expansion, and may be suitable for affordable housing development, given its access to transportation and its existing infrastructure; however there is a need to protect existing historic, cultural and environmental resources in this area. Preparation of a Highlands Center Petition Study focusing on the Annandale area is identified as an optional item in the implementation schedule that accompanied the Township's approved Petition for Plan Conformance. The Planning Board supports the preparation of this study to identify the boundaries of the center, identify the goals and objectives for the center, and to evaluate the development capacity of this area in relationship to the goals and objectives of the Highlands RMP and the Township Master Plan, including affordable housing goals and objectives.
- j. **Stream Corridor Protection/Restoration Plan.** The development of a plan to protect and restore streams in the municipality and to mitigate the impacts of future land use on these water resources should be provided. Implementing ordinances, such as a stream corridor ordinance, should also be adopted as needed.

- k. **Wastewater Management Plan.** The Water Quality Management Planning Rules (N.J.A.C. 7:15) adopted by the New Jersey Department of Environmental Protection (NJDEP) require that all areas of New Jersey are addressed by Wastewater Management Plans (WMP). As the Highlands Council has now approved a Petition for Plan Conformance for the entire Township, it will develop a draft WMP in collaboration with the Township and NJDEP. The Township should review and approve the draft WMP, so that it can be provided to NJDEP for final review, public comment and adoption.
- l. **Municipal Stormwater Master Plan.** The Township's 2005 Stormwater Management Report should be updated to incorporate the provisions of the Highlands Regional Master Plan.

3. Parks and Open Space

The Township's parkland and preserved open space are primarily located in residential zones, with a few sites located in, or partially in, nonresidential zones. The Land Use Plan should be revised to provide a separate land use district for parkland and preserved open space sites, and the land use ordinance and zoning map revised accordingly, to ensure the appropriate uses and on-going preservation of these lands. The Township should also ensure that the Township's Recreation and Open Space Inventory (ROSI) and mapping of parks and open space is up to date.

4. Site Plan Review Exemptions

Under the Township's land use regulations, site plan review and approval or, at minimum, an application for a waiver of site plan review, is required for activities such as replacement of lighting and mechanical equipment. The Planning Board recommends the land use ordinance be amended to exempt these types of activities altogether from site plan review (even from having to apply for a waiver of site plan review), and make the activities subject to review by the zoning officer.

5. References to Former R1 and R2 Zones

The Township's land use ordinance and zoning map should be amended to remove references to the former R1 and R2 zone districts.

6. Checklist Requirements

Currently, the Township’s land use ordinance does not include checklist requirements for an amended site plan or an amended subdivision application. The land use ordinance should be revised to include checklist requirements for these types of applications and the checklist revised accordingly.

7. Buffer Requirements

The Township’s buffer standards have been somewhat difficult to interpret and apply. There are perimeter buffer standards that apply to all development, as well as enhanced buffer standards for nonresidential development. However, the enhanced buffer standards are almost entirely specific to development within a particular zone, resulting in potential “gaps” where there is no enhanced buffer such as for a nonresidential development in a residential zone (such as in the case of a use variance application.) The Board recommends that the buffer standards be revised to provide a more clear and comprehensive approach and to resolve any gaps in the buffer requirements.

8. ROC District

Under the 2006 Land Use Plan Element, the Research Office and Commercial (ROC) District was created to permit an opportunity for limited commercial development, in addition to research and office uses. However, with the elimination of the previously proposed East Clinton treatment plant, the development potential for this area of the Township is very limited. Additionally, the 126 acre tract that comprises virtually the entire ROC zone is currently being developed as a commercial farm, containing two existing residences and a proposed farm market and greenhouse at the northern end, with the remaining lands to be farmed. The remaining 4.3 acre lot within the ROC District contains a residence and also appears to be used for commercial agricultural purposes. The Board thus recommends that the ROC zone be eliminated and replaced with the C-2 zone or other appropriate zoning, to encourage the continued commercial agricultural use in this area of the Township.

V. REDEVELOPMENT PLANNING

New Jersey's Local Redevelopment and Housing Law (LRHL) provides the statutory authority for municipalities to designate an "area in need of redevelopment," prepare and adopt redevelopment plans, and implement redevelopment projects. As discussed below, the Township has designated one redevelopment area and has authorized a preliminary investigation to determine if a second area may be in need of redevelopment. A third site, also discussed below, is being considered for possible future redevelopment.

FORMER MUNICIPAL BUILDING REDEVELOPMENT AREA

On June 1, 2015, the Planning Board approved the May 7, 2015 Non-Condemnation Redevelopment Plan for the Former Municipal Building Site (Block 53, Lot 3). The Township adopted the Redevelopment Plan at its meeting on August 12, 2015. The approximately one acre site is located Annandale section of the Township and contains the Township's Municipal Building which has been vacant for 15 years. The Redevelopment Plan proposes that the building be renovated to provide residential units, including three (3) affordable housing units, and sets forth the standards for site development. The zoning map should be amended to indicate the Former Municipal Building Redevelopment Area and to reference the adopted Redevelopment Plan for this site.

BEAVER BROOK HOMESTEAD

On October 14, 2015, the Township authorized and directed the Planning Board to conduct a preliminary investigation to determine whether the Beaver Brook Homestead site (Block 60.03, Lot 26), is an area in need of redevelopment. The approximately 10.5 acre site contains the historic Beaver Brook Homestead, which has been vacant for many years and is in poor condition. Should the site be determined to be in need of redevelopment, the Township intends to facilitate development of affordable housing at the site by directing the Planning Board to prepare a Redevelopment Plan.

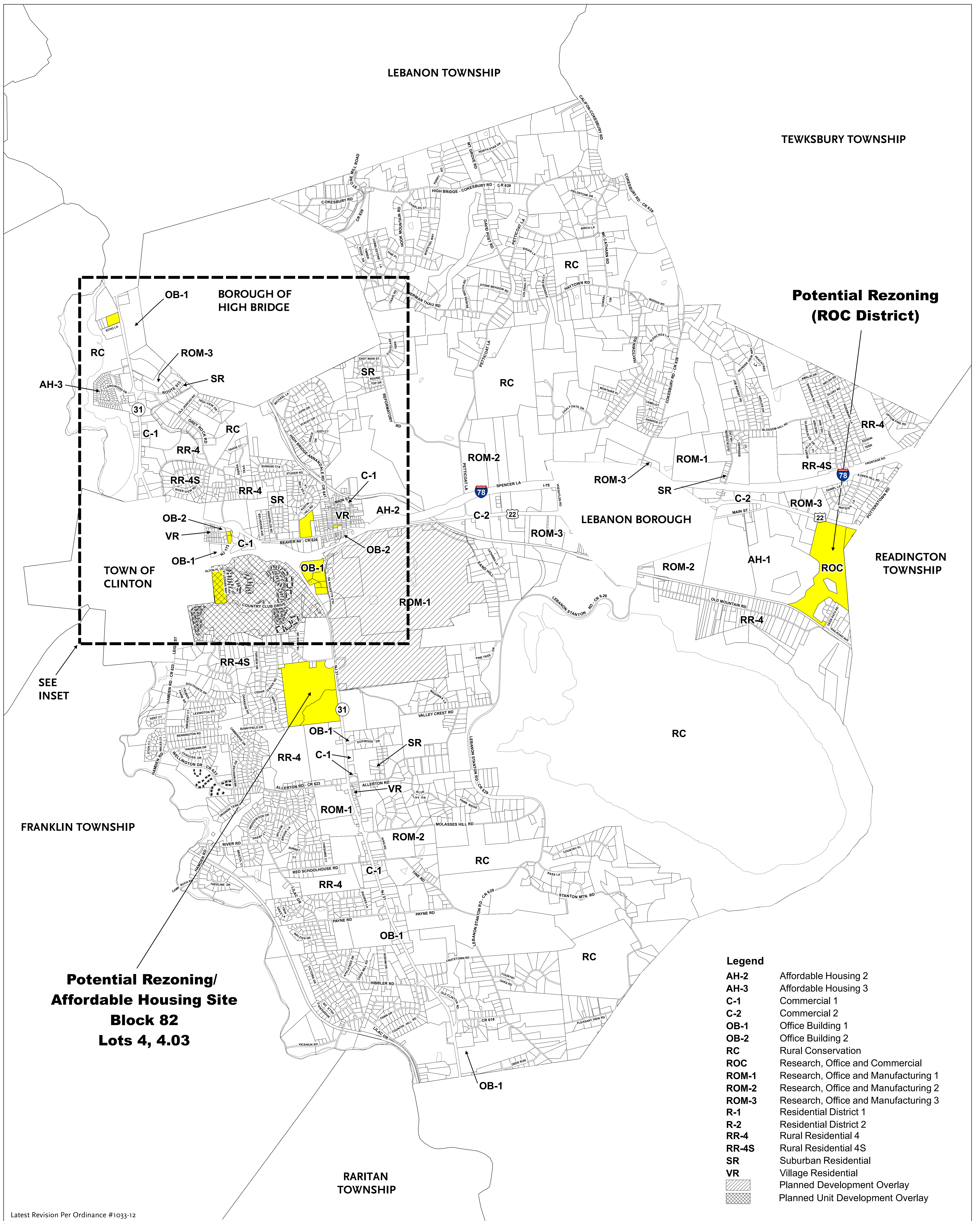
OLD ALLERTON ROAD

In 2008, the Township Board of Adjustment approved a use variance and subdivision application that proposed 85 units of affordable housing and rehabilitation of the historic McGloughan Mansion/Runkle House on a site comprised of five existing lots. (Block 58, Lot 4, 5, 6, 7, and 7.01.) However, the project did not obtain financing and was not developed. The Board believes that it may be feasible to rehabilitate the historic dwelling as part of a

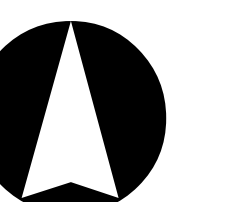
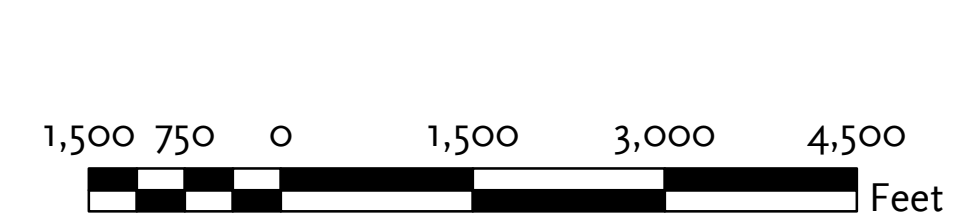
future mixed use residential and commercial non-condemnation redevelopment of the site, in conjunction with non-condemnation redevelopment of two adjacent properties to the north and northwest (Block 58, Lots 9 and 10). As such, the Board recommends that the Township consider authorizing a study to conduct a preliminary investigation of the Old Allerton Road site (Block 58, Lots 4, 5, 6, 7, 7.01, 9 and 10) to determine whether it would qualify as an area in need of redevelopment.

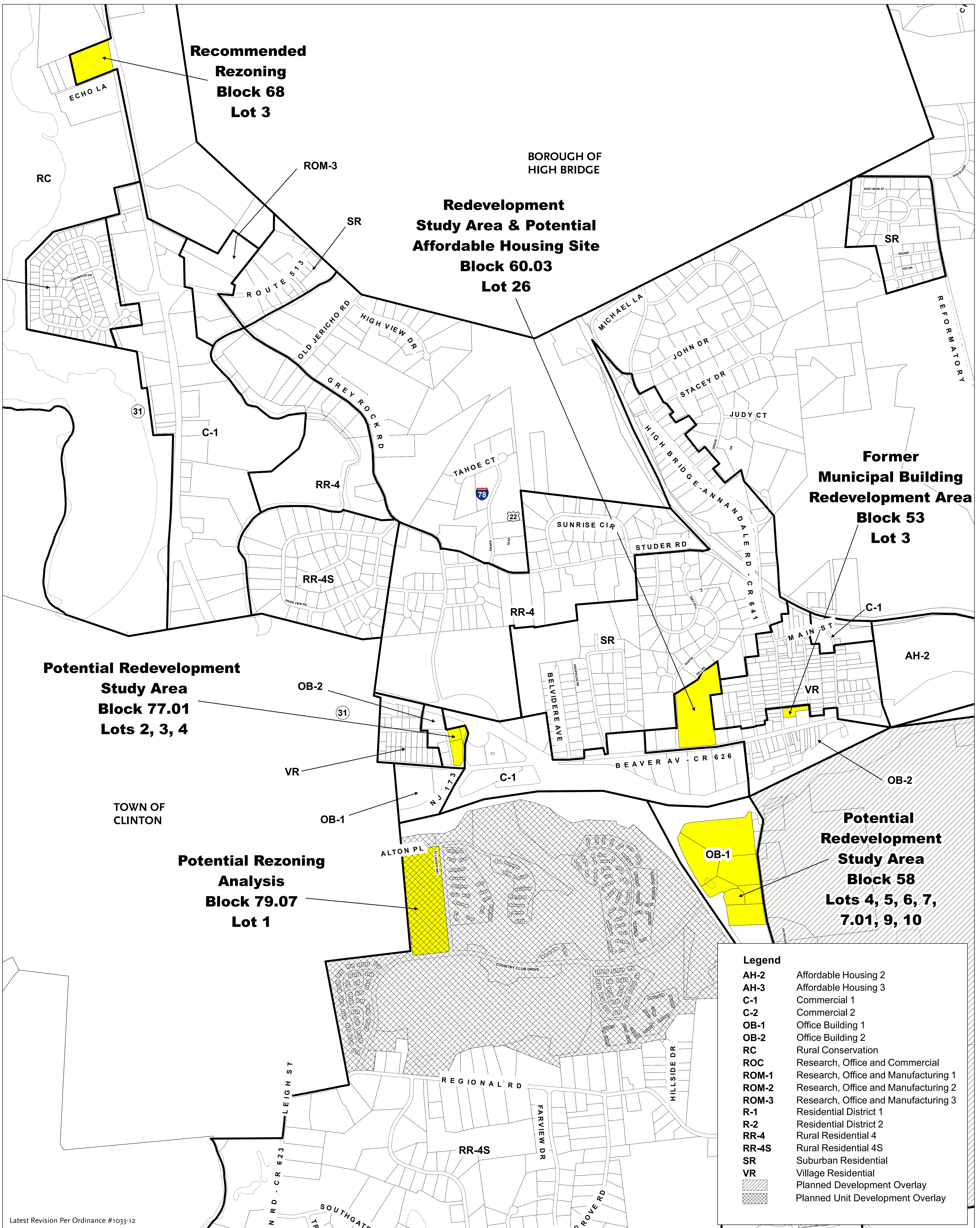
GRAYROCK ROAD

On the east side of Grayrock Road, south of Route 31, the Old Coldwell Realty site (B. 77.01, Lot 3) contains a vacant office building, and a historic dwelling along its Center Street frontage, which is now in disrepair. The Board believes that it may be feasible to rehabilitate the historic dwelling through non-condemnation redevelopment of the property, in conjunction with the non-condemnation redevelopment of two adjacent properties to the north (B. 77.01, Lots 2 and 4), owned by Yager Engineering. The Board recommends that the Township consider authorizing a study to conduct a preliminary investigation of the Grayrock Road site (B. 77.01, Lots 2, 3 and 4) to determine whether it would qualify as an area in need of redevelopment.

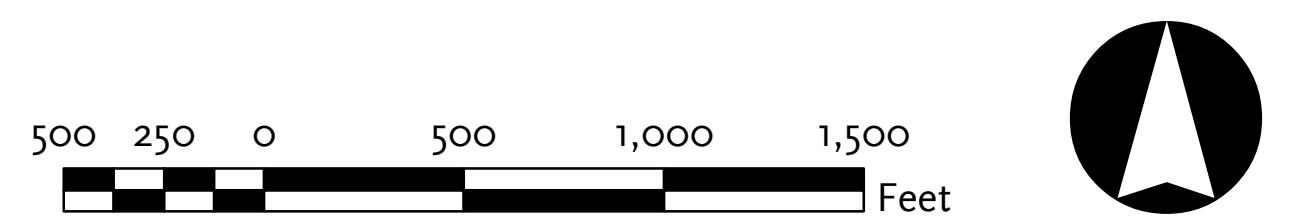


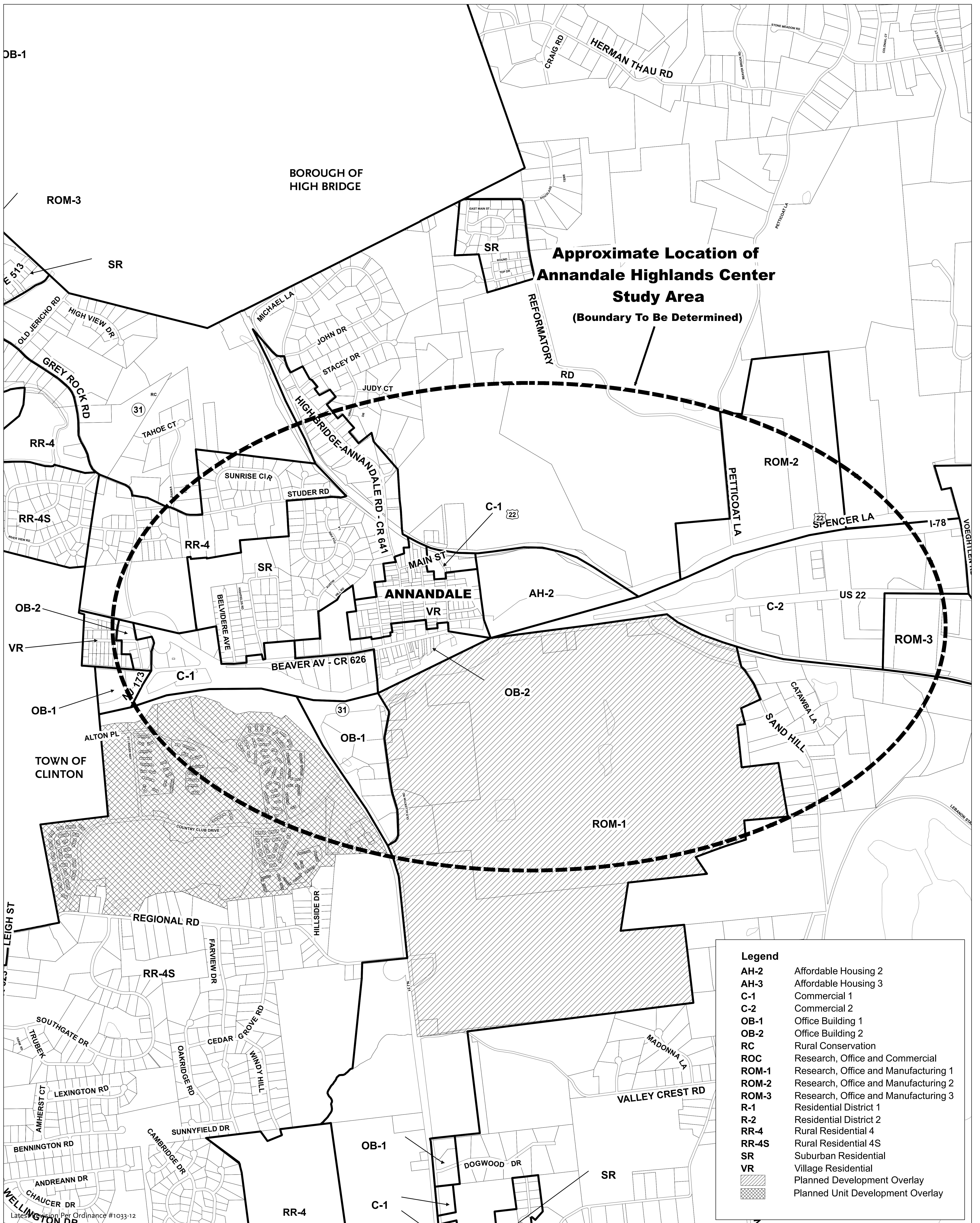
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