

COMMUNITY PLANNING  
LAND DEVELOPMENT AND DESIGN  
LANDSCAPE ARCHITECTURE

PRINCIPALS:  
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B U R G I S  
A S S O C I A T E S , I N C .

May 22, 2025

The Honorable Judge Jones  
Monmouth County Courthouse  
71 Monument Street  
Freehold, New Jersey 07728

Re: Adoni Property Group, LLC, v. Township of Middletown and Mayor & Council of Township of Middletown  
Docket No. MON-L-1260-23  
BA#: 4175.00

Your Honor,

Pursuant to my latest meeting with the Township and the Adoni representatives, I have prepared this report regarding the suitability of Adoni's two properties, namely the West Nut Swamp Road property and the Red Hill Road site, for multi-family inclusionary development. I am submitting this report in my capacity as Special Adjudicator in the above captioned matter.

This report follows a series of meetings between the parties and myself as we attempted to come to form a consensus regarding the sites' suitability for inclusionary development along with an acceptable level of intensity-of-use that the parties could mutually agree upon. While we appear to have been able to form a framework of agreement with respect to the Nut Swamp Road site, we were unable to establish any consensus regarding Adoni's Red Hill Road property. Thus, I have informed the parties that I will be submitting this report wherein I will detail a framework for a settlement with respect to Nut Swamp Road and offer my opinion as to whether the Red Hill Road site merits a designation as an inclusionary development site.

The following is offered for consideration.

#### DOCUMENTS REVIEWED

In addition to the documents noted in my April, 2024 report, I have also reviewed the following for the purposes of this report:

1. Master Plan Reexamination Report & Amended Housing Master Plan Element and Open Space, Recreation and Conservation Master Plan Element, adopted March 22, 2023.
2. Report from Christine Cofone PP, AICP on behalf of Adoni Property Group LLC entitled Middletown Township Affordable Housing Non-Compliance Report and Site Suitability Analysis, dated October 5, 2023.
3. Conceptual Residential Development Plans, Nut Swamp Road, prepared by MidAtlantic Engineering on behalf of Adoni Property Group LLC, dated February 4, 2025.
4. Preliminary Site Plan, Red Hill Development, prepared by MidAtlantic Engineering on behalf of Adoni Property Group LLC, dated February 4, 2025.
5. Report from Caorline Reiter, PP. AICP on behalf of Middletown Township entitled Site Suitability Analysis – Planning Rebuttal Report, dated September 30, 2024.
6. Report from Charles Cunliffe PE, PP, CME on behalf of Middletown Township entitled Site Suitability Analysis – Engineering Rebuttal Report, dated September 30, 2024.
7. Report from Princeton Hydro on behalf of Middletown Township entitled Environmental Resource Inventory, dated September 2024.
8. Certification of Christine Cofone dated October 5, 2023.

## RED HILL ROAD SITE

### Site Description

This site is located on the east side of Red Hill Road, between Crawfords Corner Road and the Garden State Parkway, with an address of 490 Red Hill Road. It is in a R-45 Zone wherein single-family dwellings and mother/daughter homes are permitted.

The site occupies an area of 2.56 acres according to the applicant's submission (tax map data identifies it as being 2.18 acres in area) and is irregular in shape. Its dimensions include 496 feet of frontage on Red Hill Road and a depth that varies from slightly more than 300 feet in the northerly portion of the site to 365 feet along its southerly boundary. Surrounding land uses include scattered detached residential development, a house of worship, and Memorial Sloan Kettering which is to the east (rear) of the subject site.

The property is characterized by a steep topography. Elevations range from 229 feet along Red Hill Road in the northwesterly corner of the site to 182 feet along the site's southerly boundary. This represents an overall slope of approximately 12 percent. However, it is notable that while the site is typified by a more moderate slope immediately off of Red Hill Road, a significant portion of the property is characterized by a much steeper topographic differential. A review of the available data indicates that nearly 60 percent of the property, accounting for nearly 1.5 acres of the 2.56-acre lot, is characterized by slopes of greater than 15 percent gradient, with more than half of that total

characterized by slopes of 25+ percent grade. These steep sloped areas of the site extend throughout the central and easterly portions of the property.

### Proposed Development

The developer has proposed a multi-story 70-unit apartment building consisting of four residential floors atop two parking levels. The proposed building height, as noted on the plans, is 6 stories/63.3 feet. The proposed density of 70 units on 2.56 acres is 27.3 units per acre. By way of comparison, all but one multi-family residential zone in Middletown permits no more than 20 units per acre; one Planned Development Zone permits up to 35 units per acre on a minimum 20 acre lot, with no more than 50 percent of the lot allowed to be developed for multi-family residential use with the remainder of the lot allowed to be developed with single-family dwellings, office and retail uses. The developer's concept plan is shown on an accompanying page. The bedroom distribution is shown below.

**Table No.1**  
**Bedroom Distribution**  
**Red Hill Road Property**

| No. Bedrooms       | Market Rate Units | Affordable Units | Total           |
|--------------------|-------------------|------------------|-----------------|
| One Bedroom        | 16 Units          | 2 Units          | 18 Units        |
| Two Bedrooms       | 43 Units          | 6 Units          | 49 Units        |
| Three Bedrooms     | 0 Units           | 3 Units          | 3 Units         |
| <b>Total Units</b> | <b>59 Units</b>   | <b>11 Units</b>  | <b>70 Units</b> |

Source: Preliminary Site Plan, Red Hill Development, prepared by MidAtlantic Engineering dated February 4, 2025.

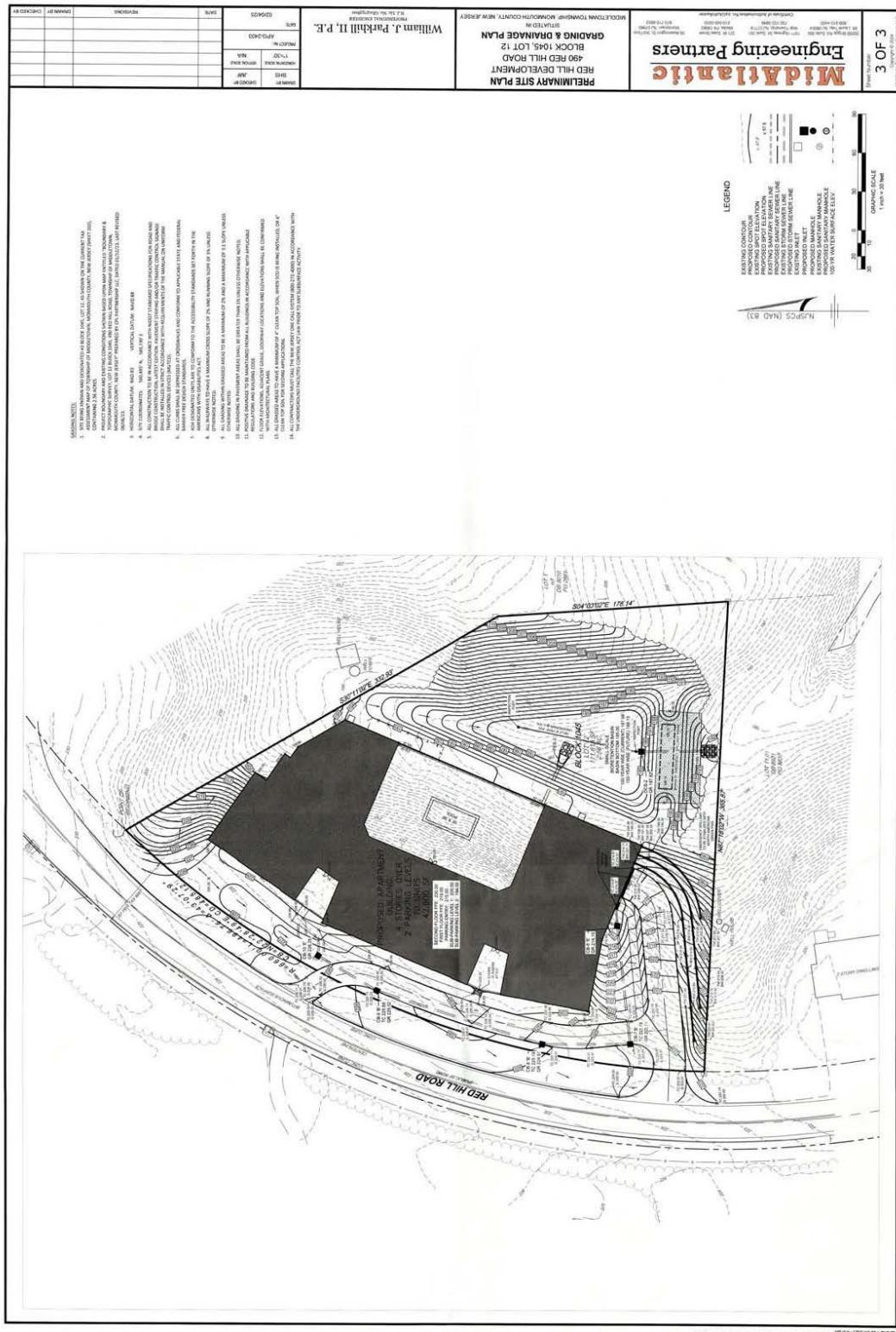
The plans depict a total of 126 parking spaces to serve the site. These 126 spaces are inclusive of EV spaces that, based on the allowable crediting for such stalls, reduces the required number of spaces to the 126 that are being proposed.

Site access is from a driveway located at the southwesterly corner of the property, with all egress from the site restricted to a northbound-only driveway movement located in the north-central portion of the lot. This limit on turning movement is a function of the curvature of Red Hill Road at this location.

### Local Zoning, Planning, and State Plan Designations

The site is in the R-45 Zone, wherein single-family detached dwellings and 'mother-daughter' dwellings are permitted residential uses. A minimum 45,000 square foot lot area is required. An OR zone is situated to the rear of the site.

The State Development and Redevelopment Plan placed the property within a Metropolitan Planning Area 1 (PA-1) designation. This planning category encompasses a broad area of the municipality and the County; it an area wherein the state encourages future redevelopment.



A previous report that I filed detailed the Township's efforts to address its affordable housing obligations, and indicated that, while the Township has provided for a significant number of affordable units, there remains a significant shortfall relative to its total obligations.

## Site Suitability Criteria and Assessment

The state's provisions regarding affordable housing require that municipalities designate properties for such use that are "approvable, available, developable, and suitable". These terms are defined in NJAC 5:93 as follows:

1. Approvable: A site that may be developed for low- and moderate-income housing in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site. A site may be approvable although not currently zoned for low- and moderate-income housing.
2. Available: A site with clear title, free of encumbrances which precludes development for low- and moderate-income housing.
3. Developable: A site that has access to appropriate water & sewer infrastructure, & is consistent with the applicable areawide water quality management plan (including the wastewater plan) or is included in an amendment to the areawide water quality management plan submitted to and under review by DEP.
4. Suitable: A site that is adjacent to compatible land uses, has access to appropriate streets & is consistent with the environmental policies delineated in NJAC 5:93-4. The environmental policies set forth in NJAC 93-4 allow municipalities to exclude certain sites from consideration as potential sites for low- and moderate-income housing development. Notable exclusions include wetlands and associated wetland buffers, flood hazard areas, and those portions of sites containing slopes in excess of 15 percent, amongst other exclusions.

The critical component of the site suitability criteria with respect to this site regards the issue of site suitability, and particularly the application of the steep slope exclusions noted above. As detailed in a previous section of this report, the property is characterized by a steep topography, with nearly 60 percent of the property, accounting for nearly 1.5 acres of the 2.56-acre lot, characterized by slopes of greater than 15 percent gradient. Notably, more than half of that total is characterized by slopes of 25+ percent grade. These steep sloped areas of the site extend throughout the central and easterly portions of the property; it is the location where a significant portion of the proposed building is to be placed.

The developer's position is that, while it acknowledges the steep features that exist on-site, the project is designed to accommodate the slopes; and that in their view the design functions well. The Township, on the other hand, takes the position that the state's exclusion, particularly in conjunction with local

conventional ordinance steep slope ordinance restrictions, should prevent the project that is contemplated by the developer. Furthermore, the Township's professionals raised concerns about a variety of issues, notable amongst them are issues regarding the building's height (6 stories in the rear) and building configuration and orientation that adversely impacts the ability of emergency services to serve this building, along with concerns regarding the proposed vehicular egress movements, all of which have merit and were not satisfactorily addressed during discussions on this matter.

Consequently, it is recommended that, in recognition of the Township's outstanding affordable housing shortfall, consideration be given to a design that concentrates development in the westernmost portion of the site wherein slopes are moderate. There is an area immediately off of the right-of-way, varying in depth from approximately 50 feet to 90 feet, wherein development within the context of townhouse or other similar configuration that orients development close to the street could occur. In this way development that would significantly intrude into the steep slope portions of the site can be avoided. It would also possibly enable a modest level of development that could result in a small additional number of affordable units to be developed and add to the Township's affordable housing inventory.

## WEST NUT SWAMP ROAD SITE

### **Site Description**

This site is located on the north side of Nut Swamp Road, immediately west of the Garden State Parkway. It occupies an area of 18.67 acres and is irregular in shape. Its dimensions include over 1,300 feet of frontage along West Nut Swamp Road and 1,100 feet along the Garden State Parkway. The site and surrounding area are zoned R-45 for single-family residential use, and the area is developed with a modest number of such dwellings nearby.

The property is characterized by a varied topographic differential. Elevations range from 110 feet in the southwesterly corner of the property to 192 feet in the northeasterly portion of the lot. This represents an overall moderate slope of about 7 percent, although there are a number of areas characterized by steep slope conditions. The slope mapping prepared by the developer reveals that there are three large bands of steep slope features, in the northeast, central and westerly portions of the property, although there are also areas of moderate sloped conditions where development is feasible.

The site also contains wetland areas, in the easterly and westernmost portions of the property, which impact the site's full development potential but does not preclude it from being considered as a site for inclusionary development.

## Proposed Development

The developer's proposed project called for a total of 138 dwellings inclusive of 28 affordable units, in a townhouse design for the market rate dwellings and two buildings to be occupied as the affordable housing component. This represents a density of 7.4 units per acre. The proposed 28 affordable units represent a 20 percent set-aside for affordable housing. The design called for a loop road extending through the property, resulting in two access points off West Nut Swamp Road, in the easternmost and westerly portions of the property.

The concept plan for the site including slope features are highlighted on an accompanying map.

The bedroom distribution of the project is shown on the following table.

Table No.2  
Bedroom Distribution  
West Nut Swamp Road Property

| No. Bedrooms       | Market Rate Units               | Affordable Units | Total            |
|--------------------|---------------------------------|------------------|------------------|
| One Bedroom        | 0 Units                         | 5 Units          | 5 Units          |
| Two Bedrooms       | 0 Units                         | 17 Units         | 17 Units         |
| Three Bedrooms     | 110 Units (3 & 4 bedroom units) | 6 Units          | 116 Units        |
| <b>Total Units</b> | <b>110 Units</b>                | <b>28 Units</b>  | <b>138 Units</b> |

Source; Preliminary Site Plan, Red Hill Development, prepared by MidAtlantic Engineering dated February 4, 2025.



Concern with respect to this project immediately focused on intrusions into steep sloped areas of the site and how the site's steep sloped areas in conjunction with the distribution of wetlands and associated wetland buffers on-site impacted the site's development potential.

During negotiations between the parties, a general understanding evolved that, while steep slopes and wetland features existed on the property, the site could be considered for inclusionary development, but not at the intensity initially contemplated by the developer. The general parameters around which the discussions revolved principally focused on the number of units to be allowed, the need to prohibit intrusions into the steeper portions of the tract, reconfiguring the placement of affordable units so they are dispersed throughout the site rather than concentrated in buildings devoted solely to affordable units, and ensuring an equitable distribution of parking spaces to serve the complex..

With the above areas in mind, I offer the following conditions to enable inclusionary development at this location:

1. Allow the site to be developed with up to 126 dwelling units.
2. Eliminate townhouses and associated parking in the northeast and east portions of the property that are in steep sloped areas. Specifically, Building Nos. 15 and 16 are to be eliminated along with three units in Building No. 13.
3. The roadway in the easterly portion of the site should be retained to facilitate vehicular circulation throughout the site, even though portions of this road are also in steep sloped portions of the property.
4. The affordable units shall be evenly distributed throughout the site rather than concentrated together.
5. The parking area west of Building No. 7 is to be reconfigured to avoid steep slopes, and the building, which is now a 100 percent affordable building, may be replaced with townhouses which may include a small number of affordable units. The area encompassing Building No. 8, initially proposed as a 100 percent affordable building, shall be reconfigured as townhouses, with the area including its surrounding parking redesigned accordingly.
6. The provision of affordable units within a townhouse row shall be permitted as one-over-one affordable units.

7. As this site is to address 3<sup>rd</sup> Round affordable housing need, the 3<sup>rd</sup> Round set-aside provisions (15% for rental and 20% for for-sale units), shall apply.

I look forward to an upcoming meeting to discuss this matter. In the meantime, I would be pleased to respond to any questions or requests for further information Your Honor may have regarding this report.

Very truly yours,



Joseph H. Burgis PP, AICP

cc: Brian Nelson, Esq.  
Kira Dabby, Esq.  
Donna Jennings, Esq.