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Attorneys for Plaintiff Adoni Property Group, LLC

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION  
MONMOUTH COUNTY  
DOCKET NO. MON-L-1260-23

-----X	:	
ADONI PROPERTY GROUP, LLC,	:	
	:	
Plaintiff,	:	Civil Action
	:	
v.	:	<b>CERTIFICATION OF</b>
	:	<b>CHRISTINE A. NAZZARO-</b>
TOWNSHIP OF MIDDLETOWN and MAYOR	:	<b>COFONE</b>
AND COUNCIL OF THE TOWNSHIP OF	:	
MIDDLETOWN,	:	
	:	
Defendants.	:	
	:	
-----X	:	

Christine A. Nazzaro-Cofone, of full age, hereby  
certifies as follows:

1. I am a licensed professional planner in the state  
of New Jersey and principal for Cofone Consulting Group, LLC, who  
provides municipal consulting services to municipalities  
throughout the State.

2. My firm was responsible for preparing the  
Middletown Township Affordable Housing Non-Compliance Report and

Site Suitability Analysis ("Report") for properties located at 490 Red Hill Road, designated as Block 1045, Lot 12, on the tax map of the Township of Middletown ("Middletown") and 1114 Nut Swamp Road and Dwight Road, designated as Block 1045, Lots 2, 3, and 4 on the tax map of the Township (collectively, the "Properties").

3. The Report, dated October 5, 2023, concludes Middletown is not compliant with its affordable housing obligation and each of Plaintiff's sites are "available, approvable, developable, and suitable" for construction of affordable housing. A copy is attached hereto as **Exhibit A**.

*Christine A. Nazzaro-Cofone*

CHRISTINE A. NAZZARO-COFONE

Dated: October 5, 2023

EXHIBIT A



CHRISTINE A. COFONE, PP, AICP  
*Principal*

COFONE CONSULTING GROUP, LLC

**MIDDLETOWN TOWNSHIP AFFORDABLE HOUSING NON-COMPLIANCE  
REPORT AND SITE SUITABILITY ANALYSIS**

Prepared for:

Adoni Property Group, LLC

Prepared by:

Cofone Consulting Group  
125 Half Mile Road, Suite 200  
Red Bank, New Jersey 07701

October 5, 2023

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Christine A. Nazzaro-Cofone, AICP, PP  
New Jersey Professional Planner License #5517

125 Half Mile Road, Suite 200 • Red Bank, New Jersey 07701 • Office: 732.933.2715 • Fax: 732.933.2601 • Cell: 732.439.6400

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E-mail: [ccofone@cofoneconsulting.com](mailto:ccofone@cofoneconsulting.com) • [www.cofoneconsulting.com](http://www.cofoneconsulting.com)

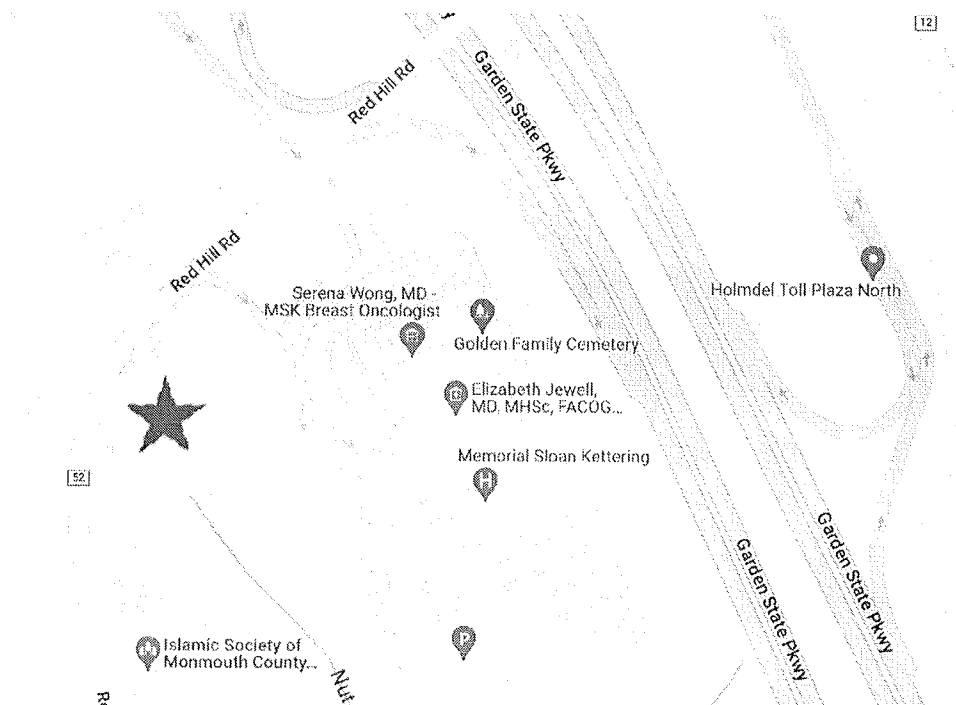
## **INTRODUCTION**

This site suitability analysis and report on the Township of Middletown's ("Township") non-compliance with its constitutionally-mandated affordable housing obligation has been prepared for Adoni Property Group, LLC ("Adoni") in support of litigation against the Township. The Township has failed to create sufficient realistic opportunities for the development of housing affordable to low and moderate income persons so as to satisfy the Township's fair share of the unmet regional need for such housing.

Adoni is ready, willing, and able to build inclusionary developments at Block 1045, Lot 12 and Block 1045, Lots 2, 3, 4. Both sites are detailed in this analysis.

## **SITES IN QUESTION**

An entity controlled by Adoni, "490 Red Hill LLC," owns the property at 490 Red Hill Road ("Red Hill Site"), identified as Block 1045, Lot 12. The Site is approximately 2.58-acres and located within the R-45 Zone.



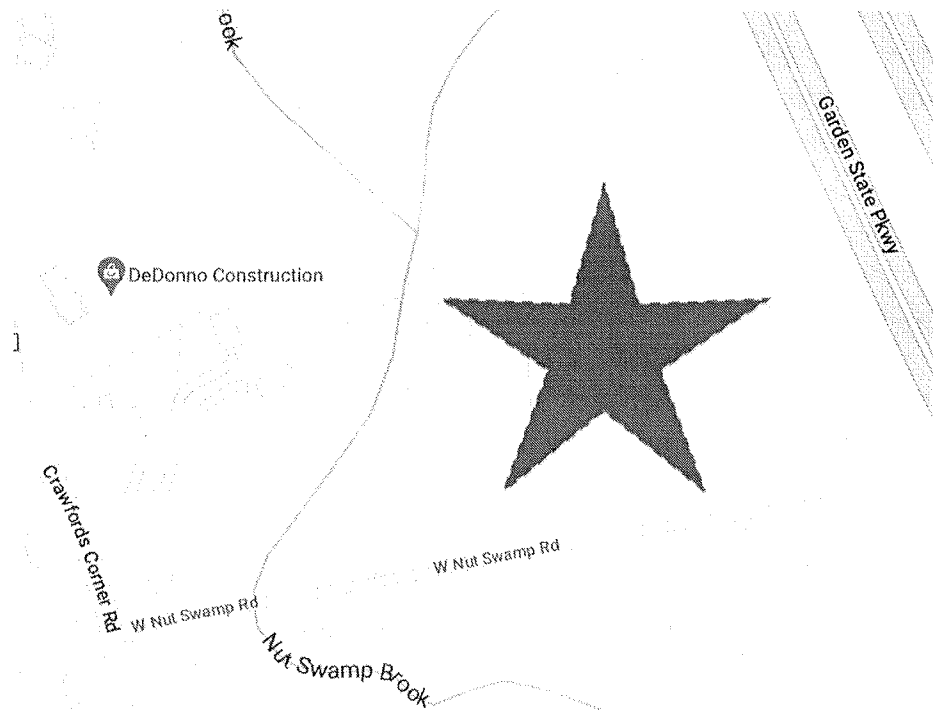
The Red Hill Site is indicated by the red star. (Google Maps)

A Letter of Interpretation issued by the New Jersey Department of Environmental Protection ("NJDEP") on May 25, 2023, contained in "Exhibit A," indicated that

“freshwater wetlands and waters are not present” and “no part of the (site) occurs within a transition area or buffer.”

The contemplated development plan for the Red Hill Site includes a four-story apartment building, consisting of 70 units, with a 15% set-aside (11 units) for low and moderate income housing.

Adoni is also the managing member of The Franklin at Middletown, LLC, the owner of property located at Nut Swamp Road, 1114 Nut Swamp Road and Dwight Road in the Township (“Nut Swamp Site”), identified as Block 1045, Lots 2, 3, 4. The Site is approximately 18.18-acres and located within the R-45 Zone.



The Red Hill Site is indicated by the red star. (Google Maps)

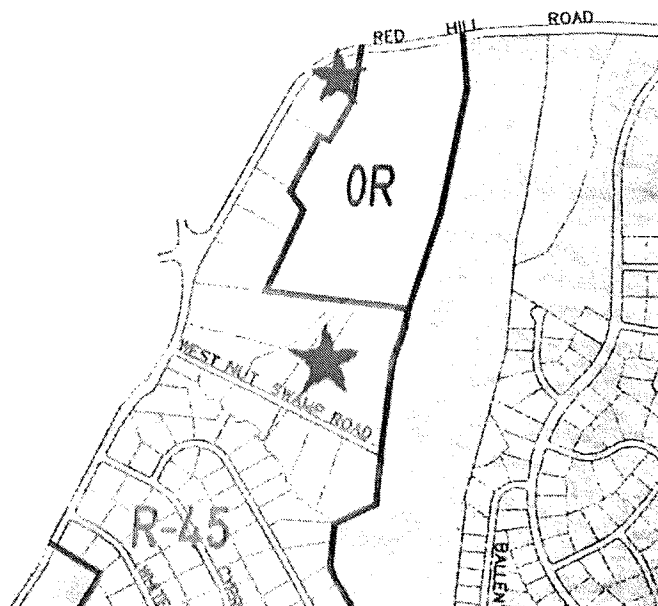
A Letter of Interpretation issued by the NJDEP on August 23, 2023, contained in “Exhibit A,” indicated that the wetlands and water boundary line(s) as shown on the “wetlands map” on the site prepared by CPL Partnership is accurate as shown.

The contemplated development plan for the Nut Swamp Site includes six four-story apartment buildings, consisting of 408 units, with a 15% set-aside (62 units) for low and moderate income housing.

Adoni is ready, willing, and able to construct multi-family residential buildings on both sites.

### **CURRENT ZONING**

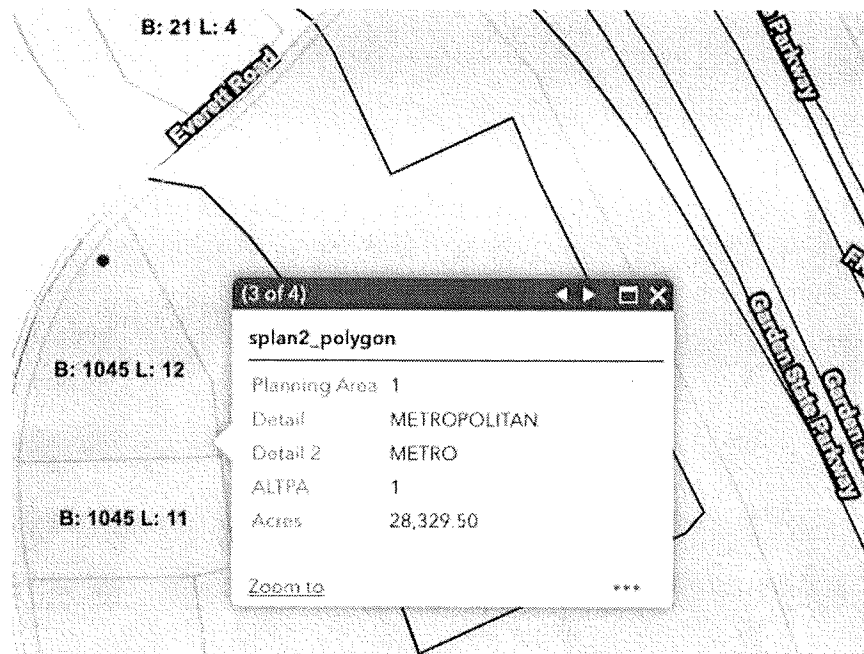
Both sites are located within the R-45 Zone, which designates single-family detached dwellings and mother-daughter dwellings as the only permitted residential uses, and does not provide a realistic opportunity for the development of affordable housing.



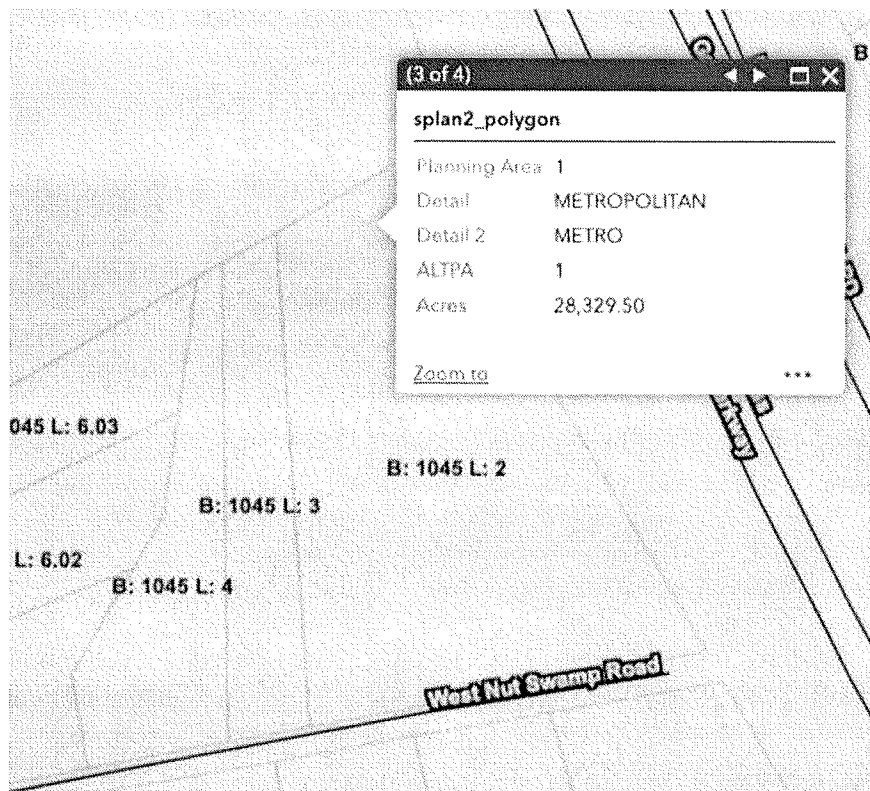
The Sites are indicated by the red star. (Township Zoning Map)

### **SITE DEVELOPMENT AND REDEVELOPMENT PLAN CLASSIFICATION**

Both Sites are located within the State Development and Redevelopment Plan's Metropolitan Planning Area 1 (PA-1). The purpose of the Metropolitan Planning Area is to provide for much of the state's future redevelopment; revitalize cities and towns; promote growth in compact forms; stabilize older suburbs; redesign areas of sprawl; and protect the character of existing stable communities.



The Red Hill Site (excerpt from NJ-GeoWeb)



The Nut Swamp Site (excerpt from NJ-GeoWeb)



## **TOWNSHIP AFFORDABLE HOUSING PLANNING AND CURRENT FAIR SHARE OBLIGATION**

The Township's Third-Round obligation is 1,026 affordable housing units, per Mercer County Superior Court Judge Mary C. Jacobson's (Ret.) Third Round obligation methodology, encompassing the Gap Need (1999-2015) and the Prospective Need (2015-2025), issued on March 8, 2018.

In the 2023 Amendment to the Middletown Township 2008 Housing Element and Fair Share Plan ("2023 Amendment"), the Township claims that it "has demonstrated a long-standing commitment to providing its fair share of affordable housing. A simple review of the demographics and diverse housing types within the Township demonstrates that Middletown clearly has not used its zoning powers to exclude low and moderate income households."

The 2023 Amendment further states that "there is a need to provide affordable rental units throughout the Township based on the number of renter-occupied, cost burdened and severely cost burdened households. Accordingly, landowners who have expressed an eagerness to provide affordable rental units as part of an inclusionary development have been given priority consideration."

Moreover, the 2023 Amendment includes the following Housing Element goals:

1. To provide affordable housing by demonstrating that existing zoning and planned changes in zoning provide adequate capacity to accommodate household and employment growth projections; and,
2. To provide households with access to affordable housing to meet present and prospective housing needs, with particular attention to low and moderate income housing.

*The Township's actions, and its outstanding Third-Round obligation, are incongruent with the pro-affordable housing statements contained within the 2023 Amendment.*

In the 2023 Amendment, the Township states that "over 350 affordable units have been issued certificates of occupancy since 2008, adding that those "affordable units come in many forms such as for-sale family units, senior, and family rentals and accessory rental apartments."

*Assuming the accuracy of the 350 affordable units coming online since 2008, there remains a deficit of 676 affordable units.* While the gross value does not include rental bonus credits at 25%, which would reduce the obligation, there remains an enormous obligation of hundreds of units.

The Township's Zoning Ordinance does not create sufficient opportunities for the construction of low and moderate income housing sufficient to meet the Township's obligations under Mount Laurel I, Mount Laurel II, and the NJFHA for the First, Second, and Third Rounds.

The 2023 Amendment states that "substantial weight is given to reducing cost burdens shouldered by low and moderate income households" when considering lands that are most appropriate for the provision of affordable housing. The 2023 Amendment further cites the following characteristics for sites that are more appropriate:

- Adjacent to or within one mile of major shopping and services
- Location that promotes walking to places of employment and the use of modes of transportation other than vehicles (mass transit, bicycling)
- Proximity to highways and major arterial roadways to reduce length of daily vehicular trips
- Component of a mixed-use development promoting sustainability and smart growth
- Location within the Metropolitan Planning Area (PA-1), an area designated by the State Plan as most suitable for growth and residential infill
- Locations that re-use underutilized, developed land
- Locations that will make efficient use of existing infrastructure

The Township has identified specific sites as suitable for affordable housing in the 2023 Housing Plan:

- 1) "195 Leonardville Road - The Middletown Veterans' Housing project will provide 12 residential units within a three-story, 21,660 square foot multifamily building with associated parking, drainage improvements, landscaping and lighting. The entire building will be above the base flood elevation."
- 2) "Port Belford Redevelopment Plan presents an opportunity for waterfront multi-family residential development and mixed use development that is proximate to ferry transportation."

- 3) “North Middletown Redevelopment Plan for Block 70, Lots 1-3 – Located in the Bayshore North Middletown neighborhood, this area is a designated non-condemnation redevelopment area with a Redevelopment Plan in place to permit mixed use development including 20 residential units and 1,700 square feet of nonresidential space. The area is developed with an existing towing and repair operation and unoccupied deli/convenience store that has since been demolished.”
- 4) “Designated Redevelopment Area for Block 1131, Lots 30-32 and Block 1086, Lots 29-30 – Located along Newman Springs Road (CR 520) east of the Garden State Parkway. The area is developed with older, multi-story office buildings that have notable vacancy rates and surface parking lots. Consistent with the Township’s methodology for identifying sites suitable and appropriate for affordable housing, the area is proximate to public transportation, existing and developed, and presents an opportunity for efficient use of existing infrastructure.”
- 5) “East Point Shopping Center (Block 729, Lot 21) – Existing shopping center along the Route 36 Corridor. The owner has expressed interest in redeveloping the site with inclusionary multifamily development. The site is consistent with the Township’s methodology as potentially appropriate and suitable for inclusionary multifamily residential development such that it is proximate to public transportation, efficient use of existing infrastructure, and developed with no significant disturbance to environmentally sensitive features.”

With the exception of the 195 Leonardville Road site, the sites are all aspirational for affordable housing. There is no guarantee that these sites will be developed exactly as envisioned, whereas Adoni is ready, willing, and able to provide affordable units to the Township.

#### **STANDARD OF REVIEW FOR A SITE SUITABILITY DETERMINATION FOR AFFORDABLE HOUSING**

In accordance with the Council on Affordable Housing’s site suitability criteria found at N.J.A.C. 5:93-1.3, all sites to be used for affordable housing purposes must be “available, approvable, developable, and suitable,” as follows:

- “Available site” means a site with clear title, free of encumbrances which preclude development for low and moderate income housing.

- “Approvable site” means a site that may be developed for low and moderate income housing in a manner consistent with the rules or regulations of agencies with jurisdiction over the site. A site may be approvable although not currently zoned for low and moderate income housing.
- “Developable site” means a site that has access to appropriate water and sewer infrastructure, and is consistent with the applicable area wide water quality management plan (including the wastewater plan) or is included in an amendment to the area wide water quality management plan submitted to and under review by the DEP.
- “Suitable site” means a site that is adjacent to compatible land uses, has access to appropriate streets and is consistent with the environmental policies delineated in N.J.A.C. 5:93-4.

In addition to the above qualifications, it is also sound planning for sites to be consistent with the State Development and Redevelopment Plan. Sites that are located in “Planning Area 1: Metropolitan” or “Planning Area 2: Suburban” of the State Development and Redevelopment Plan, or are located in an existing sewer service area, are the preferred location for municipalities to address their fair share obligations.

### **SITE SUITABILITY EVALUATION OF THE SUBJECT SITES**

The Sites are “available, approvable, developable, and suitable.”

#### *Red Hill Site*

- Available: No title or deed restriction encumbrances or other hindrances that would preclude an inclusionary development.
- Approvable: The development of the subject property is supported by local, regional and state planning policies. The proposed plan would fit the site and meet the applicable regulatory criteria for development approvals.
- Developable: An LOI issued by the NJDEP indicates that “freshwater wetlands and waters are not present” and “no part of the (site) occurs within a transition area or buffer. Evidence provided from NJDEP Geoweb shows the site within the water franchise area. Though the site was previously excluded from the sewer service area based on the erroneous conclusion that the site is encumbered by wetlands, the LOI confirms this conclusion is not accurate. For that reason the site qualifies for inclusion in the sewer service area. Based on other developments adjacent to the site, there is water and sewer service available in the area, as well as other public utilities such as electric, telephone, and communications.
- Suitable: An inclusionary development would be compatible with the surrounding land use context of residential, office, and vacant land uses.

There is direct access to multiple roadways that feed into the local and regional road network, including the proximate Garden State Parkway. The Site is also within walking distance to Memorial Sloan Kettering Cancer Center Monmouth, a major employer, and a quick drive to Bellworks, another employer. The proposed gross density of approximately 27.13 dwelling units/acre is appropriate and less than the approximately 32.31 gross dwelling units/acre contemplated in the above-detailed North Middletown Redevelopment Plan. From a site planning perspective, there is an appropriate amount of open space proposed on the site, which is clear evidence of the site not being overdeveloped. The site is not within a flood zone.

#### *Nut Swamp Site*

- Available: No title or deed restriction encumbrances or other hindrances that would preclude an inclusionary development.
- Approvable: The development of the subject property is supported by local, regional and state planning policies. It is also located within existing sewer and water service areas. The proposed plan would fit the site and meet the applicable regulatory criteria for development approvals.
- Developable: Evidence provided from NJDEP Geoweb shows the site within both the sewer service area and the water franchise area. Based on other developments adjacent to the Sites, there is water and sewer to the area, as well other public utilities such as electric, telephone, and communications. An LOI indicates that the wetlands and water boundary line(s) as shown on the "wetlands map" on the site prepared by CPL Partnership is accurate as shown. As such, there is sufficient land available for an inclusionary development.
- Suitable: An inclusionary development would be compatible with the surrounding land use context of residential, medical office, and vacant land uses. There is direct access to multiple roadways that feed into the local and regional road network, including the proximate Garden State Parkway. The Site is also within walking distance to Memorial Sloan Kettering Cancer Center Monmouth, a major employer, and a quick drive to Bellworks, another employer. The proposed gross density of approximately 22.44 dwelling units/acre is appropriate and less than the approximately 32.31 gross dwelling units/acre contemplated in the above-detailed North Middletown Redevelopment Plan. From a site planning perspective, there is an appropriate amount of open space proposed on the site, which is clear evidence of the site not being overdeveloped. The site is not within a flood zone.

It is important to note that the 2023 Amendment identified both sites and described them as follows:

“The Red Hill Road site (Block 1045, Lot 12) is currently vacant and utilized as informal and illegal storage of vehicles and landscape equipment. This site is not large, containing just over 2 acres, and environmentally sensitive features such as steep slopes. All potential residents at this site would be entirely dependent on personal vehicles due to the site’s remote location from public transportation.”

**RESPONSE:** Any environmentally sensitive features on the site, including steep slopes, would not hinder a reasonable inclusionary development. Not being on an immediate public transportation route does not render a site inappropriate for affordable housing. As a Special Master for numerous municipalities throughout New Jersey, I have supported inclusionary developments on many such sites.

According to the 2023 Affordable Income Limits prepared by the Affordable Housing Professionals of New Jersey, a 3 person household (such as a couple with a child) in Region 4 (includes Monmouth County) has a moderate income limit of \$93,639 and a low income limit of \$58,524. It is not unreasonable to assume that at those incomes, a couple can share a vehicle, and furthermore, especially in suburban New Jersey, not all places of employment are accessible by public transportation.

The Site also shares similarities to the Port Belford Redevelopment Plan and North Middletown Redevelopment Plan sites identified by the Township in the 2023 Amendment as appropriate for affordable housing, in that it is not “adjacent to or within one mile of major shopping and services,” which in itself is not contrary to affordable housing.

“The West Nut Swamp Road site (Block 1045, Lots 2, 3 and 4) contains over 18 acres of undeveloped, heavily wooded land with environmentally sensitive areas such as steep slopes and wetlands. The ROW of West Nut Swamp Road is 50’ wide, and paved for approximately 900’ and changes over to gravel for the remaining length. In somewhat close proximity to the DeFelice property, all potential residents at this site would be entirely dependent on personal vehicles due to the site’s remote location from public transportation.”

**RESPONSE:** The wetlands, as confirmed by an LOI, and steep slopes would not hinder a reasonable inclusionary development. Not being on an immediate public transportation route also does not render a site inappropriate for affordable

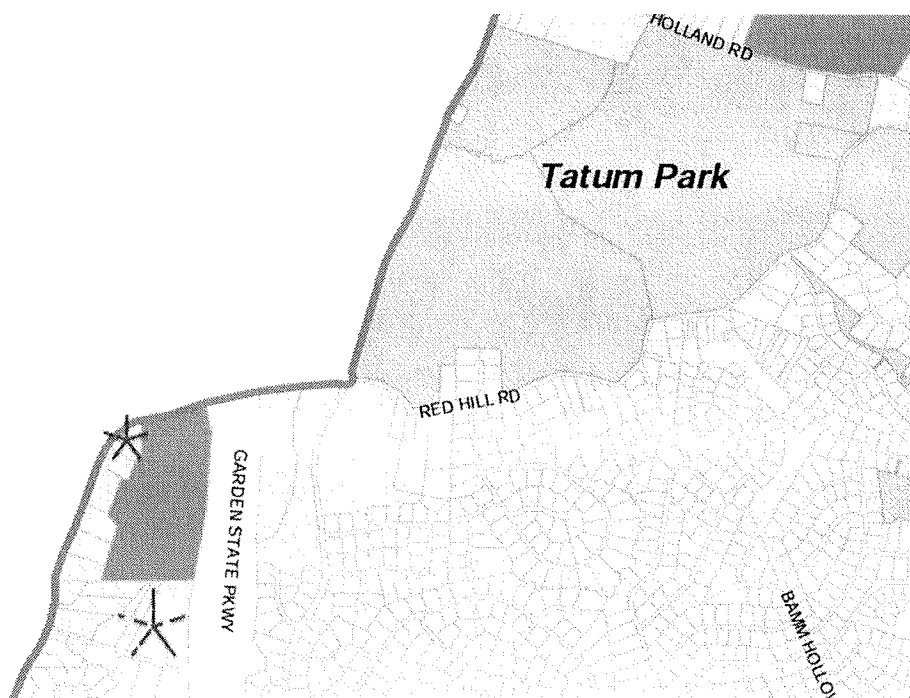


housing. As a Special Master for numerous municipalities throughout New Jersey, I have supported inclusionary developments on many such sites.

According to the 2023 Affordable Income Limits prepared by the Affordable Housing Professionals of New Jersey, a 3 person household (such as a couple with a child) in Region 4 (includes Monmouth County) has a moderate income limit of \$93,639 and a low income limit of \$58,524. It is not unreasonable to assume that at those incomes, a couple can share a vehicle, and furthermore, especially in suburban New Jersey, not all places of employment are accessible by public transportation.

The Site also shares similarities to the Port Belford Redevelopment Plan and North Middletown Redevelopment Plan sites identified by the Township in the 2023 Amendment as appropriate for affordable housing, in that it is not “adjacent to or within one mile of major shopping and services,” which in itself is not contrary to affordable housing.

Moreover, the 2004 Future Land Use Plan of the Master Plan classified both sites, denoted by the red stars below, as “Residential.” Note that “Tatum Park” is classified as “Open Space / Recreation.”



*Excerpt from the 2004 Future Land Use Plan of the Master Plan*

As such, as long as nearly 20 years ago, the Township found both sites as appropriate for housing, in the face of its recent actions via Ordinance 2023-3371 to condemn both for open space and recreational purposes.

The 2008 Amended Housing Element and Fair Share Plan contains sites that had been considered for affordable housing but have limitations and are "less appropriate." It is noteworthy that both sites that are the subject of this analysis are not included in the list, only first appearing in the limitations list within the 2023 Master Plan Reexamination Report and Amended Housing Master Plan Element. It is further noteworthy that multiple sites appear on both the 2008 and 2023 limitations list, including "Murray Construction," "Bamm Hollow," and "DeFelice."

This begs the question of why the subject sites suddenly appeared on the "less appropriate" for affordable housing due to environmental limitations, when obviously those alleged limitations existed in 2008.

## **CONCLUSION**

Both Adoni sites meet the Council on Affordable Housing's site suitability criteria at N.J.A.C. 5:93-1.3, and the developer is ready, willing, and able to build two inclusionary developments to assist the Township in reducing its constitutionally-mandated affordable housing obligation.



## **APPENDIX A**

### ***Red Hill Site - NJDEP Letter of Interpretation***



#### **State of New Jersey**

PHILIP D. MURPHY  
Governor

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
Division of Land Resource Protection  
Mail Code 501-02A  
P.O. Box 420  
Trenton, New Jersey 08625-0420  
[www.nj.gov/dep/landuse](http://www.nj.gov/dep/landuse)

SHAWN M. LATOURETTE  
Commissioner

SHEILA Y. OLIVER  
Lt. Governor

May 25, 2023

Peter Moncateli  
c/o Franklin at Middletown, LLC.  
123 South Ave.  
Westfield, NJ 07090

RE: **Letter of Interpretation: Presence/Absence Determination**  
File No.: 1331-23-0003.1  
Activity Number: FW230001  
Applicant: Peter Moncateli  
Block(s) and Lot(s): [1045, 12]  
Middletown Twp, Monmouth County

Dear Mr. Moncateli:

This letter is in response to your request for a Letter of Interpretation from the Division of Land Resource Protection indicating the presence or absence of freshwater wetlands and waters on the referenced property.

In accordance with agreements between the State of New Jersey Department of Environmental Protection (NJDEP), the U.S. Army Corps of Engineers (USACOE) Philadelphia and New York Districts, and the U.S. Environmental Protection Agency (USEPA), the NJDEP, Division of Land Resource Protection is the lead agency for establishing the extent of State and Federally regulated wetlands and waters. The USEPA and/or USACOE retains the right to reevaluate and modify the jurisdictional determination at any time should the information prove to be incomplete or inaccurate.

Based upon the information submitted, and upon a site inspection conducted by the staff of the Department on May 12, 2023, the Division of Land Resource Protection has determined that **freshwater wetlands and waters are not present** on the referenced property. In addition, the Department has determined that **no part of the above referenced property occurs within a transition area or buffer** as designated in N.J.A.C. 7:7A-3.3(d)1 and 2.

*Please be advised that any surface water features on the site or adjacent to the site may possess flood hazard areas and/or riparian zones and development within these areas may be subject to the Flood Hazard Area Control Act rules at N.J.A.C. 7:13. The Department can verify the extent of flood hazard areas and/or riparian zones through a flood hazard area verification under the application procedures set forth at N.J.A.C. 7:13-5.1.*

DLRP File No.: 1331-23-0003.1 FWW230001

Page 2 of 2

Pursuant to the Freshwater Wetlands Protection Act Rules (N.J.A.C. 7:7A), you are entitled to rely upon this jurisdictional determination for a period of five years from the date of this letter. This letter in no way legalizes any fill which may have been placed, or other regulated activities which may have been conducted on this site. This determination does not affect your responsibility to obtain any State, Federal, county or municipal permits which may be required.

In accordance with N.J.A.C. 7:7A-21, any person who is aggrieved by this decision may request a hearing within 30 days of the date the decision is published in the DEP Bulletin by writing to: New Jersey Department of Environmental Protection, Office of Legal Affairs, Attention: Adjudicatory Hearing Requests, Mail Code 401-04L, P.O. Box 402, 401 East State Street, 7<sup>th</sup> Floor, Trenton, NJ 08625-0402. This request must include a completed copy of the Administrative Hearing Request Checklist found at [www.state.nj.us/dep/landuse/forms](http://www.state.nj.us/dep/landuse/forms). Hearing requests received after 30 days of publication notice may be denied. The DEP Bulletin is available on the Department's website at [www.state.nj.us/dep/bulletin](http://www.state.nj.us/dep/bulletin). In addition to your hearing request, you may file a request with the Office of Dispute Resolution to engage in alternative dispute resolution. Please see the website [www.nj.gov/dep/odr](http://www.nj.gov/dep/odr) for more information on this process.

Please contact Taryn Pittfield of our staff by e-mail at [taryn.pittfield@dep.nj.gov](mailto:taryn.pittfield@dep.nj.gov) or (609) 777-0454 should you have any questions regarding this letter. Be sure to indicate the Department's file number in all communication.

Sincerely,  
*Michael Tropiano*

Michael Tropiano

Date: 2023.05.25

Michael Tropiano, Environmental Specialist 3  
Division of Land Resource Protection

e-copy: Municipal Clerk  
Municipal Construction Official  
Agent (original)

*Nut Swamp Site - NJDEP Letter of Interpretation*



**State of New Jersey**

PHILIP D. MURPHY  
Governor

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
Watershed and Land Management Program  
Mail Code 501-02A  
P.O. Box 420  
Trenton, New Jersey 08625-0420  
[www.nj.gov/dep/landuse](http://www.nj.gov/dep/landuse)

SHAWN M. LATOURETTE  
Commissioner

SHEILA Y. OLIVER  
Lt. Governor

August 23, 2023

Adoni Property Group  
c/o Peter Mercatili  
123 South Ave  
Westfield, NJ 07090

RE: **Freshwater Wetlands Letter of Interpretation: Line Verification**  
File No.: 1331-06-0004.1  
Activity Number: FWW230001  
Applicant: Adoni Property Group  
Block(s) and Lot(s): [1045, 2] [1045, 3] [1045, 4]  
Middletown Township, Monmouth County

Dear Mr. Mercatili:

This letter is in response to your request for a Letter of Interpretation to have Division of Land Resource Protection (Division) staff verify the boundary of the freshwater wetlands and/or State open waters on the referenced property.

In accordance with agreements between the State of New Jersey Department of Environmental Protection (NJDEP), the U.S. Army Corps of Engineers (USACOE) Philadelphia and New York Districts, and the U.S. Environmental Protection Agency (USEPA), the NJDEP is the lead agency for establishing the extent of State and Federally regulated wetlands and waters. The USEPA and/or USACOE retain the right to reevaluate and modify the jurisdictional determination at any time should the information prove to be incomplete or inaccurate.

Based upon the information submitted, and upon a site inspection conducted by Division staff on July 13, 2023, the Division has determined that the wetlands and waters boundary line(s) as shown on the plan map entitled: **"WETLANDS MAP LOTS 2, 3, & 4 BLOCK 1045 WEST NUT SWAMP ROAD TOWNSHIP OF MIDDLETOWN MONMOUTH COUNTY NEW JERSEY"**, consisting of one sheet, dated January 3, 2023, last revised August 3, 2023, and prepared by Richard G. Ruchalski of CPL Partnership, is accurate as shown.

The freshwater wetlands and waters boundary line(s), as determined in this letter, must be shown on any future site development plans. The line(s) should be labeled with the above file number and the following note:

**"Freshwater Wetlands/Waters Boundary Line as verified by NJDEP"**

*New Jersey is an Equal Opportunity Employer. Printed on Recycled Paper and Recyclable*

DLRP File No.: 1331-06-0004.1 FWW230001

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**Wetlands Resource Value Classification ("RVC")**

In addition, the Division has determined that the resource value and the standard transition area or buffer required adjacent to the delineated wetlands are as follows:

**Intermediate:** All wetland flag points. [50-foot wetland buffer]

**State open waters:** Within the wetland boundary. [No wetland buffer]

The Division has also determined there are freshwater wetlands offsite, west of the subject property, with an Intermediate Resource Value, resulting in transition area on the subject property, as shown on the approved plan.

RVC may affect requirements for wetland and/or transition area permitting. This classification may affect the requirements for an Individual Wetlands Permit (see N.J.A.C. 7:7A-9 and 10), the types of Statewide General Permits available for the property (see N.J.A.C. 7:7A-5 and 7) and any modification available through a transition area waiver (see N.J.A.C. 7:7A-8). Please refer to the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.) and implementing rules for additional information.

Wetlands resource value classification is based on the best information available to the Division. The classification is subject to reevaluation at any time if additional or updated information is made available, including, but not limited to, information supplied by the applicant.

**General Information**

Pursuant to the Freshwater Wetlands Protection Act Rules, you are entitled to rely upon this jurisdictional determination for a period of five years from the date of this letter unless it is determined that the letter is based on inaccurate or incomplete information. Should additional information be disclosed or discovered, the Division reserves the right to void the original letter of interpretation and issue a revised letter of interpretation.

Regulated activities proposed within a wetland, wetland transition area or water area, as defined by N.J.A.C. 7:7A-2.2 and 2.3 of the Freshwater Wetlands Protection Act rules, require a permit from this office unless specifically exempted at N.J.A.C. 7:7A-2.4. The approved plan and supporting jurisdictional limit information are now part of the Division's public records.

*Please be advised that any surface water features on the site or adjacent to the site may possess flood hazard areas and/or riparian zones and development within these areas may be subject to the Flood Hazard Area Control Act rules at N.J.A.C. 7:13. The Division can verify the extent of flood hazard areas and/or riparian zones through a flood hazard area verification under the application procedures set forth at N.J.A.C. 7:13-5.1.*

This letter in no way legalizes any fill which may have been placed, or other regulated activities which may have occurred on-site. This determination of jurisdiction extent or presence does not make a finding that wetlands or water areas are "isolated" or part of a surface water tributary system unless specifically called out in this letter as such. Furthermore, obtaining this determination does not affect your responsibility to obtain any local, State, or Federal permits which may be required.

**Recording**

DLRP File No.: 1331-06-0004.1 FWW230001

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Within 90 calendar days of the date of this letter, the applicant shall submit the following information to the clerk of each county in which the site is located, and shall send proof to the Division that this information is recorded on the deed of each lot referenced in the letter of interpretation:

1. The Department file number for the letter of interpretation;
2. The approval and expiration date of the letter of interpretation;
3. A metes and bounds description of the wetland boundary approved under the letter of interpretation;
4. The width and location of any transition area approved under the letter of interpretation; and
5. The following statement: "The State of New Jersey has determined that all or a portion of this lot lies in a freshwater wetland and/or transition area. Certain activities in wetlands and transition areas are regulated by the New Jersey Department of Environmental Protection and some activities may be prohibited on this site or may first require a freshwater wetland permit. Contact the Division of Land Resource Protection at (609) 777-0454 or <http://www.nj.gov/dep/landuse> for more information prior to any construction onsite."

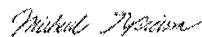
Failure to have this information recorded in the deed of each lot and/or to submit proof of recording to the Division constitutes a violation of the Freshwater Wetlands Protection Act rules and may result in suspension or termination of the letter of interpretation and/or subject the applicant to enforcement action pursuant to N.J.A.C. 7:7A-22.

#### Appeal Process

In accordance with N.J.A.C. 7:7A-21, any person who is aggrieved by this decision may request a hearing within 30 days of the date the decision is published in the DEP Bulletin by writing to: New Jersey Department of Environmental Protection, Office of Legal Affairs, Attention: Adjudicatory Hearing Requests, Mail Code 401-04L, P.O. Box 402, 401 East State Street, 7<sup>th</sup> Floor, Trenton, NJ 08625-0402. This request must include a completed copy of the Administrative Hearing Request Checklist found at [www.state.nj.us/dep/landuse/forms](http://www.state.nj.us/dep/landuse/forms). Hearing requests received after 30 days of publication notice may be denied. The DEP Bulletin is available on the Department's website at [www.state.nj.us/dep/bulletin](http://www.state.nj.us/dep/bulletin). In addition to your hearing request, you may file a request with the Office of Dispute Resolution to engage in alternative dispute resolution. Please see the website [www.nj.gov/dep/odr](http://www.nj.gov/dep/odr) for more information on this process.

Please contact Taryn Pittfield of our staff by e-mail at [taryn.pittfield@dep.nj.gov](mailto:taryn.pittfield@dep.nj.gov) or by phone at (609) 777-0454 should you have any questions regarding this letter. Be sure to indicate the Department's file number in all communication.

Sincerely,



Digitally signed by Michael  
Tropiano  
Date: 2023.08.23 08:03:01-04'00'

Michael Tropiano, Environmental Specialist 3  
Division of Land Resource Protection

e-copy: Municipal Clerk  
Municipal Construction Official  
Agent (original)



## **APPENDIX B**

### *Qualifications*

Christine A. Nazzaro-Cofone is a licensed professional planner in the state of New Jersey. Throughout her nearly 30-year planning career, she has provided municipal consulting services to numerous municipalities and a state agency and testimony for private clients at hundreds of land use boards throughout New Jersey. She currently serves as an Affordable Housing Special Master in multiple New Jersey Superior Court vicinages and has been involved in numerous settlements between municipalities and the Fair Share Housing Center.

Ms. Nazzaro-Cofone has been retained by many of the nation's largest retailers in complex land use matters before Planning Boards and Zoning Boards of Adjustment. Municipal work includes the authoring of diverse land use documents, such as land development codes, housing plans, comprehensive master plans, and redevelopment investigations and plans. Private land development consulting work includes expert witness testimony, expert reports, community impact statements, and fiscal impact statements. She has also testified on innumerable signage packages including those that needed variance relief on behalf of both local and nationally recognizable brands as well as reviewed same in her capacity of a municipal and state planner.

She is an Adjunct Instructor with the Rutgers Center for Government Services, providing instruction on the Municipal Land Use Law to planning board and zoning board of adjustment members and has previously served as the Secretary of the American Planning Association, New Jersey chapter. Ms. Nazzaro-Cofone holds a Master of City and Regional Planning from the Rutgers University Edward J. Bloustein School of Planning and Public Policy.



## Curriculum Vitae

### **Christine A. Nazzaro-Cofone, AICP/PP**

**Cofone Consulting Group, LLC**  
125 Half Mile Road, Suite 200 • Red Bank, NJ  
07701 Office: (732) 933-2715 • Cell: (732)  
439-6400 ccofone@cofoneconsulting.com

#### **Land Development Consultant**

Exceptional career in land development with more than 25 years of experience in both private and public sectors. Retained by many of the nation's largest retailers in complex land use matters before Planning Boards and Zoning Boards of Adjustment. Municipal work includes authoring diverse land use documents such as land development codes, housing plans, and comprehensive master plans. Resourceful leader, decision maker, and problem solver.

#### **Areas of Expertise**

##### **Municipal Planning Services:**

Comprehensive Master Planning • Development Escrow Reviews • Re-Examination Reports • Housing Plans  
Traditional & Form Based Zoning Codes • Redevelopment Area Investigations & Plans • Impact Studies

##### **Private Land Development Consulting:**

Expert Witness Testimony • Expert Reports • Community Impact Statements • Fiscal Impact Statements

##### **Court Appointed Affordable Housing Special Master:**

- 20 Municipalities in multiple counties

#### **Education**

**RUTGERS UNIVERSITY** New Brunswick, NJ  
**Edward J. Bloustein School of Planning & Public Policy**  
*Master of City and Regional Planning (MCRP), 1996*

**BLOOMSBURG UNIVERSITY**, Bloomsburg, PA  
*Bachelor of Arts in Political Science and Public Administration, 1994*

#### **Licenses / Affiliations**

##### **Professional Registrations:**

P.P. – Professional Planner (#33LI00551700)  
A.I.C.P. – American Institute of Certified Planners (#104079)

##### **Professional Affiliations:**

American Planning Association, Member  
American Institute of Certified Planners, Member  
National Association of Professional Women (NAPW)

#### **Professional Experience**

**COFONE CONSULTING GROUP, LLC**, Red Bank, NJ  
**Principal ■ May 2009 – Present**

**PHILLIPS, PREISS, SHAPIRO & ASSOCIATES, INC.**, New York, NY  
**Managing Partner of the Red Bank Office ■ June 2007 – May 2009**

*Recruited to open and manage the firm's Red Bank office.*



**Christine A. Nazzaro-Cofone, AICP/PP**

Page 2

### Professional Experience (continued):

SCHOOR DEPALMA (Currently CMX), Manalapan, NJ  
Associate ■ May 2001 – May 2007

TOWNSHIP OF MIDDLETOWN, Middletown, NJ  
Senior Planner ■ Oct. 2000 – May 2001

SCHOOR DEPALMA (Currently CMX), Manalapan, NJ  
Staff Planner ■ Sept. 1996 – Oct. 2000

### Teaching Experience & Speaking Engagements

RUTGERS CENTER FOR GOVERNMENT SERVICES, New Brunswick, NJ  
Adjunct Land Use Instructor ■ Sept. 2006 – Present

INSTITUTE OF CONTINUING LEGAL EDUCATION  
Panelist for seminars

*Most Recent Seminar: "How to get your site plan or variance approved ... and what to do if it isn't"*

ATLANTIC BUILDERS CONFERENCE  
Keynote Speaker

*Topic: Transit Oriented Development (TOD) and Redevelopment*

### Select Client List

Represented a diverse list of commercial clients on complex land use matters. Clients have included Wal-Mart, Wawa, Quick Chek, National Realty & Development Company, K. Hovnanian Company, Matrix Development Company, Mason & Jennings Development Company, R.J. Brunelli & Company, and The Briad Group.

Municipal clients have included the Borough of Glen Rock, Township of Ewing, Township of Berkeley, Township of Lakewood, and Township of Edison.

### Additional Experience

Pro Bono land development consulting work for Strengthen our Sisters, a shelter dedicated to ending the cycle of domestic violence for women and children. Represent organization in land use issues and projects.

References, project lists, and additional information furnished upon request.