



Mayor and Common Council Borough of Flemington

September 27, 2022

Council Meeting Room and Online

I. Call to Order

1. Statement regarding OPMA

This meeting is called pursuant to the provisions of the Open Public Meetings Law. This meeting of September 27, 2022 was included in a list-of-meetings notice sent to the Hunterdon County Democrat and Courier-News on Jan. 5, 2022, posted on the bulletin board at Borough Hall on that date, and has remained continuously posted as required. In addition, a copy of this notice is and has been available to the public and is on file in the office of the Borough Clerk.

II. Work Session (7:00 PM)

FIRE DEPARTMENT PRESENTATION

III. Regular Meeting (7:30 PM)

Flag Salute

Attendee Name	Title	Status	Arrived
Jessica Hand	Council Vice President	Present	
Malik Johnston	Council Member	Present	
Jeremy Long	Council President	Present	
Tony Parker	Council Member	Present	
Elizabeth Rosetti	Council Member	Present	
Kimberly Tilly	Council Member	Present	
Betsy Driver	Mayor	Present	

1. Mayor's Report

Mayor Driver shared news of the closing of the purchase of 200 Main Street for the future home of the Police Department. Elizabethtown Gas will be using the property's parking lot to stage equipment for their gas main replacement project. We are working with them diligently to limit disruption of Main Street businesses. A truck snagged a powerline on Main Street, pulling from two businesses and energizing the truck, causing a road closure. The Mayor attended a Hunterdon County Planning Board session about creating stormwater utilities. Both water standpipes are operational and ready to service water customers.

2. Council Members' Reports

Council Vice President Hand

Council Vice President Hand discussed the Flemington Community Gardens fundraising efforts to purchase fence material and the community build plans.

Council Member Johnston

No Report

Council President Long

Council President Long displayed a blue envelope, which are available to drivers who are on the autism spectrum. According to the Center for Disease Control, the autism spectrum disorder ASD is a developmental disorder disability, caused by differences in the brain. People with ASD may behave, communicate, interact and learn in ways that are different from most other people. There's often nothing about how they look that sets them apart from other folks, yet the abilities of people with ASD can vary significantly. For example, some people with ASD may have advanced conversation skills, whereas others may be nonverbal. Some people with ASD need a help in their daily lives, while others can work and live with little to no support. There are those on the spectrum who are independent enough to drive and do other activities. However, this blue envelope can help those for whom communication and social cues are more elusive. How it works is simple: Any autistic individual verbal or nonverbal, who is operating a motor vehicle places all their credentials in the blue envelope. If an officer pulls the driver over, the driver simply passes this envelope to the officer in order to alert this officer that they pulled someone over who is on the autism spectrum. This initiative was developed by the Hunterdon County Chiefs of Police Association, and has been distributed to municipalities across the county. Again, these blue envelopes are available at the Police Department.

On September 17th intoxicated individuals were found in the bus stop shed at Liberty Village property by two officers on foot patrol, and an arrest was made. On September 21st encountered a man who threatened to kill the responding officers and spit at them. The man was subsequently arrested. On Friday, September 23rd, a 65-year-old female walked away from a program facility on Broad Street and the following Sunday, Miss Karen Newton was located and transported by ambulance to the hospital for treatment. On Sunday, September 25th the police officers defeated the police explorers in our annual kickball game. After some action-packed play in the rain, the police officers won by a score of eight to four. Special thanks to everyone who continues to make this fundraising event for the explorers such a success.

Congratulations are in order for the FCPS Executive Director Robin Lapidus, who was recognized as an honoree of *NJ Business* as one of the 50 Best Women in Business for 2022. According to the site, this program recognizes 50 Women who have made a significant impact on New Jersey businesses. Judging by the success of the events and diversity of businesses that have emerged in Flemington, this award is well earned. The second annual Harvest Festival is this Saturday, with over 100 vendors, the majority of which are local businesses and farms. The festival will feature seven local brew craft brewers and one local cidery. The FCP has received a \$10,000 grant from the county to help underwrite the event, and are very excited about this partnership. The annual kids Halloween Parade is on Main Street on Thursday, October 27th and they can always use some help. The FCP is sponsoring a Halloween House

and Business Decorating Contest this year with prizes. More information to come. The businesses on Stangl Road are organizing a new event called the Witch Walk, which will include an open cauldron on Friday October 28th. The road will remain open, and witches are invited to stroll from business to business. The FCP still has money left for businesses sign grants. And homeowners can request a \$1,000 grant to be spent on materials to improve their property with paint, water, landscaping, etc. The deadline is this Friday, September 30th. Finally, the FCP is excited to welcome to Main Street a great business called Bread and Culture.

Council Member Parker

Council Member Parker shared the Historic House Tour be produced by the HPC. People were very forthcoming and supportive of a greater spotlight on the historic district itself. Several great ideas came from the discussion.

Council Member Rosetti

Council Member Rosetti had a good conversation with Jake Giuliani regarding code enforcement with some businesses, some vehicle parking issues, and a issue of misuse of a parking lot regarding storage, loading and unloading.

Council Member Tilly

Council Member Tilly shared notes from the DPW meeting. The standpipe is nearly operational. The gas line replacement project by Elizabethtown Gas is beginning. On Saturday December 10th is the last E-waste event of the year. On the September 13th the Fire Officers discussed the Ladder truck presentation to the Council. On September 24th the HPC heard several applications. HPC has also requested a work session with Council to discuss the 2023 House floor. Thank you to CERT members who participated in the search for the missing woman on Saturday.

3. Public Comments - Session I (up to 3 minutes each, for a maximum of 30 minutes)

No Public Comments

4. Approval of Minutes

1. **Monday, September 12, 2022**

2. Motion To: **Minutes of September 12, 2022 Executive Session**

RESULT:	APPROVED [4 TO 0]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Jeremy Long, Council President
AYES:	Jessica Hand, Jeremy Long, Tony Parker, Kimberly Tilly
ABSTAIN:	Malik Johnston, Elizabeth Rosetti

5. Consent Agenda

1. RESOLUTION 2022-197: AUTHORIZING THE APPOINTMENT OF MICHAEL HUMPHREY, ACTING BOROUGH CLERK, AS THE FUND COMMISSIONER FOR STATEWIDE INSURANCE FOR 2022

2. RESOLUTION 2022-200: APPOINTMENT OF BRADLEY WESTPY FOR FLEMINGTON FIRE DEPARTMENT MEMBERSHIP
3. RESOLUTION 2022-202: REQUESTING THE DIVISION OF LOCAL GOVERNMENT SERVICES TO APPROVE FUNDS FROM GRANT AWARDS BE ADDED TO THE BOROUGH OF FLEMINGTON 2022 BUDGET

Regular Agenda (Start)

This meeting is being held in conformance with the Open Public Meetings Act.

1. RESOLUTION 2022-194: AUTHORIZING THE EXPANSION OF THE CONSTRUCTION CONTRACTOR CONTRACT WITH REIVAX CONTRACTING CORP. BY \$99,157, IN CONNECTION WITH THE WATER AND SEWER IMPROVEMENT PROJECT FOR HOPEWELL AND DEWEY AVENUE

Move from the table: Moved by Tilly, Seconded by Long, Vote was Unanimous.

Move to Open Discussion: Moved by Tilly, Seconded by Long, Vote was Unanimous.

The Borough Engineer Jerome Harris provided an explanation regarding the increased cost of the Hopewell Avenue Sewer Project, and the need for the Change Order.

Move to Close Discussion: Moved by Tilly, Seconded by Long, Vote was Unanimous.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Jeremy Long, Council President
AYES:	Hand, Johnston, Long, Parker, Rosetti, Tilly

2. ORDINANCE 2022-13: 2022-13 : 2ND READING & PUBLIC HEARING: ESTABLISHING BUSINESS INSURANCE REGISTRATION

Move to Open Discussion: Moved by Tilly, Seconded by Long, Vote was Unanimous.

No Public Comments

Move to Close Discussion: Moved by Tilly, Seconded by Long, Vote was Unanimous.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Malik Johnston, Council Member
AYES:	Hand, Johnston, Long, Parker, Rosetti, Tilly

3. ORDINANCE 2022-14: 2022-14 : 2ND READING & PUBLIC HEARING: ADDING HANDICAPPED PARKING SPOT ON CAPNER STREET

Move to Open Discussion: Moved by Tilly, Seconded by Johnston, Vote was Unanimous.

No Public Comments

Move to Close Discussion: Moved by Tilly, Seconded by Johnston, Vote was Unanimous.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Jeremy Long, Council President
AYES:	Hand, Johnston, Long, Parker, Rosetti, Tilly

4. ORDINANCE 2022-15: 2022-15 : 2ND READING & PUBLIC HEARING: AMENDING SECTION 1404 OF THE BOROUGH CODE- HISTORIC PRESERVATION COMMISSION

Move to Open Discussion: Moved by Tilly, Seconded by Long, Vote was Unanimous.

No Public Comments

Move to Close Discussion: Moved by Tilly, Seconded by Johnston, Vote was Unanimous.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Jeremy Long, Council President
AYES:	Hand, Johnston, Long, Parker, Rosetti, Tilly

5. ORDINANCE 2022-16: 2022-16 : 2ND READING & PUBLIC HEARING: ORDINANCE ACCEPTING A LEASE ON PROPERTY

Move to Open Discussion: Moved by Tilly, Seconded by Long, Vote was Unanimous.

No Public Comments

Move to Close Discussion: Moved by Tilly, Seconded by Hand, Vote was Unanimous.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Jeremy Long, Council President
AYES:	Hand, Johnston, Long, Parker, Rosetti, Tilly

6. ORDINANCE 2022-17: 2022-17 : 2ND READING & PUBLIC HEARING: ADDING "ABANDONED AND FORECLOSED PROPERTY" CODE

Move to Open Discussion: Moved by Tilly, Seconded by Long, Vote was Unanimous.

No Public Comments

Move to Close Discussion: Moved by Tilly, Seconded by Long, Vote was Unanimous.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Jeremy Long, Council President
AYES:	Hand, Johnston, Long, Parker, Rosetti, Tilly

7. ORDINANCE 2022-19: 2022-19 : 2ND READING & PUBLIC HEARING: ACCEPTING EASEMENT FOR PUBLIC SIDEWALKS

Move to Open Discussion: Moved by Tilly, Seconded by Johnston, Vote was Unanimous.

No Public Comments

Move to Close Discussion: Moved by Tilly, Seconded by Johnston, Vote was Unanimous.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Jeremy Long, Council President
AYES:	Hand, Johnston, Long, Parker, Rosetti, Tilly

8. ORDINANCE 2022-20: 2022-20 : 1ST READING: ESTABLISHING HANDICAP PARKING SPACES ON THE 200 MAIN STREET PROPERTY

RESULT:	INTRODUCED [UNANIMOUS]	Next: 10/24/2022 7:30 PM
MOVER:	Kimberly Tilly, Council Member	
SECONDER:	Malik Johnston, Council Member	
AYES:	Hand, Johnston, Long, Parker, Rosetti, Tilly	

9. ORDINANCE 2022-21: 2022-21 : 1ST READING: ADDING SECTION 1-5 TO THE BOROUGH CODE, ENTITLED "VIOLATIONS AND PENALTIES"

RESULT:	INTRODUCED [UNANIMOUS]	Next: 10/24/2022 7:30 PM
MOVER:	Kimberly Tilly, Council Member	
SECONDER:	Jeremy Long, Council President	
AYES:	Hand, Johnston, Long, Parker, Rosetti, Tilly	

10. ORDINANCE 2022-22: 2022-22 : 1ST READING: ADDING AND AMENDING LEAD PAINT AND FIRE PREVENTION CODE REQUIREMENTS

RESULT:	INTRODUCED [UNANIMOUS]	Next: 10/24/2022 7:30 PM
MOVER:	Kimberly Tilly, Council Member	
SECONDER:	Jeremy Long, Council President	
AYES:	Hand, Johnston, Long, Parker, Rosetti, Tilly	

11. RESOLUTION 2022-182: APPOINTING ANDREA SCHELL AS THE MUNICIPAL COURT VIOLATIONS CLERK

RESULT:	ADOPTED [UNANIMOUS]	
MOVER:	Malik Johnston, Council Member	
SECONDER:	Jeremy Long, Council President	
AYES:	Hand, Johnston, Long, Parker, Rosetti, Tilly	

12. RESOLUTION 2022-199: RECOGNIZING NATIONAL HISPANIC HERITAGE MONTH, 2022

RESULT:	ADOPTED [UNANIMOUS]	
MOVER:	Kimberly Tilly, Council Member	
SECONDER:	Jeremy Long, Council President	
AYES:	Hand, Johnston, Long, Parker, Rosetti, Tilly	

13. RESOLUTION 2022-201: RENEWAL OF PLENARY RETAIL CONSUMPTION LIQUOR LICENSE #1009-33-002-008 HELD BY CYCLADES ASSOCIATES, LLC

Comments were made by Mayor Driver about the false and misleading comments in the Cyclades Associates Application petition to the NJ ABC for this 12;39 renewal. The Mayor expressed how important licenses are to the economic plans of the Borough and the need for Cyclades to either engage their license or face the potential of losing it.

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: Kimberly Tilly, Council Member
SECONDER: Jeremy Long, Council President
AYES: Hand, Johnston, Long, Parker, Rosetti, Tilly

14. RESOLUTION 2022-203: AUTHORIZING A 36-MONTH PAYMENT PLAN FOR A WATER CONNECTION SERVICE FOR BLOCK 43 LOT 6, 150 BROAD STREET

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: Kimberly Tilly, Council Member
SECONDER: Jeremy Long, Council President
AYES: Hand, Johnston, Long, Parker, Rosetti, Tilly

15. RESOLUTION 2022-204: AWARDING CONTRACT FOR MOLD REMOVAL/REMEDICATION AT 200 MAIN STREET

Vote to amend the agenda to include Resolution 2022-204: Moved by Tilly, Seconded by Johnston, Vote was Unanimous.

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: Kimberly Tilly, Council Member
SECONDER: Jeremy Long, Council President
AYES: Hand, Johnston, Long, Parker, Rosetti, Tilly

7. Public Comments - Session II (up to 3 minutes each, for a maximum of 30 minutes)

Rikki Massand, Reporter for TAPinto, shared that the Latin American community may better reach this community regarding events like Hispanic Heritage Month using online videos, and items posted in Spanish.

8. Attorney's Report

Attorney St. Angelo expects the closing for 200 Main Street to take place on Monday, October 3rd. The old Spice Factory Building is requesting developer's agreement, adding two floors to the existing commercial structure and building a second building on the property.

9. Payment of the Bills

Motion To: **Pay the Bills in the Amount of \$1,264,192.93**

RESULT: **APPROVED [5 TO 0]**
MOVER: Malik Johnston, Council Member
SECONDER: Jeremy Long, Council President
AYES: Hand, Johnston, Long, Parker, Rosetti
ABSTAIN: Kimberly Tilly

Adjournment

Motion To: **Adjourn**

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Jeremy Long, Council President
AYES:	Hand, Johnston, Long, Parker, Rosetti, Tilly



Mayor and Common Council Borough of Flemington

September 12, 2022

Council Meeting Room and Online

I. Call to Order

1. Statement regarding OPMA

This meeting is called pursuant to the provisions of the Open Public Meetings Law. This meeting of June 13, 2022 was included in a list-of-meetings notice sent to the Hunterdon County Democrat and Courier-News on Jan. 5, 2022, posted on the bulletin board at Borough Hall on that date, and has remained continuously posted as required. In addition, a copy of this notice is and has been available to the public and is on file in the office of the Borough Clerk.

II. Work Session (7:00 PM)

The Council had no items to discuss.

III. Regular Meeting (7:30 PM)

Flag Salute

Attendee Name	Title	Status	Arrived
Jessica Hand	Council Vice President	Present	
Malik Johnston	Council Member	Absent	
Jeremy Long	Council President	Present	
Tony Parker	Council Member	Present	
Elizabeth Rosetti	Council Member	Excused	
Kimberly Tilly	Council Member	Present	
Betsy Driver	Mayor	Present	

1. Mayor's Report

Mayor Driver attended the 911 ceremony at the historic courthouse steps. Thank you to Council President Long and Council Member Parker for also attending an always moving annual ceremony. Dewey Avenue reconstruction has resumed after receiving the waiver from the state regarding concrete vendors requirements. Hopewell Avenue, is blocked pending utility construction, including water mains, sewer mains, pavement, curbing and sidewalks, starting next week. The older water tank has been fully painted, sanitized and is being filled. Jazz festival was held over the weekend and was a great time. Elizabethtown Gas has delayed their main Street project, now starting on September 19th. The Agway/Global Ag Redevelopment Committee continues hash out a Captiva RDA and a Nilkanth/Cardinal RDA.

Minutes Acceptance: Minutes of Sep 12, 2022 7:30 PM (Approval of Minutes)

2. Council Members' Reports

Council Vice President Hand

No Report

Council President Long

Mr. Long reported several Police Reports. On August 29th individuals charged with falsifying a police report after reporting her vehicle struck by another vehicle on the other vehicles left. Upon investigating, camera footage showed that female's vehicle was not struck. Police also saw three arrests on DUIs and two overdoes. On September 2nd, a male was charged with shoplifting, and the police responded to a fire at a business at 4 Fulper. The cause of the fire was deemed accidental. On September 3rd, a male was charged with taking merchandise from a store without attend to pay. On September 9th, a male subject was charged with improper behavior, possession of a weapon, and terroristic threats to kill. A knife was used and taken into possession. Sunday's Cops versus Explorers kickball game was postponed and is rescheduled for September 25th at 2:00 pm at the baseball fields near William Street. As always, if you see something say something and call the police at 908-782-3434 non-emergency number.

FCP held the Central Jersey Jazz Fest this past Friday, with a great stage of incredible talent, great weather, great crowds, and the FCP is grateful for the increase in funding received from the Hunterdon County Cultural and Heritage Foundation. Do not miss the upcoming DIY jazz series this fall, the Salsa Night Festival produced Hunterdon Helpline this Saturday, the 17th and Stangl please join the fun and show your support. The second annual Stangl Festival is on the first of October, with great beers, bands and farm-to-table food. The annual kids Halloween Parade is Thursday, October 27th on Main Street. The FCP is sponsoring a Halloween house and business decorating contest this year with prizes, more info and signup sheet coming soon. The FCP is also launching the homeowner grant program in the south end of the Borough, with the grants for homeowner occupied property. Homeowners can request a \$1,000 grant to be spent on materials to improve their property with paint, water, landscaping, etc. Please visit lovetflemington.com for the homeowner application or inquire at Borough Hall or the borough website.

Council Member Parker

Council Member Parker enjoyed the Jazz Festival and looks forward to attending every year.

Council Member Tilly

On August 30th the DPW met with Elizabethtown Gas regarding the gas main replacement project. As Mr. Long mentioned, there was fire on September 2nd at Turntable Junction, and want to say a special thank you to the owners of Halo Salon.

They were very hospitable to all of the emergency services personnel. Jazz Fest was fun and was very well attended this year. Looking forward to the Explorers please kickball game, and will see everyone in Ms. Tilly's CERT role at the Salsa Fest.

Attorney's Report

For 200 Main Street we have gotten the consent order and discharge paperwork from the state of New Jersey that is going to be held in escrow pending closing. Right now we have a hard date set for October 4th, but we are trying to move that up to move the FPD as soon as possible.

3. Public Comments - Session I (up to 3 minutes each, for a maximum of 30 minutes)

Marcia Karow of 61 Elwood Avenue shared that Anne Thomas had passed. Ms. Thomas was a pillar of the community and a lovely human being so she will be hugely missed in the neighborhood.

4. Approval of Minutes

1. **Monday, August 22, 2022**

5. Consent Agenda

1. RESOLUTION 2022-192: BINGO LICENSE FOR THE FLEMINGTON WOMAN'S CLUB
2. RESOLUTION 2022-193: REFUNDING TEMPORARY FOOD CONCESSION PERMIT FEES FOR VENDORS OF SALSA NIGHT ON SEPTEMBER 17, 2022
3. RESOLUTION 2022-196: AN ORDINANCE ACCEPTING AN ACCESS EASEMENT FOR THE PUBLIC OVER SIDEWALKS LOCATED ON BLOCK 22, LOT 4 AND BLOCK 24, LOT 2

Regular Agenda (Start)

This meeting is being held in conformance with the Open Public Meetings Act.

1. Motion To: **TABLE: ORDINANCE 2022-13: ESTABLISHING BUSINESS INSURANCE REGISTRATION (tabled, 2nd reading on 9/27/2022)**

COMMENTS - Current Meeting:

Ordinance 2022-13 is tabled and the 2nd Reading & Public Hearing will be on Tuesday, September 27, 2022.

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Kimberly Tilly, Council Member
SECONDER: Jessica Hand, Council Vice President
AYES: Jessica Hand, Jeremy Long, Tony Parker, Kimberly Tilly
ABSENT: Malik Johnston
EXCUSED: Elizabeth Rosetti

2. Motion To: **TABLE: ORDINANCE 2022-14: AMENDING CHAPTER VII TRAFFIC, SCHEDULE XII PARKING RESTRICTED FOR USE BY HANDICAPPED PERSONS, BY ADDING A SPOT ON CAPRNER STREET ((tabled, 2nd reading on 9/27/2022))**

COMMENTS - Current Meeting:

Ordinance 2022-14 is tabled and the 2nd Reading & Public Hearing will be on Tuesday, September 27, 2022.

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Kimberly Tilly, Council Member
SECONDER: Tony Parker, Council Member
AYES: Jessica Hand, Jeremy Long, Tony Parker, Kimberly Tilly
ABSENT: Malik Johnston
EXCUSED: Elizabeth Rosetti

3. ORDINANCE 2022-15: ORDINANCE AMENDING SECTION 1404 OF THE BOROUGH CODE REGARDING THE HISTORIC PRESERVATION COMMISSION

RESULT: **INTRODUCED [UNANIMOUS]** **Next: 9/27/2022 7:30 PM**
MOVER: Kimberly Tilly, Council Member
SECONDER: Jeremy Long, Council President
AYES: Jessica Hand, Jeremy Long, Tony Parker, Kimberly Tilly
ABSENT: Malik Johnston
EXCUSED: Elizabeth Rosetti

4. ORDINANCE 2022-16: AN ORDINANCE AUTHORIZING AN AGREEMENT FOR THE ACQUISITION OF LEASEHOLD INTEREST, AND NON-EXCLUSIVE GROUND LEASE AGREEMENT, BETWEEN THE BOROUGH OF FLEMINGTON AND 307(L) FLEMINGTON LAND HOLDINGS, LLC FOR PROPERTY KNOWN AS BLOCK 44, LOT 6 IN THE BOROUGH OF FLEMINGTON

RESULT:	INTRODUCED [UNANIMOUS]	Next: 9/27/2022 7:30 PM
MOVER:	Kimberly Tilly, Council Member	
SECONDER:	Tony Parker, Council Member	
AYES:	Jessica Hand, Jeremy Long, Tony Parker, Kimberly Tilly	
ABSENT:	Malik Johnston	
EXCUSED:	Elizabeth Rosetti	

5. ORDINANCE 2022-17: ADDING SECTION 9B-10 OF THE CODE OF THE BOROUGH OF FLEMINGTON ENTITLED "ABANDONED AND FORECLOSED PROPERTY REGISTRATION AND MAINTENANCE" REGARDING THE REGISTRATION OF VACANT AND FORECLOSED PROPERTIES TO BE CONSISTENT WITH P.L. 2021, C. 444

RESULT:	INTRODUCED [UNANIMOUS]	Next: 9/27/2022 7:30 PM
MOVER:	Kimberly Tilly, Council Member	
SECONDER:	Jeremy Long, Council President	
AYES:	Jessica Hand, Jeremy Long, Tony Parker, Kimberly Tilly	
ABSENT:	Malik Johnston	
EXCUSED:	Elizabeth Rosetti	

6. ORDINANCE 2022-18: AMENDING THE DOWNTOWN BUSINESS (DB) ZONE TO INCLUDE BLOCK 14 LOTS 11, 12, A PORTION OF 13, 14, 15, 16, 17, 17.01 & 20 AND BLOCK 18 LOTS 1, 2, 3 & 4

RESULT:	INTRODUCED [UNANIMOUS]	Next: 10/11/2022 7:30 PM
MOVER:	Kimberly Tilly, Council Member	
SECONDER:	Tony Parker, Council Member	
AYES:	Jessica Hand, Jeremy Long, Tony Parker, Kimberly Tilly	
ABSENT:	Malik Johnston	
EXCUSED:	Elizabeth Rosetti	

7. ORDINANCE 2022-19: AN ORDINANCE ACCEPTING AN ACCESS EASEMENT FOR THE PUBLIC OVER SIDEWALKS LOCATED ON BLOCK 22, LOT 4

RESULT:	INTRODUCED [UNANIMOUS]	Next: 9/27/2022 7:30 PM
MOVER:	Kimberly Tilly, Council Member	
SECONDER:	Jeremy Long, Council President	
AYES:	Jessica Hand, Jeremy Long, Tony Parker, Kimberly Tilly	
ABSENT:	Malik Johnston	
EXCUSED:	Elizabeth Rosetti	

8. RESOLUTION 2022-194: AUTHORIZING THE EXPANSION OF THE CONSTRUCTION CONTRACTOR CONTRACT WITH REIVAX CONTRACTING CORP. BY \$99,157, IN CONNECTION WITH THE WATER AND SEWER IMPROVEMENT PROJECT FOR HOPEWELL AND DEWEY AVENUE

Vote to approve was 3 votes for, 1 vote to abstain. Mr. Parker wished to have more information regarding the cause for the Change Order. Resolution 2022-194 is tabled to a future meeting.

RESULT:	TABLED [3 TO 0]	Next: 9/27/2022 7:30 PM
MOVER:	Kimberly Tilly, Council Member	
SECONDER:	Jeremy Long, Council President	
AYES:	Jessica Hand, Jeremy Long, Kimberly Tilly	
ABSTAIN:	Tony Parker	
ABSENT:	Malik Johnston	
EXCUSED:	Elizabeth Rosetti	

9. RESOLUTION 2022-195: AUTHORIZING THE EXPANSION OF THE CONSTRUCTION CONTRACTOR CONTRACT WITH REIVAX CONTRACTING CORP., IN CONNECTION WITH THE DEWEY AVENUE ROAD IMPROVEMENT PROJECT

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Jeremy Long, Council President
AYES:	Jessica Hand, Jeremy Long, Tony Parker, Kimberly Tilly
ABSENT:	Malik Johnston
EXCUSED:	Elizabeth Rosetti

7. Public Comments - Session II (up to 3 minutes each, for a maximum of 30 minutes)

No Comments

8. Payment of the Bills

Motion To: **Pay the Bills in the Amount of \$384,851.18**

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Jeremy Long, Council President
AYES:	Jessica Hand, Jeremy Long, Tony Parker, Kimberly Tilly
ABSENT:	Malik Johnston
EXCUSED:	Elizabeth Rosetti

Executive Session for Any Other Applicable Matter Identified During the Regular Meeting (Action May Be Taken)

1. RESOLUTION 2022-198: EXECUTIVE SESSION, POTENTIAL LITIGATION

Minutes Acceptance: Minutes of Sep 12, 2022 7:30 PM (Approval of Minutes)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Jeremy Long, Council President
AYES:	Jessica Hand, Jeremy Long, Tony Parker, Kimberly Tilly
ABSENT:	Malik Johnston
EXCUSED:	Elizabeth Rosetti

Adjournment

Motion to Adjourn by Council Member Tilly; Seconded by Council President Long; Vote was unanimous.

Motion To: **Motion to Adjourn**

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Kimberly Tilly, Council Member
SECONDER:	Jeremy Long, Council President
AYES:	Jessica Hand, Jeremy Long, Tony Parker, Kimberly Tilly
ABSENT:	Malik Johnston
EXCUSED:	Elizabeth Rosetti

Minutes Acceptance: Minutes of Sep 12, 2022 7:30 PM (Approval of Minutes)

ORDINANCE AMENDING SECTIONS 1404 OF THE BOROUGH CODE REGARDING THE HISTOIC PRESERVATION COMMISSION

WHEREAS, the Borough of Flemington Historic Preservation Commission (the “Commission”) has suggested the following amendments to the ordinances regarding the Commission’s establishment, powers, and review procedures.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Borough Council of the Borough of Flemington, in the County of Hunterdon and State of New Jersey, as follows:

SECTION 1. Section 1404 of the Borough Code, entitled “Establishment of the Historic Preservation Commission” is hereby amended as follows (Additions noted in bold italics *thus* and deletions noted with a strikethrough ~~thus~~):

- A. A Historic Preservation Commission (HPC) is hereby established consisting of 5 regular members and 2 alternate members, each of whom shall be appointed by the Mayor, of the following 3 classes:
 - 1. Class A - Persons who are knowledgeable in building design and construction or in architectural history;
 - 2. Class B - Persons who are knowledgeable or have a demonstrated interest in local history.
 - 3. Class C - Persons who are residents of the municipality and who hold no other municipal office, position or employment except for membership on the Planning Board.
 - 4. There shall be at least one regular member from each class. *A majority of members shall be Class C. Class A and Class B members need not be residents of the municipality.*
 - 5. Alternate members shall meet the qualifications of Class C members and shall be designated "Alternate No. 1" and "Alternate No. 2" at the time of appointment.
- B. Terms of Membership.
 - 1. The term of each regular member shall be 4 years and the term of each alternate member shall be 2 years.
 - 2. Alternate Members. Alternate members shall be designated at the time of their appointment as "Alternate No. 1" and "Alternate No. 2."
 - 3. The term of any member in common with the Planning Board shall be for the term of membership on such Board.
- C. Role of Alternate Members. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member of any Class. A vote shall not be

delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, "Alternate No. 1" shall vote.

- D. Vacancies. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by appointment for the unexpired term, only. ***All vacancies shall be filled within 60 days.***

- E. Compensation. Members of the HPC shall serve without compensation except that reimbursement of reasonable expenses in the execution of official duties may be made by the municipality.

- F. Removal. Any member may be removed by the governing body for cause but only after public hearing and other due process proceedings.

- G. Conflict. No member or alternate member of the HPC shall be permitted to act on any matter in which he or she has either directly or indirectly any personal or financial interest. No member who is so disqualified may act on that particular matter, shall not continue to sit with the Commission on the hearing of such matter, nor shall participate in any discussion or decision.

- H. Organization. The HPC shall elect from its members a chairman and vice-chairman and select a secretary who may or may not be a member of the HPC or a municipal employee.

- I. Funding. The governing body shall make provisions in its budget and appropriate funds for the expenses of the Historic Preservation Commission.

- J. Rules and Procedures. The HPC shall adopt and may amend internal rules and procedures for the transaction of its business subject to the following:
 - 1. A quorum for any action by the HPC shall be 3 members.
 - 2. All HPC minutes and records shall be public records.
 - 3. All HPC meetings shall comply with the Open Public Meetings Act (N.J.S.A. 10:4-7 et seq.).
 - 4. HPC meetings shall be scheduled at least once every month or as often as required to fulfill its obligations to advise the Planning Board, governing body, or construction official.

- K. Role of the HPC.
 - 1. For applications that would otherwise not require Planning Board review, the Zoning Officer shall refer the application to the HPC for a written report on the application ***in accordance with ordinance §1631*** and its compliance with the Borough's Historic District

regulations. This report shall be submitted to the Zoning Officer, who shall issue a written approval or denial based on the HPC report, pursuant to N.J.S.A. 40:55D-111. The report of the HPC shall also be provided to the applicant and the Planning Board. The report shall be sent to the Zoning Officer within 45 days of the referral to the HPC. Failure of HPC to report within the forty-five-day period shall constitute a determination that the application is consistent with the Historic District regulations and that no condition on the issuance of the permit shall be imposed.

2. For applications that require Planning Board review based on provisions of the Borough Land Development Ordinance, the application shall be referred to the HPC for a written report on the application *in accordance with Borough Code §1631* and its compliance with the Borough's Historic District regulations. This report shall be submitted ~~to the Zoning Officer, who shall issue a written approval or denial based on the HPC report, pursuant to N.J.S.A. 40:55D-111~~ *the Planning Board which shall issue a written approval or denial as required by the Municipal Land Use Law ("MLUL"), which may or may not incorporate the recommendations of the Historic Preservation Commission ("HPC") taking into account the HPC report and recommendations, pursuant to N.J.S.A. 40:55D.* The report of the HPC *shall be sent to the Planning Board, Zoning Officer, and applicant* ~~shall also be provided to the applicant and the Planning Board. The report shall be sent to the Zoning Officer within 45 days of the referral to the HPC or prior to the scheduled public hearing before the Board on the matter, whichever is sooner.~~ Failure of the HPC to report shall constitute a determination that the application is consistent with the Historic District regulations and that no condition shall be imposed on the issuance of any approval.
3. An applicant may appeal any determination of the Zoning Officer to the Borough Planning Board. Said appeal shall occur within 45 days of the final determination by the Zoning Officer.
- L. The HPC shall advise the Planning Board from time to time through the process of amending the Historic Preservation Element of the Master Plan.
- M. The HPC shall recommend to the Planning Board *for their approval* ~~guidelines for review to be utilized in~~ determinations of historic landmark status and *undertake* ~~for~~ reviews of development applications or permits affecting historic landmarks or improvements within historic districts *in accordance with Borough Code §1631.* ~~The Planning Board may recommend modifications of the guidelines.~~

SECTION 2. Section 1405 of the Borough Code, entitled "Powers and Responsibilities of the Historic Preservation Commission" is hereby amended as follows (Additions noted in bold italics *thus* and deletions noted with a strikethrough ~~thus~~):

The Historic Preservation Commission shall have the following duties and responsibilities:

- A. To prepare a survey or surveys of historic sites and districts pursuant to criteria established in such survey;
- B. To make recommendations to the Planning Board on the Historic Preservation Element of the Master Plan and on the implications of any other Element on the preservation of historic sites and districts;
- C. To advise the Planning Board on the inclusion of historic sites in the recommended capital improvement program;
- D. To advise the Planning Board on applications for development;
- E. Provide written reports on the application of the zoning provisions of this Ordinance or other land development regulations on historic sites and districts;
- F. Provide technical assistance upon request to property owners on the preservation, restoration, and rehabilitation of historic structures;
- G. To carry out such other advisory, educational, and informational functions as will promote historic preservation in the municipality.
- H. To review applications in accordance with and for compliance with the Historic District Review Ordinance (Ordinance §1631) and Ordinance §1404.***
- I. To review and recommend to the Planning Board the designation of landmark and historic districts in accordance with Borough Code §1404.***

SECTION 3. Section 1631 of the Borough Code, entitled “Historic District Review Ordinance” is hereby amended as follows (Additions noted in bold italics *thus* and deletions noted with a strikethrough ~~thus~~):

- A.** Introduction. The requirements of this Historic District Review Ordinance shall apply to all development, including new construction, repair, renovation, alteration, reconstruction, demolition, relocation, and additions to existing buildings, structures, real property, natural objects or configurations or any portion or group of the foregoing which are located in the Flemington Borough Historic District, or specifically identified as historic sites within the Historic Preservation Plan of the Master Plan pursuant to N.J.S.A. 40:55D-28b(10). These requirements do not apply to normal maintenance (including in-kind repair of existing building features, repainting of existing color schemes, in-kind repair of an existing roof, etc.). Prior to construction or alteration of buildings or structures in the Historic District, an Application for Review by the Flemington Historic Preservation Commission must be submitted to the Flemington ***Historic Preservation Commission*** ~~Borough Clerk~~, and the project must be reviewed at one of the Commission's regularly scheduled meetings. See Chapter 14 of the Flemington Borough Land Development Ordinance for additional information

regarding project review.

- 1. Definitions.** *In addition to the definitions set forth in Borough Code 1201, the following definitions apply as used in Borough Code §§ 1404, 1405 and 1631. Such definitions shall only apply in such Borough Code sections and shall not be applicable in any other section of the Borough Code:*

Addition shall mean an extension or increase in the size, floor area or height of any building, structure, site, object, or improvement added at some time after the completion of the original.

Alteration shall mean any change in the exterior features of any building, structure, site, object or improvement.

Application shall mean a request to the Commission made pursuant to this ordinance for the purposes of obtaining approval or other action by the Commission hereunder specified.

Building shall mean any man-made structure created principally to shelter any form of human activity as well as its functionally related appurtenances such as a house and a barn.

Commission shall mean the Historic Preservation Commission established pursuant to the provisions of Ordinance Sections 1404 and 1405.

Construction Official shall mean the officer in charge of granting building or construction permits in the Borough.

Contemporary shall mean any buildings, structures, sites, objects, or improvements in a historic district which date from a later period but possess some architectural importance and/or visually contribute to the cohesiveness of the district's streetscapes.

Contributing shall mean any buildings, structures, sites, objects or improvements which are integral components of a historic district either because they date from a time period which makes them historically significant or because they represent an architectural type, period or method which is historically significant.

Demolition shall mean the partial or total razing, dismantling or destruction, whether entirely or in significant part, of any building, structure, site, object or improvement. Demolition includes the removal of a building, structure, site, object or improvement from its location or the removal or destruction of its facade or surface.

Designated historic landmark or historic district shall mean an individual building, structure, site, object, landscape, park, viewshed, improvement or district which has been determined to have historical significance pursuant to the

provisions of this ordinance.

Emergency repairs shall mean immediate repairs to preserve the continued habitability and/or the health and safety of occupants or others, performed in accordance with Borough codes without first submitting an application. A consultation with the Commission or its staff is still required.

Encroaching shall mean any buildings, structures, sites, objects or improvements in a historic district which date from a later period and do not visually contribute to the cohesiveness of the district's streetscapes.

Facade shall mean the face or front of a structure or any vertical surface thereof adjacent to a public way.

Historic shall mean having historical, cultural, architectural, archaeological, economic, social, or other significance as defined by the provisions of this ordinance.

*Historical shall mean of, relating to, or having the character of history.
Historic district shall mean a significant concentration, linkage or continuity of buildings, structures, sites, objects, or improvements united historically by plan or physical development which qualifies for designation under this ordinance including those which were formerly designated.*

Historic district resources shall mean those resources classified as either significant, contributing, or noncontributing, which are defined as follows:

- a. Significant shall mean any buildings, structures, sites, objects or improvements which, due to their significance, would individually qualify for historic landmark status;*
- b. Contributing shall mean any buildings, structures, sites, objects or improvements on the site which are integral components either because they date from a time period which makes them historically significant or because they represent an architectural type, period or method which is historically significant;*
- c. Noncontributing shall mean any building, structure, site, object or improvement on the site which do not have significant historical value because they neither date from a time period nor represent an architectural type, period or method which is historically significant*

Historic landmark shall mean any building, structure, site, object or improvement which qualifies for designation under this ordinance.

Historic site shall mean any building, structure, site, landscape, object or improvement determined to be of historical, archeological, cultural, scenic or architectural significance in accordance with the provisions of this ordinance. Improvement shall mean a building or other structure, or any work constituting a manmade alteration of, or addition to, any building, structure, site or object.

In-kind shall mean construction or construction materials that match construction or construction materials being replaced on a designated structure or object, thereby maintaining historic composition, design, color, texture and other visual qualities.

Integrity shall mean the authenticity of a building, structure, site, object, improvement or district evidenced by the survival of the physical characteristics that existed during its historic or prehistoric period.

Inventory shall mean a list of historic properties determined to meet criteria of significance specified herein.

Landscape shall mean the visual character of the land, including but not limited to architecture, building setbacks and height, fences, hedgerows, plantings, lawns trees as well as man-made features including, but not limited to, sculptures, patterned walks, fountains, reflecting pools and vistas.

Lot shall mean any designated parcel, tract, or area of land established by a plat or otherwise, as permitted by law and to be used, developed, or built upon as a unit.

Master plan shall mean the master plan of the Borough of Flemington, as amended from time to time, compiled pursuant to the Municipal Land Use Law.

Municipal Land Use Law shall mean the Municipal Land Use Law of the State of New Jersey, P.L. 1975, c. 291 (N.J.S.A. 40:55D-1, et seq.), as amended from time to time.

National Register Criteria shall mean the established criteria for evaluating the eligibility of properties for inclusion in the National Register of Historic Places, as set forth in 36 C.F.R. 60.4, et seq.

Non-contributing shall mean any buildings, structures, sites, objects or improvements in a historic district which do not have significant historical value because they neither date from a period of significance nor represent an

architectural type, period or method which is historically significant, or due to alterations, disturbances, additions, or other changes, no longer possesses historic integrity reflecting its character at that time or is incapable of yielding important information about the period.

Object shall be used as a term to distinguish from buildings and structures those constructions or features that are primarily artistic in nature or are relatively small in scale and simply constructed. Examples include, but are not limited to, fountains, sculptures, statuary and similar items. Although it may be, by nature or design, movable, an object is associated with a specific setting or environment.

Ordinary maintenance and repair shall mean the repair of any deterioration, wear or damage to a structure or any part thereof in order to return the same as nearly as practicable to its condition prior to the occurrence of such deterioration, wear, or damage with in-kind material and quality workmanship.

Owner shall mean the owner of record as shown on the current tax list of the borough tax collector; the mortgage holder of record, if any, as shown in the mortgage records of the borough; and any purchaser under a land contract.

Partial Demolition shall mean the pulling down, destruction or removal of a substantial portion of the exterior of a building or structure or the removal of architectural elements which define or contribute to the historic character of the structure.

Permit shall mean any required approval issued by the construction official pursuant to applicable building or construction codes for exterior work to be performed on any historic landmark or on any building, structure, object or site located within a historic district, which exterior work will be subject to public view. Said permit shall include but not be limited to a building permit, a demolition permit or a permit to move, convert, relocate or remodel or to change the use or occupancy of any landmark or any building, structure, object or site located within an historic district. "Permit" shall also include all exterior work to be performed on windows, doors, roofing, fences, signs, awnings, porches, railings, steps, lighting and sidewalks and any other work subject to public view which would alter the exterior appearance of historic landmarks or properties located within a historic district or their sites.

Person shall mean any individual, natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts, firms, companies, corporations, entities or unincorporated groups; or any officers, agents, employees, servants, factors or any kind of personal representatives of any thereof in any capacity, acting either for himself or for any other person, under either personal appointment or pursuant to law.

Preservation shall mean the act or process of applying measures necessary to sustain the existing form, integrity and materials of an historic landmark. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction.

Protection shall mean the act or process of applying measures designed to affect the physical condition of a property by defending or guarding it from deterioration, loss or attack, or to cover or shield the property from danger or injury.

Reconstruction shall mean the act or process of reproducing, by means of new construction, the form, features and detailing of a non-surviving building, structure, site, object, improvement or landscape for the purpose of replicating its appearance at a specific period of time and in its historic location when documentary and physical evidence is available.

Rehabilitation shall mean the act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historic values.

Replacement shall mean the act or process of replicating any exterior architectural feature that is used to substitute for an existing deteriorated or extensively damaged architectural feature.

Restoration shall mean the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time. It may sometimes mean the removal of later work or the replacement of missing earlier work.

Secretary of the Interior's Standards shall mean the publication issued by the U.S. Department of the Interior, National Park Service, entitled: "The Secretary of the Interior's Standards for the Treatment of Historic Properties," 36 C.F.R. 68, revised and supplemented from time to time.

Site shall mean the location of a significant event, a prehistoric or historic occupation or activity, a building or structure, or a burial ground or cemetery, whether standing, ruined or vanished, where the location itself possesses historical, cultural or archaeological value regardless of the value of any existing structure.

Significant shall mean any buildings, structures, sites, objects or improvements in a historic district which, due to their extraordinary significance, would individually qualify for historic landmark status.

Staff means the Historic Preservation Consultant, the Zoning Officer and such other consultants or officials as may from time to time be retained and/or employed to provide application review services to the Commission.

Streetscape shall mean the visual character of the street including, but not limited to, the architecture, building setbacks and height, fences, storefronts, signs, lighting, parking areas, materials, sidewalks, curbing and landscaping.

Structure shall be used as a term to distinguish from buildings those functional constructions made usually for purposes other than creating human shelter, such as a bridge, a walkway, driveway and sometimes referred to as a type of improvement, meaning a combination of materials that becomes a part of, is placed upon, or is affixed to real estate.

Survey shall mean the inventory of buildings, structures, sites, objects, improvements and districts located within the Borough of Flemington which is conducted by the Commission for the ascertainment of their historical significance pursuant to the provisions of this ordinance.

Survey data shall mean the raw data produced by the survey; that is, all the information gathered on each property and area investigated.

View, vista or viewshed shall mean the view by the public of a building, structure, site, object, improvement or landscape from any point on a street, road or walkway which is used as a public thoroughfare, either vehicular and/or pedestrian.

- B.** The purposes of the Historic District Review Ordinance include:
1. Safeguarding the heritage of Flemington Borough by preserving its historical, cultural, social, economic and architectural resources;
 2. Encouraging the continued use of historic buildings, structures and sites and to facilitate their appropriate re-use;
 3. Maintaining and developing a harmonious setting for the historically significant buildings, structures, sites, objects and District;
 4. Preventing the unnecessary demolition or relocation of historic resources;
 5. Preventing new construction or development which is not in keeping with or that negatively impacts the ambience and character of the Historic District;

6. Encouraging the proper maintenance, per the Borough's existing Property Maintenance Code Chapter 9B, and preservation of buildings, structures and sites within the Historic District so as to promote Flemington Borough as an attractive area to live, work and visit;
7. Protecting and enhancing property values;
8. Promoting civic pride in and appreciation of Flemington Borough's historic resources for the education, pleasure and welfare of its citizens and visitors; and
9. Fostering beautification and private reinvestment.

C. General Guidelines. *The following guidelines shall be utilized by the HPC in reviewing and making recommendations pursuant to and subject to the limitations of Borough Code 1404(K)(2).*

1. Building Design. All development that is situated within the Flemington Borough Historic District and all development that affects individual historic sites shall be designed to reflect the design vocabulary, massing, proportion, directional expression, height, width, scale, orientation, windows, roof, details and materials of vernacular 18th and 19th and early 20th-century styles found in the Borough of Flemington. These styles include Georgian, Federal, Greek Revival, Gothic Revival, Italianate, Second Empire, Queen Anne, Shingle, Romanesque Revival, Colonial Revival, Neoclassical and Tudor Revival styles. Acceptable styles and examples from the relevant periods can be found within the following references, which are maintained for review in the Borough Hall and the Public Library:
 - a. Historic District Guidelines; Flemington Historic Preservation Commission-(~~McCormick Taylor, 2006~~):- See for definitions of general architectural, style and building terminology, as well as more detailed design recommendations.
 - b. What Style Is It? A Guide to American Architecture (Poppeliers, John C., John Wiley & Sons, Inc., ~~1983~~)
 - c. A Field Guide to American Houses (McAlester, Knopf~~1984~~)
 - d. Identifying American Architecture (Blumenson, Norton)
 - e. The Secretary of the Interior's Standards for the Treatment of Historic Properties (www.nps.gov/history/hps/tps/standards_guidelines.htm): See for definitions

regarding historic preservation terminology including

"preservation," "restoration," "rehabilitation,"
"reconstruction," "renovation," etc.

2. Procedures for review by the Flemington Historic Preservation Commission are contained within Chapter 14 of the Flemington Borough Land Development Ordinance.
3. New buildings are not required to copy historic examples. Individual architectural expressions that incorporate the stylistic tenets of historical buildings are acceptable, provided that the design principles in the above references are adhered to. New buildings shall show a harmony of design with their surroundings, and any shapes, massing, materials, signs, lighting, colors and other characteristics which might cause a new building to call excessive attention to itself and create disharmony within the historic district, shall be avoided.
4. All buildings shall be related harmoniously to the context of the site, the neighborhood as a whole and to existing buildings and other structures in the vicinity that have a visual relationship to the proposed building or buildings. The achievement of such relationship may include the enclosure of space in conjunction with other existing/proposed buildings or the creation of focal points. With respect to public spaces, building design/orientation may have to be adjusted in order to maintain a positive spatial relationship or to preserve visual access to community focal points, either natural or man-made.
5. The selection of building design elements, for example in the use of materials, windows, color, texture, and other design considerations, should ensure that such treatment is generally consistent with traditional and vernacular 18th and 19th and early 20th- century architectural styles. If the applicant is an existing building, the design elements shall be consistent with the existing building's style and configuration.
6. Building additions and renovations should be designed to reflect the existing building in terms of scale, materials, massing, window and door configuration and color.
7. Appearance of the side and rear elevations of buildings shall receive architectural treatments comparable to that of any proposed front façade only if said elevations are generally within the public view.
8. Buildings should, where appropriate, strengthen the particular design features of their neighborhood by, for example, reinforcing the "street wall", or continuing a particular design feature or statement.

Such construction should complement the existing historic building designs in the Borough.

9. Buildings deemed to be "Significant" and indicated as such on the Flemington Historic District Map, shall be reviewed with particular care and have special requirements that are described later in this section (see Subsection C17). These are buildings that have been determined to be particularly important to the character of the Historic District.
10. Buildings located on Main Street, from the Traffic Circle to the Monument, along East Main Street to Hopewell Avenue, as well as North Main Street from the Monument to Hopewell Avenue, are also considered to be particularly important to the character of Flemington and the Historic District, partly through their location along the busiest thoroughfare and partly from the quality of buildings along this route. Many of these structures are indicated to be "Significant" on the Flemington Historic District Map. Because of the importance of this area to the character of the Borough, all of these buildings will be reviewed ***for strict compliance with the Historic Guidelines*** ~~with particular care. Some~~ Buildings that are deemed particularly prominent or visible ***by the Historic Preservation Commission*** ~~shall~~ be reviewed using the same criteria as "Significant" structures, even if they are not listed as such on the Historic District Map.
11. Contemporary designs for new buildings and for additions to existing buildings or landscaping in the Historic District are not discouraged if such designs are compatible with the character, scale and materials of the neighborhood and its environment.
12. New additions or alterations to buildings should be done in such a manner that they reflect the materials, massing and scale of the existing building. In addition, alterations and additions should be designed such that they are reversible, i.e. that if they were to be removed in the future, the essential form and integrity of the original building would be unimpaired.
13. Exterior alterations should not destroy the distinguishing qualities or character of the property and its environment, and the removal or alteration of any historical material or architectural features is not permitted.
14. Deteriorated architectural features should be repaired rather than replaced wherever possible, and in the event, replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities.

15. Repair or replacement of missing architectural features should be based on accurate duplication of original features, substantiated by physical or pictorial evidence rather than on conjectural designs or the availability of different architectural features from other buildings.
16. Wherever possible, there should be compliance with the standards set forth in the "Secretary of the Interior's Standards for the Treatment of Historic Properties", as periodically amended and available through the National Park Service.
17. Alternative Materials. The use of nonhistoric, alternative materials may be considered under certain circumstances. These materials include, but are not limited to: vinyl or composite siding (smooth finish only); vinyl, fiberglass or composite railings and porch columns, particularly when these materials are paintable; fiberglass or composite trim, brackets or moldings; composite porch floor decks; vinyl, clad, or aluminum windows and doors; fiberglass/asphalt shingle roofing; etc. The use of these materials will be limited on all buildings or structures deemed to be "Significant" on the Flemington Historic District Map, or that are located along Main Street, from the Traffic Circle to the Monument, along East Main Street to Hopewell Avenue, as well as North Main Street from the Monument to Hopewell Avenue, as indicated in Subsection C10 above. Specifically, the use of vinyl siding or windows and doors of alternative materials will be prohibited on the public sides of "Significant" structures. Where visible roofs need to be replaced on "Significant" structures, using replacement materials and methods that match the historic materials is preferable. If the use of historic materials is not feasible, particular care will be taken in selecting alternative materials that match the historic appearance as closely as possible. Composite materials that are painted and that match the configuration of the historic materials are considered to be more acceptable than other replacement materials. Buildings in other parts of the Historic District that are considered to be "Contributing", "Non-Contributing" or "Encroaching" will be permitted to use alternative materials, provided that the following conditions are met:
 - a. Vinyl or composite siding shall be smooth (i.e. not textured) and shall be of a scale and color compatible with the buildings in the immediate vicinity of the applicant property. Existing decorative trim shall not be removed or covered by new vinyl siding or trim casing. This trim shall be retained and repaired so that the building's distinguishing historic features shall remain.

- b. Replacement windows and doors shall fit the existing openings exactly and shall be configured to match the historic appearance and detail. Existing window and door openings shall not be "infilled" or made smaller to accommodate standard window or door sizes.
 - c. Alternative materials may only be used to replace existing porches if the historic porch is not repairable, if the new porch configuration and appearance closely matches the original, and if the new materials that are clearly visible from a public way are painted. The Commission will consider additional new materials as they become available.
 - d. Alternative materials may be considered for visible roofs when existing slate, copper, wood shakes, etc., are shown to be beyond repair. The alternative materials on the visible facades shall match the existing appearance as closely as possible. Alternative materials are acceptable to be used on roofs that are not visible from public streets.
18. Sustainable Energy Sources and Energy Efficiency. This Ordinance is not intended to discourage the installation and use of sustainable energy sources, including solar panels, geothermal wells and wind turbines, provided that the installations meet all required building, zoning and safety codes, etc., and that they are installed to have as minimal an impact on the visible portions of the historic property as possible. Particular care shall be taken to reduce the impact on buildings listed as "Significant" on the Flemington Historic District Map or that are located along Main Street, from the Traffic Circle to the Monument, along East Main Street to Hopewell Avenue, as well as North Main Street from the Monument to Hopewell Avenue.
19. This Ordinance is not intended to discourage the improvement of the energy efficiency characteristics of the historic structures in Flemington. However, where energy efficiency improvements are being considered, care should be taken to reduce negative impacts on the historic character of the building. In particular on all buildings or structures deemed to be "Significant" on the Flemington Historic District Map, or that are located along Main Street, from the Traffic Circle to the Monument, along East Main Street to Hopewell Avenue, as well as North Main Street from the Monument to Hopewell Avenue, it is important to keep, repair or restore existing character-defining features that affect energy efficiency, including original doors and windows. Energy efficiency improvements for these features can be achieved

through weather-stripping, interior storm windows, appropriate exterior storm windows or doors and other appropriate measures. See the Borough's "Historic District Guidelines" for suggestions.

20. Additional Matters Considered. In regard to all applications, additional pertinent matters may be considered, but in no instance shall interior arrangements be considered except as it may result in exterior changes important to the integrity of the historic structure, such as additions, chimneys, roof design, blocking of windows or similar changes.

21. Emergency reviews of applications to the Historic Preservation Commission may be requested for construction or repair work that is required to be undertaken before the next scheduled meeting of the Historic Preservation Commission. The applicant shall notify the Historic Preservation Commission and request an emergency review and the Historic Preservation Commission shall determine if an emergency review is required and the format of the review. Any work done by the applicant prior to formal approval by the Historic Preservation Commission shall be at the sole risk of the applicant.

- a. In the event an applicant requires an emergency review, the applicant shall pay all fees incurred by the Commission to properly advertise an emergency meeting of the Commission.***
- D. Building Massing and Scale of New Buildings and Additions. The following guidelines shall be utilized by the HPC in reviewing and making recommendations pursuant to and subject to the limitations of Borough Code 1404(K)(2).***
 1. Scale of Building. The size of a proposed building or addition and the mass of a proposed building or addition in relation to open spaces, the windows, door openings, porches and balconies shall be visually compatible with the other buildings and built features to which it is visually related.
 2. On proposed buildings and additions, long, horizontal facades should be broken down into segments having vertical orientation and tall vertically oriented facades shall be broken down into horizontal components through use of appropriate design features in proportions complementary to the overall architecture and design.
 3. New buildings or additions with expansive blank walls are prohibited, particularly on sides of the building facing public ways.

4. New buildings and additions should be designed so that facades are the prominent architectural feature and the roofs are visually less dominant in the total design. Architecturally accurate roof styles shall be consistent with the surrounding historic context.
5. A pedestrian scale should be achieved at ground level and along street frontages and entryways through the use of such scale elements as windows, doors, columns, plazas, awnings, canopies, and site furnishings.
6. In new infill construction, the alignments of proposed facades shall be consistent with the existing setback of nearby buildings to the extent permitted by this Ordinance.
7. Height. The height of any proposed structure and landscaping shall be visually compatible with adjacent structures.
8. Proportion of Building's Front Façade. The relationship of the width of any new building or addition to the height of the front elevation shall be visually compatible with the nearby buildings and structures.
9. Proportion of Openings. The relationship of the width of windows to the height of windows in a new building or addition shall be visually compatible with the nearby buildings and structures.
10. Rhythm of Solids to Voids on Facades Fronting on Public Places. The relationship of solids to voids in facades of new or altered buildings shall be visually compatible with the nearby buildings and structures.
11. Rhythm of Spacing of Structures on Streets. The relationship of any new structure to the open space between it and adjoining structures shall be visually compatible with the nearby buildings and structures.
12. Rhythm of Entrance and/or Porch Projection. The relationship of new or renovated entrances and porch projections to the street shall be visually compatible with the nearby buildings and structures.
13. Roof Shapes. The roof shape of a new building or addition shall be visually compatible with nearby buildings and structures.
14. Walls of Continuity. Features of a proposed building or addition, such as walls, open-type fencing, evergreen landscape masses, shall form cohesive walls of enclosure along a street, to the extent necessary to maintain visual compatibility of any structure with the nearby buildings and structures.

15. Directional Expression of Front Elevation. A new or altered building shall be visually compatible with nearby buildings and structures, whether this is a vertical, horizontal or nondirectional character.

E. Facade Treatment. *The following guidelines shall be utilized by the HPC in reviewing and making recommendations pursuant to and subject to the limitations of Borough Code 1404(K)(2).*

1. The Flemington Historic Preservation Commission is particularly concerned with elevations of buildings that are visible from public ways. Rear and side elevations that are not visible will have greater flexibility in terms of design and materials.
2. Multi-tenant buildings shall provide uniform store fronts, doorways, windows, awnings and other design features for all ground floor tenants. Upper floors of said buildings shall at a minimum be coordinated with the ground floor through common materials and colors.
3. New buildings should use windows of similar sizes and shapes or incorporate other façade elements that establish the same pattern as other buildings in the immediate area.
4. Design elements that carry through a block such as store front patterns, window spacing, entrances, canopies or awnings, etc., should be incorporated into new or renovated facades.
5. Exterior mounted mechanical and electrical equipment (e.g. air conditioning units, satellite dishes, etc.) shall be located so that they are not visible from public ways, or shall be completely screened from public view with opaque architectural elements that are unobtrusive and visually compatible with the character of the Historic District and the nearby structures.
6. Facade renovations should be consistent with the original architectural style of the building. Original details should be retained; when it becomes necessary to introduce new features, they should harmonize with existing features. If windows and doors must be replaced, new windows and doors that match the original design should be used. Window and door sizes and shapes should not be altered by any building renovation. Changes to window and door sizes and configurations may be considered if a building is being restored to an earlier, documented, historic appearance. In buildings that are listed as Significant or which are located along Main Street, from the Traffic Circle to the Monument, along East Main Street to Hopewell Avenue, as well as North Main Street from the Monument to Hopewell

Avenue, replacement doors, windows and trim on the visible facades should match the original materials. On other buildings, alternative materials may be used. See Subsection C10 for more information.

7. The use of overly dramatic and/or intrusive lighting designs and fixtures is not permitted.

F. Building Materials, Colors and Texture. *The following guidelines shall be utilized by the HPC in reviewing and making recommendations pursuant to and subject to the limitations of Borough Code 1404(K)(2).*

1. On existing buildings, original materials shall be retained wherever possible. No existing brick or stone shall be covered for cosmetic reasons, and the repair and restoration of existing materials deemed of architectural value is strongly encouraged. Great care shall be taken in the cleaning and repair of existing materials. The gentlest, effective means shall be used in all cases. "Sandblasting" and other abrasive cleaning techniques, as well as harsh chemical cleaning methods are not to be used under any circumstances.
2. Where appropriate, building renovations shall incorporate elements of the original structure into the renovation design.
3. The use of brick, stone, clapboard, shakes and other façade materials of a traditional and vernacular nature is strongly encouraged. In general, a maximum of 2 principal facade materials shall be permitted for new structures.
4. Flat, metal panels and mirrored glass surfaces are prohibited on all existing, historic buildings, as are flush metal, composite or wood doors on visible facades. On buildings indicated as "Significant" on the map of the Flemington Historic District or buildings located along Main Street, from the Traffic Circle to the Monument, along East Main Street to Hopewell Avenue, as well as North Main Street from the Monument to Hopewell Avenue, the use of vinyl or aluminum siding on facades visible from public ways shall also be prohibited.
5. The painting of buildings in patterns, checks, stripes or overly bold colors is not permitted.
6. The use of colors generally associated with traditional building design is required on all buildings. Accent or complementary colors which harmonize with the main façade colors shall be permitted for trim, awning and other building details. Acceptable

paint colors from the relevant periods can be found within the following reference, which is maintained for review in the Planning Office: Paint in America, the Colors of Historic Buildings (Moss, Roger, John Wiley & Sons, Inc., 1994)

7. Relationship of Materials, Texture and Color. The relationship of materials, texture and color of the facade and roof of a building shall be visually compatible with the predominant materials used in the buildings to which it is visually related, especially those immediately adjacent.
- G. Demolition. *The following guidelines shall be utilized by the HPC in reviewing and making recommendations pursuant to and subject to the limitations of Borough Code 1404(K).***
1. The integrity of historic districts depends on the preservation and retention in situ of the original historic structures. The demolition or partial demolition of any structure deemed Contributing or Significant in the Historic District is not permitted, except when public health or safety is at risk, as certified by a licensed structural engineer, ***or there are other reasons deemed to be crucial for the future development and prosperity of the Borough consistent with the Borough's Master Plan, adopted redevelopment plan, or other adopted economic planning and policy documents.***
 2. Applications to demolish any structure within the Historic District must be presented to the Flemington Historic Preservation Commission and must address the following issues, as well as any other factors the Historic Preservation Commission considers to be relevant:
 - a. The structure's historic, architectural and aesthetic significance;
 - b. Its current ~~use~~ ***and potential uses.***
 - c. Its ***overall*** condition, ***including a report from a structural engineer licensed in the State of New Jersey and with experience dealing with historic structures indicating its condition and suitability for preservation and re-use.***
 - d. Its importance to the municipality and the extent to which its historical or architectural value is such that its removal would be detrimental to the public interest;
 - e. The extent to which it is of such old, unusual or uncommon design, craftsmanship, texture or material that it could not be reproduced or could be reproduced only with great difficulty;

- f. The extent to which its retention would promote the general welfare;
- g. The extent to which its retention would encourage study and interest in Flemington's history, stimulate interest and study in architecture and design, educate citizens in American culture and heritage, or make the municipality a more attractive and desirable place in which to live; and
- h. The probable impact of its removal upon the character and ambience of the Historic District.
- i. The impact of its removal upon future development or redevelopment of the site.***

H. Relocation of Structures Out of the Flemington Historic District.

1. The integrity of historic districts depends on the preservation and retention in situ of the original historic structures. Therefore, the review of applications for the relocation of any structure currently located within the Flemington Historic District to a location outside of the District will be undertaken with the greatest care. The relocation of any structure deemed Contributing or Significant in the Historic District is generally not permitted, except when public health and safety is at risk.
2. Applications to relocate any structure currently located within the Flemington Historic District to a location outside of the District must be presented to the Flemington Historic Preservation Commission and must address the following issues, as well as any other factors the Historic Preservation Commission considers to be relevant:
 - a. The structure's historic, architectural and aesthetic significance;
 - b. Its current use;
 - c. Its condition, ***including a report from a structural engineer licensed in the state of New Jersey and with experience dealing with historic structures indicating its condition and suitability for relocation and re-use.***;
 - d. The extent of the historic and architectural loss to the site and District that results from moving the structure from its original location;
 - e. The reasons for not retaining the structure at its present site;
 - f. The proximity of the proposed new location to Flemington

Borough, including the accessibility by the residents of Flemington Borough and other citizens;

- g. The probability of significant damage to the structure during the relocation.
- h. The extent to which its retention would encourage study and interest in Flemington's history, stimulate interest and study in architecture and design, educate citizens in American culture and heritage, or make the municipality a more attractive and desirable place in which to live; and
- i. The probable impact of its relocation upon the character and ambience of the Historic District.
- j. The impact of its relocation upon future development or redevelopment of the site.***

I. Relocation within Flemington Borough.

- 1. The integrity of historic districts depends on the preservation and retention in situ of the original historic structures. Therefore, the review of applications for the relocation of any structure currently within the Flemington Historic District to another location within the District will be undertaken with the greatest care. The relocation of any structure deemed Contributing or Significant in the Historic District is not permitted.
- 2. Applications to relocate any structure currently located within the Flemington Historic District to another location within the District must be presented to the Flemington Historic Preservation Commission and must address the following issues, as well as any other factors the Historic Preservation Commission considers to be relevant:
 - a. The structure's historic, architectural and aesthetic significance;
 - b. Its current use;
 - c. Its condition;
 - d. The extent of the historic and architectural loss to the site and District that results from moving the structure from its original location;
 - e. The reasons for not retaining the structure at its present site;
 - f. The probability of significant damage to the structure during the relocation;

- g. The extent to which its retention would encourage study and interest in Flemington's history, stimulate interest and study in architecture and design, educate citizens in American culture and heritage, or make the municipality a more attractive and desirable place in which to live;
- h. The probable impact of its relocation upon the character and ambience of the Historic District; and
- i. The compatibility, nature and character of the current and of the proposed surrounding areas as they relate to the intent and purposes of this Ordinance.
- j. *The impact of its relocation upon future development or redevelopment of the site.***

J. Other Requirements.

1. **Signage.** Appropriately designed signage can be an important design feature in the Historic District. A member of the Historic Preservation Commission is appointed by the HPC Chair to the SRC (Sign Review Committee) and participates in the review of proposed signage on properties within the Historic District, whether or not they will be attached to a structure. Relatively small, painted signage either mounted to the face of the building as part of the storefront design, or perpendicular to the face of the building, is encouraged. Large, contemporary, neon or neon-like, or plastic internally illuminated signs are not permitted, as are signs that conceal important architectural features. All signs must also meet the requirements of the Flemington Land Development Ordinance, Chapter 26, Zoning.
2. **Awnings.** Appropriately designed awnings may be acceptable on residential and nonresidential buildings. All awnings shall be constructed and installed so that the frame and fabric of the awning is integrated into the overall building design. Awnings shall not extend beyond a dimension appropriate with the size and scale of the subject building. Awnings shall not be placed so as to conceal or disfigure any architectural feature or detail. Awning materials shall be limited to cloth, canvas and similar materials; metal and aluminum awnings are prohibited. Plastic and/or internally illuminated awnings are also prohibited. Awnings may be solid or striped, but colors shall complement the façade colors. If the building has several tenants, the overall awning design should be consistent and compatible across the entire façade.

3. **Public Art.** All art visible from public ways, including murals, outdoor sculpture, etc., that is being permanently attached or applied to structures in the Historic District shall be reviewed by the Flemington Historic Preservation Commission for compatibility with the design of the building and neighboring structures.
4. **Street Furniture.** The installation of all street furniture, including benches, fencing, trash cans, lighting, planters, etc., that is visible from public ways must be reviewed by the Flemington Historic Preservation Commission. The items should be selected to fit the scale, materials and character of the Historic District.
5. **Building and Accessibility Codes.** The Flemington Historic Preservation Commission does not review applications for compliance with relevant building or accessibility codes. Compliance with these codes is the responsibility of the applicant. The Flemington HPC review in no way supersedes or alters building code or accessibility requirements, although these codes, including the Rehabilitation Subcode and Barrier Free Subcode of the Uniform Construction Code of the State of New Jersey, take into account existing conditions and the special characteristics of historic buildings. Any changes to the exterior of a building in the Flemington Historic District that are necessitated by requirements of building and handicapped accessibility codes should be designed to complement the character and style of the existing building to the greatest degree possible.

K. Violations and Penalties.

1. Any person who undertakes an activity which would cause a change in the exterior architectural appearance of any improvement within the Flemington Historic District or on a n y individually listed structure by addition, alteration, relocation, demolition or replacement without obtaining the approval of the Flemington Historic Preservation Commission shall be deemed to be in violation of this Ordinance.
2. Upon learning of the violation, the Construction Official for Flemington Borough shall personally serve upon the owner of the lot or property whereon the violation is occurring a notice describing the violation in detail and giving the owner 10 days to abate the violation by restoring the property, structure or improvement to the condition it was in prior to the violation occurring. If the owner cannot be personally served within the municipality with this notice, a copy shall be posted on the site and a copy sent to the owner at his or her last known address as it

appears on the municipal tax rolls.

3. In the event that the violation is not abated within 10 days of service or posting on site, whichever is earlier, the Construction Official shall cause to be issued a summons and complaint, returnable in the Municipal Court, charging violation of this Ordinance and specifying the wrongful conduct of the violator. Each separate day the violation exists past the initial 10-day abatement period shall be deemed to be a new and separate violation of this Ordinance.
4. The penalty for violation past the initial 10-day abatement period shall be as follows:
 - a. For each day up to 15 days, not more than \$50.00 per day.
 - b. For each day 16 to 30, not more than \$75.00 per day.
 - c. For each day beyond 30 days, not more than \$100.00 per day.
5. If any person undertakes activity which would cause a change to the exterior architectural appearance of any structure within the historic district or of any structure individually listed as historically significant within the Borough of Flemington by addition, alteration or replacement without first having obtained the approval of the Historic Preservation Commission, he or she shall be required to immediately stop the activity, apply for approval and take any necessary measures to preserve the historic structure affected, pending a decision. If the proposed project is denied, the historic structure shall be immediately restored to its pre-activity condition. The Construction Official is authorized to seek injunctive relief regarding a "stop action" on the activity in the Superior Court, Chancery Division, not less than 10 days after the delivery of notice pursuant to Subsection K2 above. Such injunctive relief shall be in addition to the penalties authorized in Subsection K4 above.

L. Designation of Historic Landmarks and Historic Districts

1. *The Commission shall maintain and expand, when appropriate, a comprehensive survey of the Borough of Flemington to identify historic landmarks and historic districts that are worthy of protection and preservation.*
2. *Criteria for Designation. The criteria for evaluation and designating historic landmarks and historic districts shall be guided by the National Register Criteria as currently published and amended from time to time. The Commission or any person may recommend designation of historic landmarks or historic districts that are in accordance with the National Register Criteria or that possess one or more of the following attributes:*
 - a. *Character, interest, or value as part of the development,*

heritage or cultural characteristics of the borough, State or Nation; or

- b. Association with events that have made a significant contribution to the broad patterns of our history; or*
 - c. Association with the lives of persons significant in our past; or*
 - d. Embodiment of the distinctive characteristics of a type, period or method of construction, architecture, or engineering; or*
 - e. Identification with the work of a builder, designer, artist, architect or landscape architect whose work has influenced the development of the borough, State or Nation; or*
 - f. Embodiment of elements of design, detail, material or craftsmanship that render an improvement architecturally significant or structurally innovative; or*
 - g. Unique location or singular physical characteristics that make a district or landmark an established or familiar visual feature; or*
 - h. Ability or potential ability to yield information important in prehistory or history.*
- 3. Procedures for Designation. Proposals to designate a property as historic pursuant to this ordinance may be made by the governing body, the Commission, or the planning board, in accordance with the following procedures:**
- a. Nomination report for historic landmark. A nomination to propose an historic landmark shall include the following information which addresses the criteria for designation as set forth herein:*
 - i. A photograph of the proposed landmark; and*
 - ii. A copy of the municipal tax map showing the property on which the proposed landmark is located; and*
 - iii. A physical description of the proposed landmark; and*
 - iv. A statement of significance.*
 - b. Nomination report for historic district. A nomination to*

propose an historic district shall include the following information which addresses the criteria for designation as set forth herein:

- i. A building-by-building inventory of all properties within the district identifying significant, contributing, non-contributing, or encroaching; and*
- ii. A photograph of each property and building within the district; and*
- iii. A copy of the municipal tax map of the district showing boundaries; and*
- iv. A physical description of the proposed district; and*
- v. A statement of significance.*
- c. Schedule a hearing. Following receipt of a nomination to propose an historic landmark or historic district, the Commission shall schedule a public hearing on the proposed designation.*
- d. Notification requirements. At least 20 days prior to the public hearing, the Commission shall, by personal service or certified mail, perform the following:*
 - i. Notify the owner(s) of record of a property that has been proposed for historic landmark designation, or the owner(s) of record all properties located within a district that has been proposed for historic district designation, that the property or district, as applicable, is being considered for such designation and the reasons therefor;*
 - ii. Advise the owner(s) of record of the significance and consequences of such designation, and of the rights of the owner(s) of record to contest such designation under the provisions of this ordinance;*
 - iii. Notify the owner(s) of record of the date, time and location of the hearing concerning the proposed designation of the property or district; and*
 - iv. Serve any further notices as may be required under the provisions of the Municipal Land Use Law.*
- e. Public notice of hearing. At least 20 days prior to the public hearing, the Commission shall also cause public notice of the hearing to be published in the official newspaper of the borough.*

- f. Public report. At least 20 days prior to the public hearing, a copy of the nomination report shall also be made available for public inspection in the municipal offices of the borough.*
- g. Public hearing. At the public hearing scheduled in accordance with this ordinance, the Commission shall review the nomination report and accompanying documents. Interested persons shall be given the opportunity to be heard and to comment on the proposed nomination for designation.*
- h. Commission report. If the proposed nomination is approved by the Commission, then the Commission shall forward a report to the Planning Board for review, which shall contain a statement of the Commission's recommendations and the reasons therefor with regard to proposed designations considered at the hearing, including a list and map of properties approved for designation.*
- i. Report to governing body. The Planning Board shall review and provide a report with recommendations to the governing body as soon as possible, but within 60 days.*
- j. Final designation. As soon as possible after its receipt of the report of the planning board, the governing body shall act upon the proposed designation list and map and may approve, reject or modify by ordinance the designation recommendations made by the planning board. In the event that the governing body votes to reject or modify any planning board recommendations for a proposed designation, the governing body shall record in its minutes the reasons for not following such recommendation.*
- k. Public notice of designation. Notice of designation shall be made public by publication in the official newspaper of the borough and by distribution to all municipal agencies reviewing development applications and permits. A certificate or letter of designation shall be sent to the owner(s) of record.*
- l. Incorporation of designated landmarks into Borough records. Upon adoption of a resolution by the governing body designating an historic landmark or an historic district, the said designation shall supplement, rather than supersede, the existing zoning district in which the affected historic landmark or historic district is located. At that time, the designation list and map shall be incorporated into the*

master plan and zoning ordinance of the borough as required by the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. Designated properties shall also be noted as such on the records for those properties as maintained by the engineering and zoning offices, as well as the offices of the construction official, the borough tax assessor and the borough clerk. In addition to the requirement for notation in the foregoing borough records upon the designation of a landmark or historic district by the governing body, within 90 days of the adoption of this Ordinance, there shall be entered upon the property records in the offices of the Tax Assessor, the Construction Code Official, the Borough Engineer, the Zoning Officer and the Borough Clerk a notation which identifies the designation of each property located within or historic district as constituted on the date of adoption hereof.

Each tax/assessment search requested for a property located within an historic district shall note thereon the subject property is so located. Similarly, all forms maintained and issued by the Construction Code Official, Borough Engineer, Zoning Officer and Borough Clerk responsive to requests for information, permits, and like documents, shall contain a notation which identifies, as applicable, the designation of a property within an historic district as constituted on the date of the adoption hereof and as new landmarks as historic district designations occur hereafter.

- m. Amendments. Amendments to historic landmark or historic district designations may be made in the same manner as they were adopted in accordance with the provisions of this ordinance.*

M. Appeals.

Whenever the Commission shall make a final decision regarding the grant or denial of a permit, the decision shall be subject to appeal to the Planning Board operating as the Zoning Board of Adjustment as provided under N.J.S.A. 40:55D-70. An appeal from the decision of the Planning Board operating as the Zoning Board of Adjustment shall be made in the same manner as permitted and prescribed by law for appeals from any other decisions made by such Boards in accordance with applicable law.

N. Escrow Review Fees

The Commission may require an applicant for a demolition or relocation permit to post a review escrow fee in an amount not to exceed \$1,000.00 if the review of said application will be complicated and require

consultation with a professional engineer or architect. Such escrow account will be managed consistent with the Municipal Land Use Law (N.J.S.A. 40:55D-53.1 et seq.) and Ordinance Section 2800.

SECTION 4. All ordinances of the Borough of Flemington, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

Section 5. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

Section 6. This Ordinance shall take effect upon final passage and publication as required by law.

BOROUGH OF FLEMINGTON PLANNING/ZONING BOARD

38 Park Avenue, Flemington, N. J. 08822

908-782-8840

eparks@historicflemington.com

Jeffrey Doshna AICP
Chairman

Eileen Parks
Secretary

September 21, 2022

Honorable Mayor & Council
Borough of Flemington
38 Park Avenue

Flemington, NJ 08822

RE: Ordinance 2022-15: Amending Sections 1404 of The Borough Code Regarding the
Historic Preservation Commission

Dear Mayor and Council:

The above referenced Ordinance was reviewed at the September 20, 2022 regular meeting of the
Borough of Flemington Planning Board.

After discussion, the Board found the Ordinance to be ‘not inconsistent’ with the Master Plan
and made no further recommendations to amend the Ordinance.

If you need anything else or have any questions, please do not hesitate to contact me.

Best Regards,

Eileen Parks

Eileen Parks
Planning Board Secretary
Borough of Flemington

cc: Kara Kaczynski, Esq. (*via email only*)
Robert Clerico, PE (*via email only*)
Elizabeth McManus, PP (*via email only*)

NON-EXCLUSIVE GROUND SUBLEASE AGREEMENT

Between

307(L) FLEMINGTON LAND HOLDINGS, LLC

and

BOROUGH OF FLEMINGTON

This **NON-EXCLUSIVE GROUND SUBLEASE AGREEMENT** (this “**Sublease**” or “**Agreement**”) is made effective this ____ day of _____, 2022 (“**Effective Date**”), and entered into by and between **307(L) FLEMINGTON LAND HOLDINGS, LLC** (“**Sublessor**”) and the **Borough of Flemington** (“**Sublessee**”)

Background

A. Sublessor holds a leasehold interest in certain parcel of land being Block 44, Lot 6 on the Hunterdon County Tax Maps and commonly known as 307 US Highway 202, Flemington, NJ 08822, such leasehold interest being further described in detail on **Exhibit “A”** attached hereto and made a part hereof (“**Sublessor’s Property**”); and

B. Pursuant to that certain Resolution Memorializing the Grant of use/”D” variances, bulk/”C” Variances and Preliminary and Final Major Site Plan Approval to Allow the Construction of Signage, A Living Wall, Solar Trees and Associated Site Improvements, Resolution No. 2019-5 (the “**Resolution**”), as memorialized at the Borough of Flemington Planning/Zoning Board meeting on December 10, 2019, at page 5, the Sublessee would have use of the signage for eight (8) seconds every two (2) minutes, and Sublessor would assist the Sublessee in creating the copy that would be displayed on the signage on behalf of the Sublessee; and

C. Sublessee desires to sublease from Sublessor and Sublessor desires to sublease to Sublessee, subject to the terms and conditions hereinafter set forth, a portion Sublessor’s Property identified more particularly on **Exhibit “B”** attached hereto (the “**Premises**”) in order to facilitate Sublessee’s performance of its obligations and exercise of its rights under the **Resolution Agreement**; and

~~B.D.~~ Pursuant to N.J.S.A. 27:5-8, the New Jersey Department of Transportation (“NJDOT”) requires a permit be issued for off-premises advertising; and

~~C.E.~~ Sublessee desires to promote the Borough of Flemington by having the Borough’s official seal on the Sublessor’s property; and

~~D.F.~~ The Sublessor’s property will contain public service messages and emergency messaging -which will provide a public purpose; and

~~E.G.~~ This Sublease Agreement will promote and facilitate this public purpose.

NOW, THEREFORE, in consideration of the undertakings contained in this Sublease, the sum of One (\$1.00) Dollars duly paid by Sublessee to Sublessor, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, do hereby agree as follows:

1. **GRANT**: Sublessor leases and grants to Sublessee non-exclusive rights to the Premises, including the rights of use of the Premises in order to facilitate Sublessee's performance of any and all of its obligations and exercise any of its rights under the Agreement, together with rights of and ingress and egress to the Premises on and across Sublessor's Property.
2. **TERM**: The term of this Sublease (the "**Term**") shall commence on the Effective Date ("**Commencement Date**") and shall expire on the date which is twenty-five (25) full calendar years after the Effective Date, unless this Sublease is earlier terminated in accordance with its terms.
3. **RENT**: Rent for the Premises shall be \$1.00 per year ("**Rent**"), commencing on the Commencement Date and continuing on each anniversary thereof during the Term.
4. **INDEMNITY**: Sublessee does hereby indemnify and agree to hold Sublessor harmless against all claims or damages to person or property by reasons of accidents resulting from the gross negligence or willful misconduct of the Sublessee, its agents, employees, or workmen in connection with its use and occupancy of the Premises and activity conducted thereon. Sublessor does hereby indemnify and agree to hold Sublessee harmless against all [loss, injury, liabilities, obligations, damages, penalties, costs, charges and expenses \(including attorneys' fees\)](#), claims or damages to person or property by reasons of accidents resulting from the negligence, gross negligence or willful misconduct of the Sublessee, its agents, employees, or workmen in connection with its use and occupancy of the Premises and activity conducted thereon. [In the event that any action or proceeding shall be brought against the Sublessor by reason of any claim covered by this paragraph, the Sublessee, upon written notice from the Sublessor, will at the Sublessee's sole cost and expense resist or defend same.](#)
5. **INSURANCE**: The Sublessor shall obtain commercial general liability insurance, adding Sublessee as an additional named insured, on an occurrence basis with limits of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury and Property damage liability, and the Sublessor shall indemnify Sublessee against any loss or damage resulting from the Sublessee's entry upon the Property. Failure of the Sublessor to obtain Insurance will be an event of default by Sublessor ("**Event of Default**") and Sublessee may terminate this Sublease on not less than ten (10) business days' notice to Sublessor.
6. **SUBLESSEE DEFAULT**: If Sublessee defaults in the payment of Rent, or defaults in the performance of any of the other covenants and conditions hereof, Sublessor may give Sublessee notice of such default, and if Sublessee does not cure any such default within ten (10) days after giving of such notice, then it shall constitute an event of default by Sublessee ("**Event of Default**") and Sublessor may terminate this Sublease on not less than ten (10) business days' notice to Sublessee. In addition, and notwithstanding anything herein to the contrary, this Sublease shall terminate immediately and automatically upon termination of the Agreement. Upon termination of this Sublease, Sublessee shall be obligated to restore the entire Premises to substantially the

same condition as on the Effective Date, reasonable wear and tear and casualty damage excepted, resulting from Sublessee's use of or entry onto the Premises.

7. **SUBLESSEE TERMINATION RIGHTS:** If the public purpose of this Sublease ceases to exist, then the Sublessee may terminate this Sublease on not less than ten (10) business days' prior written notice to Sublessor.

8. **ESTOPPEL CERTIFICATE:** Within ten (10) business days after written request by Sublessor or Sublessee, the other party will execute, acknowledge and deliver to Sublessor or Sublessee a certificate stating: (a) that this Sublease is unmodified and in full force and effect, or, if the Sublease is modified, a copy of the modification agreement; (b) the date on which sums payable under this Sublease have been paid; (c) that no notice has been received by such party of any default that has not been cured, or, if such a default has not been cured, what such party intends to do in order to effect the cure, and when it will do so; (d) that such party has no claim or offset against the other party, or, if it does, stating the circumstances that gave rise to the claim or offset; (e) that such party has not assigned, and is not aware of any prior assignment by the other party of this Sublease or any interest therein, or, alternatively, stating the date of the assignment and assignee (if known to such party); and (f) such other matters as may be reasonably requested by Sublessor or Sublessee. Any certificate may be relied upon by any prospective purchaser of Sublessor or its assets and any prospective lender to Sublessor. If Sublessor submits a completed certificate to Sublessee, and Sublessee fails to object to its contents within ten (10) business days after its receipt of the completed certificate, the matters stated in the certificate will conclusively be deemed to be correct. Furthermore, Sublessee irrevocably appoints Sublessor as Sublessee's attorney-in-fact to execute and deliver on Sublessee's behalf any completed certificate to which such party does not object within ten (10) business days after Sublessee's its receipt.

9. **NOTICE:** All notices required to be sent under this Sublease shall be sent to the following by (a) certified mail, return receipt requested, (b) hand delivery, or (c) overnight delivery by a commercial carrier (such as Federal Express or UPS):

Sublessor:

**307(L) Flemington Land Holdings,
LLC**
3400 West Chester Pike, Suite 100
Newtown Square, PA 19073
Attn: Heather Havener

Sublessee:

Borough of Flemington
38 Park Avenue
Flemington, NJ 08822
Attn: Clerk[_____]

With a copy to:
Tara St. Angelo, Esq.
Gebhardt & Kiefer, P.C.
1318 Route 31 North
Annandale, NJ 08801

10. **MEMORANDUM OF LEASE:** Sublessor and Sublessee acknowledge that this Sublease and the interests contained in this Sublease run with the land. While this Sublease is not intended to be recorded, upon request of Sublessor, Sublessee agrees to execute a memorandum of this Sublease, in recordable form and as is otherwise reasonably acceptable to Sublessor, and further

agrees to execute any documents necessary to evidence or effectuate this Sublease, including any documents necessary to effectuate its purpose.

11. **FINANCING; SALE; TRANSFER:** Sublessor shall have the absolute and unfettered right to, and nothing herein shall prevent, restrict or limit Sublessor from selling, leasing, licensing, conveying or sub-granting all or any portion of, or granting a security interest in this Sublease or Property or the Premises, by assignment or otherwise, without prior notice to or consent of Sublessee which consent shall not be unreasonably withheld to any and all such sale, transfer, lien or encumbrance, upon the express and written assumption and/or compliance by the assignee of all of the obligations of the Sublessor herein named whereupon Sublessor shall be fully discharged from any and all obligations under this Sublease occurring after such transfer and Sublessee shall look solely to the assignee of the Sublessee's interest in this Sublease for the performance of such obligations. Sublessee agrees, upon request, to promptly execute any instrument, document or agreement reasonably requested by Sublessor's assignee(s), transferee(s), or lender(s) in connection with any transaction contemplated by the previous sentence.

12. **SUBORDINATION; ATTORMENT; NON-DISTURBANCE.** This Sublease and all of the terms, covenants and provisions hereof and all rights, remedies and options of Sublessee (and its successors and assigns) thereunder are and shall at all times be subject and subordinate in all respects to the terms, covenants and provisions of (i) ground leases or underlying leases which may now exist or hereafter be executed affecting Sublessor's Property, (ii) the lien of any mortgage which may now exist or hereafter be executed affecting Sublessor's Property, and (iii) the lien of any mortgage which may hereafter be executed in any amount for which Sublessor's Property, ground leases or underlying leases, or Sublandlord's interest or estate in any of said items is specified as security. Subject to the foregoing, if any assignee or transferee (including any lender or its transferees in connection with any foreclosure of Sublessor's interest or otherwise, or any other lessee or sublessee, by virtue of any transaction, including without limitation any recognition agreement) (each, a "**Purchaser**") shall become the holder of Sublessor's interest in Property or the Premises, and Sublessee is not in default under this Sublease, (a) this Sublease shall not be terminated or affected thereby and shall continue in full force and effect as a direct Sublease between Purchaser and Sublessee; (b) Purchaser shall not disturb Sublessee's possession or use of the Premises (as defined herein) or materially affect Sublessee's rights hereunder; and (c) Sublessee agrees to attorn to Purchaser and Purchaser by virtue of such acquisition of the Property shall be deemed to have agreed to accept such attornment, whereupon, subject to the observance and performance by Sublessee of all the terms, covenants and conditions of this Sublease on the part of Sublessee to be observed and performed, Purchaser shall recognize the leasehold estate of Sublessee under this Sublease for the remaining balance of the Term with the same force and effect as if Purchaser were the Sublessor under this Sublease; provided, however, that Purchaser shall not be: (i) liable for the failure of any prior Sublessor (any such prior landlord, including Sublessor, a "**Prior Sublessor**") to perform any of its obligations under the Sublease which have accrued prior to the date on which Purchaser shall become the owner of the Property, provided that the foregoing shall not limit Purchaser's obligations under the Sublease to correct any conditions that (x) continue to exist as of the date Purchaser shall become the owner of the Property and (y) violate Purchaser's obligations as Sublessor under the Sublease; provided further, however, that Purchaser shall have received written notice of such omissions, conditions or violations and has had a reasonable opportunity to cure the same; and (ii) subject to any offsets, defenses, abatements or

counterclaims which shall have accrued in favor of Sublessee against any Prior Sublessor prior to the date on which Purchaser shall become the owner of the Property.

13. **MISCELLANEOUS:**

a. Sublessor and Sublessee agree that each section of this Sublease is severable from the remainder, and, if any portion of this Sublease is declared to be void or unenforceable, the remainder of the Sublease shall continue in full force and effect.

b. The liability of Sublessor under this Agreement shall be and is hereby limited to Sublessor's interest in the Sublessor Property and no other assets of Sublessor shall be affected by reason of any liability which Sublessor may have to Sublessee or to any other person by reason of this Agreement, the execution thereof, or the acquisition of Sublessor's interest herein.

c. Sublessor covenants that if, and so long as, Sublessee pays Rent and performs the covenants hereof, Sublessee shall peaceably and quietly have, hold and enjoy the Display for the Term, subject to the provisions of this Sublease.

d. This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey.

e. The parties agree that there are no prior or contemporaneous oral agreements pertaining to the Premises by and between Sublessor and Sublessee other than the Resolution. The Sublease embodies the entire agreement between the parties and may not be modified in any respect, except in writing, signed by the parties.

f. This Agreement may be executed in one or more counterparts, all of that shall be considered one and the same Agreement and shall become effective when one or more such counterparts have been signed by each of the parties and delivered to the other party.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the said parties have set their hands and seals hereto the day and year first above written.

SUBLESSOR:

307(L) FLEMINGTON LAND HOLDINGS, LLC

By: _____
Name: Thaddeus J. Bartkowski, III
Title: Manager

SUBLESSEE:

BOROUGH OF FLEMINGTON

By: _____
Name:
Title:

Exhibit "A"**Sublessor's Property**

ALL THAT certain tract, piece or parcel of land and premises situate in the Township of Flemington, County of Hunterdon and State of New Jersey and being more particularly described as follows:

BEGINNING at a point in the easterly line New Jersey State Highway Route 31, said point being the common corner to Lots 4 & 5, Block 44 with the northerly line of the hereinafter described Lot 6, Block 44 and running thence;

1. Along the southerly line of Lots 4, 5 & 7, Block 44, South 70 degrees 10 minutes 36 seconds East, a distance of 231.30 feet to a point, thence;
2. South 19 degrees 49 minutes 24 seconds West, along the westerly line of Lot 7, a distance of 95.72 feet to a point, thence;
3. Continuing along the southerly line of the same, South 70 degrees 10 minutes 36 seconds East, a distance of 96.18 feet to a point in the northwesterly right-of way of New Jersey State Highway Route 202; thence
4. Along said line, South 56 degrees 18 minutes 27 seconds West, a distance of 13.02 feet to a point of curvature in the same; thence
5. Along a curve to the right, with a radius of 140.00 feet, a total arc distance of 146.77 feet, and having a Chord bearing and distance of South 86 degrees 20 minutes 26 seconds West 140.14 feet, to a point of tangency; thence
6. North 63 degrees 58 minutes 13 seconds West, a distance of 66.23 feet to a point of curvature; thence
7. Along a curve to the right, with a radius of 140.00 feet, a total arc distance of 205.25 feet, and having a Chord bearing and distance of North 22 degrees 10 minutes 36 seconds West 187.36 feet, to a point in the southeasterly right-of-way of New Jersey state Highway Route 31; thence
8. Along said line of Route 31, North 19 degrees 49 minutes 24 seconds East, a distance of 15.64 feet to the point and place of beginning.

Being Lot 6, Block 44 as shown on the plan entitled "ALTA/NSPS Land Title Survey and Limited Topography, Block 44 – Lot 6", dated 07/22/21 and revised to 09/15/21, prepared by Stout & Caldwell Engineers, LLC. Said property being formerly described as Tracts 1 & 2 in Deed Book 2450, Page 596. Containing within said bounds 36,335.84 S.F. (0.83 AC) of land. Subject to any and all Restrictions and Easements of Record

EXHIBIT B

Premises

[To be inserted]

Prepared by:

John R. Lanza, Esq.

ACCESS EASEMENT AGREEMENT

This Access Easement Agreement ("Access Easement") is made this _____ day of _____, 2022, by and between **Flemington Center Urban Renewal, LLC ("FCUR")**, a limited liability company having an address at 5 Bartles Corner Road, Flemington, New Jersey 08822 and the **Borough of Flemington**, a municipal corporation and body politic of the State of New Jersey having its offices at 38 Park Avenue, Flemington, New Jersey 08822 (the "**Borough**").

RECITALS:

WHEREAS, FCUR is the fee simple owner of the property identified on the Borough's Official Tax Map as Block 22, Lot 4 (formerly Block 22, Lots 4-7 & 12-14) and Block 24, Lot 2 (formerly Block 24, Lots 1,2,3 and 5) (collectively, the "**Properties**"); and

WHEREAS, the Properties are part of a 3.9-acre area designated by the Borough as the Union Hotel Redevelopment Area (the "**Area**") and are part of the Union Hotel Redevelopment Plan, as amended (the "**Plan**") and subject to a redevelopment agreement between FCUR and the Borough naming FCUR as the redeveloper; and

WHEREAS, the Plan provides for the mixed-use development of the Area that includes a hotel, retail businesses, restaurants and multi-family residential uses; and

WHEREAS, FCUR filed Application No. 2021-01 with the **Flemington Borough Planning Board** (the "**Planning Board**") for preliminary and final site plan approval with checklist waivers and design waivers for a plan to redevelop the Area in accordance with the site plan documents filed with the Borough (the "**Site Plan**"); and

WHEREAS, on April 27, 2021, the Planning Board memorialized a final resolution of approval identified as Resolution No. 2021-08 (the "**Resolution of Approval**") which granted approval to the Site Plan, subject to certain conditions, including compliance with the recommendations of the Board professionals; and

WHEREAS, the Site Plan includes a vehicular drop-off lane on Bloomfield Avenue to allow access to the main lobby of a proposed building, and because of the drop-off lane, part of an existing public sidewalk on Bloomfield Avenue will have to be demolished, and a new sidewalk will be constructed on a portion of the Properties; and

WHEREAS, an easement for public use of the relocated sidewalk is a condition of approval, as set forth in the Board Engineer's memorandum dated February 14, 2021; and

WHEREAS, the Borough and FCUR enter into this Access Easement Agreement to formally set forth the terms and conditions of their agreement in a writing that will permit this easement for public pedestrian use of the relocated sidewalk;

NOW, THEREFORE, IN CONSIDERATION of the mutual promises herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **Grant of Easement.** FCUR as the owner of the Properties hereby grants to the Borough a perpetual, non-exclusive access easement to allow a pedestrian walkway on, over and through that certain parcel of land of FCUR described in Exhibit A, attached hereto and made a part hereof (the "Easement Area") and depicted on Exhibit B attached hereto and made a part hereof. The Easement Area shall function as a sidewalk for public use, to replace part of the sidewalk currently on Bloomfield Avenue. The Easement Area shall be subject to such ordinances that the Borough may adopt from time to time regulating sidewalks in the interests of public safety.

2. **Reservation of Rights.** FCUR reserves all rights to use the Easement Area in any manner that does not materially interfere with this easement grant to the Borough.

3. **Maintenance.** FCUR shall maintain the Easement Area in reasonable repair at its expense.

4. **Effective Date.** Notwithstanding anything else herein, the parties acknowledge this Access Easement will only become effective when the construction of the sidewalk in the Easement Area is completed.

5. **Binding on Successors.** This Access Easement shall be duly filed as a record with the County Clerk of Hunterdon County as against Block 22, Lot 4. This Access Easement shall run with the land and shall bind and inure to the parties' successors and assigns.

6. **Authorization to Execute.** Each person executing this Access Easement represents that the execution of this Access Easement has been duly authorized by the party on whose behalf the person is executing this Access Easement and that such person is authorized to execute the Access Easement on behalf of such party.

IN WITNESS HEREOF, the parties hereto are authorized and have executed this Easement on the day and year last written.

Flemington Center Urban Renewal, LLC

Dated: _____

By: _____
Title: _____

Borough of Flemington

Dated: _____

By: _____
Title: _____

STATE OF NEW JERSEY)
) ss:
 COUNTY OF HUNTERDON)

On the ____ day of _____, 2022, before me personally came _____, to me known to be the individual who executed the foregoing instrument and, who, being duly sworn to me, did depose and say that he is the _____ of Flemington Center Urban Renewal, LLC; that he executed the foregoing instrument in the name of the Company; that he had the authority to execute same; and that he acknowledged that he executed same as the act and deed of the Company.

 A Notary Public of the State of New Jersey

STATE OF NEW JERSEY)
) ss.:
 COUNTY OF HUNTERDON)

THE UNDERSIGNED, being Mayor of the Borough of Flemington and acting on the authority of the governing body of the Borough of Flemington does hereby accept the foregoing Easement Agreement.

ACCEPTED AND APPROVED this ____ day of _____, 2022

ATTEST:

_____, Mayor
 _____, Clerk

STATE OF NEW JERSEY)
) ss.:
 COUNTY OF HUNTERDON)

I CERTIFY that on _____, 2022, _____ personally came before me and this person acknowledged under oath, to my satisfaction, that:

- (a) this person is the Clerk of the Borough of Flemington in the County of Hunterdon, a municipal corporation of the State of New Jersey, named in the attached ACCESS EASEMENT AGREEMENT;
- (b) this person is the attesting witness to the signing of the ACCESS

EASEMENT AGREEMENT by the proper officer who is the Mayor of the Borough of Flemington;

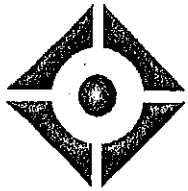
(c) this ACCESS EASEMENT AGREEMENT was signed and delivered and delivered by the Borough as its voluntary act duly authorized by a proper resolution of the Borough Council;

(d) this person knows the proper seal off the Borough which was affixed to this EASEMENT AGREEMENT; and

(e) this person signed this proof to attest to the truth of these facts.

_____, Clerk

Sworn and subscribed to before me on
this ____ day of _____, 2022



CONTROL POINT ASSOCIATES, INC.

traditional methods | modern approaches

30 Independence Blvd
Suite 100
Warren, NJ 07059
Tel: 908.668.0099
cpasurvey.com

June 29, 2022
01-160018-00

LEGAL DESCRIPTION SIDEWALK EASEMENT LOTS 13 & 14, BLOCK 22 FLEMINGTON BOROUGH, HUNTERDON COUNTY STATE OF NEW JERSEY

BEGINNING AT A POINT IN THE SOUTHERLY LINE OF BLOOMFIELD AVENUE, SAID POINT BEING NORTH 88 DEGREES 35 SECONDS AND 00 MINUTES WEST A DISTANCE OF 6.99 FEET FROM THE INTERSECTION OF THE SOUTHERLY LINE OF BLOOMFIELD AVENUE (40 FEET WIDE RIGHT OF WAY) WITH THE WESTERLY LINE OF SPRING STREET (55 FEET WIDE RIGHT OF WAY) SAID INTERSECTION POINT ALSO MARKED BY AN IRON PIPE, SAID BEGINNING POINT BEING THE SAME DISTANCE FROM THE BEGINNING POINT AS DESCRIBED IN DEED BOOK 2002, PAGE 265, AND RUNNING THENCE;

ACROSS LOTS 13 AND 14, BLOCK 22 (NOW OR FORMERLY LANDS OF FLEMINGTON FUR COMPANY, LLC, THE FOLLOWING:

1. ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 15.77 FEET, A CENTRAL ANGLE OF 43 DEGREES 30 MINUTES 38 SECONDS, AN ARC LENGTH OF 11.97 FEET, A CHORD BEARING OF SOUTH 67 DEGREES 29 MINUTES 30 SECONDS WEST, AND A CHORD DISTANCE OF 11.69 FEET TO A POINT, THENCE;
2. ALONG A CURVE TO THE RIGHT, NON-TANGENT TO THE PREVIOUS COURSE, HAVING A RADIUS OF 33.40 FEET, A CENTRAL ANGLE OF 24 DEGREES 19 MINUTES 54 SECONDS, AN ARC LENGTH OF 14.18 FEET, A CHORD BEARING OF SOUTH 56 DEGREES 53 MINUTES 42 SECONDS WEST, AND A CHORD DISTANCE OF 14.08 FEET TO A POINT, THENCE;
3. NORTH 88 DEGREES 24 MINUTES 41 SECONDS WEST, A DISTANCE OF 45.20 FEET TO A POINT, THENCE;
4. ALONG A CURVE TO THE RIGHT, NON-TANGENT TO THE PREVIOUS COURSE, HAVING A RADIUS OF 33.00 FEET, A CENTRAL ANGLE OF 22 DEGREES 36 MINUTES 04 SECONDS, AN ARC LENGTH OF 13.02 FEET, A CHORD BEARING OF NORTH 54 DEGREES 41 MINUTES 02 SECONDS WEST, AND A CHORD DISTANCE OF 12.93 FEET TO A POINT OF TANGENCY, THENCE;
5. ALONG A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 17.15 FEET, A CENTRAL ANGLE OF 45 DEGREES 14 MINUTES 53 SECONDS, AN ARC LENGTH OF 13.55 FEET, A CHORD BEARING OF NORTH 66 DEGREES 03 MINUTES 45 SECONDS WEST, AND A CHORD DISTANCE OF 13.20 FEET TO A POINT IN THE AFORESAID NORTHERLY LINE OF BLOOMFIELD AVENUE, THENCE;
6. ALONG SAID NORTHERLY LINE, SOUTH 88 DEGREES 56 MINUTES 27 SECONDS EAST, A DISTANCE OF 18.34 FEET TO A POINT IN THE SAME, THENCE;

ACROSS AFORESAID LOTS 13 AND 14, THE FOLLOWING THREE (3) COURSES:

7. ALONG A CURVE TO THE LEFT, NON-TANGENT TO THE PREVIOUS COURSE HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 43 DEGREES 28 MINUTES 07 SECONDS, AN ARC LENGTH OF 18.97 FEET, A CHORD BEARING OF SOUTH 66 DEGREES 38 MINUTES 57 SECONDS EAST, AND A CHORD DISTANCE OF 18.52 FEET TO A POINT, THENCE;
8. SOUTH 88 DEGREES 23 MINUTES 00 SECONDS EAST, A DISTANCE OF 20.00 FEET TO A POINT, THENCE;
9. ALONG A CURVE TO THE LEFT, NON-TANGENT TO THE PREVIOUS COURSE, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 44 DEGREES 45 MINUTES 36 SECONDS, AN ARC LENGTH OF 19.53 FEET, A CHORD BEARING OF NORTH 69 DEGREES 14 MINUTES 12 SECONDS EAST, AND A CHORD DISTANCE OF



CONTROL POINT
ASSOCIATES, INC.
traditional methods | modern approaches

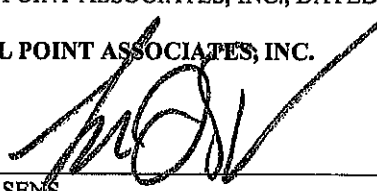
June 29, 2022
01-160018-00
PAGE 2

- 19.04 FEET TO A POINT IN THE AFORESAID SOUTHERLY LINE OF BLOOMFIELD AVENUE, THENCE;
10. ALONG SAID SOUTHERLY LINE, SOUTH 88 DEGREES 35 MINUTES 00 SECONDS EAST, A DISTANCE OF 17.26 FEET TO THE POINT AND PLACE OF BEGINNING.

CONTAINING 501 SQUARE FEET OR 0.012 ACRES

THIS DESCRIPTION IS WRITTEN WITH REFERENCE TO MAP ENTITLED "EXHIBIT SKETCH, MAIN STREET, BLOOMFIELD AVENUE AND SPRING STREET, LOTS 4-7 & 12-14, BLOCK 22, FLEMINGTON BOROUGH, HUNTERDON COUNTY, STATE OF NEW JERSEY," PREPARED BY CONTROL POINT ASSOCIATES, INC., DATED 06-29-2022.

CONTROL POINT ASSOCIATES, INC.



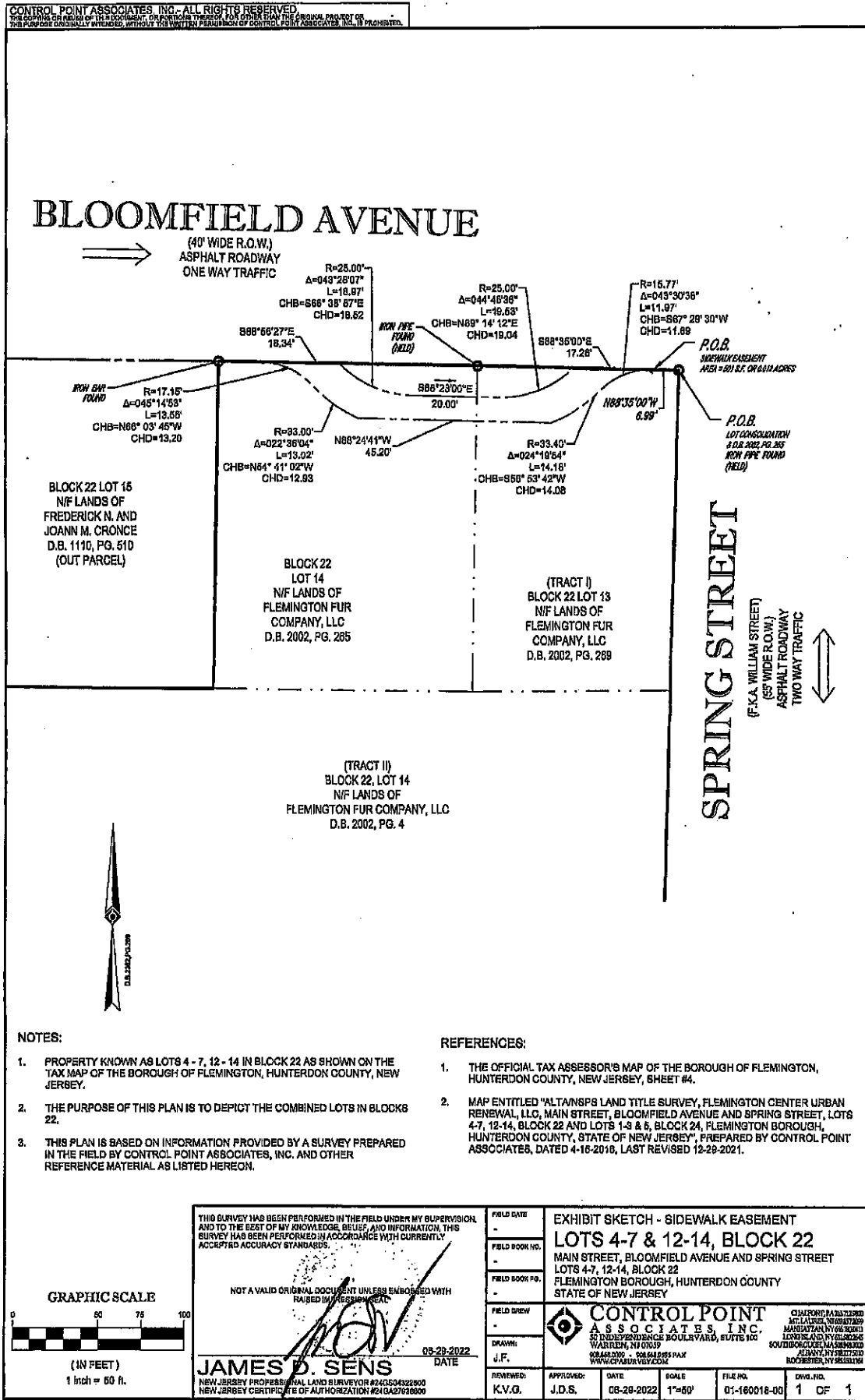
JAMES D. SENS
STATE OF NEW JERSEY
PROFESSIONAL LAND SURVEYOR #24GS04322600
NEW JERSEY CERTIFICATE OF AUTHORIZATION #24GA27938600

06-29-2022
DATE

KVG/JF

PREPARED BY: JF
REVIEWED BY: KVG

Attachment: FCUR Access Easement Agreement (2022-19 : Accepting Easement for Public Sidewalks on Block 22, Lot 4)



Attachment: FCUR Access Easement Agreement (2022-19 : Accepting Easement for Public Sidewalks on Block 22, Lot 4)