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PRINCETON COALITION FOR
RESPONSIBLE DEVELOPMENT, INC.

Plaintiff,

v.

MUNICIPALITY OF PRINCETON
PLANNING BOARD, and MAYOR &
COUNCIL OF THE MUNICIPALITY OF
PRINCETON

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MERCER COUNTY

DOCKET NO. MER-L-

CIVIL ACTION

**COMPLAINT IN LIEU OF
PREROGATIVE WRITS**

Plaintiff, Princeton Coalition for Responsible Development, Inc. (hereinafter referred to as “Plaintiff”), by way of Complaint in Lieu of Prerogative Writs against the Defendants, the Municipality of Princeton Planning Board (the “Board”) and the Mayor & Council of the Municipality of Princeton (the “Council”) (together, “Defendants”), says:

THE PARTIES

1. Plaintiff, a non-profit corporation with a registered address of 28 Hibben Road, Princeton, New Jersey, promotes responsible land development and redevelopment in the Municipality of Princeton (the “Municipality” or “Princeton”). Its directors are comprised of residents of Princeton living near the historic Princeton Theological Seminary campus, which includes the former Tennent-Roberts campus and Whiteley Gym, each of which is located on Stockton Street, Edgehill Street, and/or Hibben Road, Princeton, which lands have been designated by Princeton as a non-condemnation area in need of redevelopment (the “AINR Study Area”).

2. Defendant Board was created by ordinance of the Municipality pursuant to the provisions of the New Jersey Municipal Land Use Law (“MLUL”), N.J.S.A. 40:55D-1 *et seq.*, with offices at 400 Witherspoon Street, Princeton, New Jersey.

3. Defendant Council, including the Mayor, council members, and other municipal officers, officials, code enforcement agents, agencies, committees and/or subcommittees thereof, is a duly constituted municipal corporation of the State of New Jersey, having offices at 400 Witherspoon Street, Princeton, New Jersey 08540.

NATURE OF ACTION

4. In this action, Plaintiff challenges the Master Plan and Reexamination Report, prepared by Clarke Caton Hintz (“CCH”) and adopted by the Board on November 30, 2023 (the “2023 Master Plan and Reexamination Report”), as the assumptions and resulting principles and policies, having insufficient technical basis, fail to guide the use of lands in a manner which protects the public health and safety and promotes the general welfare, and fails to include all required components, contrary to the requirements of the MLUL.

5. Further, this action challenges the specific recommendations set forth in the 2023 Master Plan and Reexamination Report related to certain properties within the AINR Study Area, as well as surrounding properties, as there is no technical basis in support of the departure from the recommendations set forth in prior Master Plan documents, which departure improvidently paves the way for the possible adoption of a redevelopment plan for the AINR Study Area that will be markedly out of character with its surrounding neighborhood.

6. Additionally, Plaintiff challenges the use of a Master Plan Steering Committee, comprised of the Mayor, a Council representative appointed to the Board, the Board Chairwoman, and ten (10) stakeholders in the Princeton community (the “MP Steering Committee”), to oversee

the preparation of the 2023 Master Plan and Reexamination Report, as the MP Steering Committee improperly usurped the authority of the Board and constitutes an illegal delegation of duty contrary to the requirements of the MLUL.

7. Plaintiff also challenges the sufficiency of the notice provided to the public and the failure to prepare and publish minutes as to the MP Steering Committee meetings, the sufficiency of the notice of the public hearing on the adoption of the 2023 Master Plan and Reexamination Report, and the failure to adopt a memorializing resolution and publish the required notice of adoption of the 2023 Master Plan and Reexamination Report, all contrary to the requirements of the MLUL and the Open Public Meetings Act (“OPMA”), N.J.S.A. 10:4-6 et seq.

8. Finally, the Plaintiff challenges the Board’s improper predetermination of a date certain to adopt the 2023 Master Plan and Reexamination Report without meaningful public input on the draft master plan documents as contrary to law and Princeton’s Board, Commission and Committee Members’ Handbook, revised January 2023 (the “BCC handbook”), which, amongst other guidelines, indicates that Board members should “remain open-minded, objective, and make no judgment until all of the available evidence pertaining to an issue has been submitted.”

PRIOR MASTER PLAN AND REEXAMINATION REPORTS

9. Upon information and belief, the Regional Planning Board of Princeton was organized in January 1970, and was charged with preparing a regional master plan for both Princeton Township and Princeton Borough, which municipal entities predated the creation of the Municipality in 2013.

10. Upon information and belief, the first regional master plan was adopted in 1980, and the second regional master plan was adopted in July 1989.

11. On or around November 30, 1995, the Princeton Regional Planning Board adopted the Princeton Community Master Plan Reexamination Report (the “1995 Reexamination Report”), and subsequently adopted the Princeton Community Master Plan on or around December 12, 1996 (the “1996 Master Plan”).

12. Although Princeton Township and Princeton Borough were two separate municipalities prior to their merger in 2013, the 1996 Master Plan contained goals and objectives that applied to both municipalities.

13. On or around October 18, 2001, the Regional Planning Board of Princeton adopted the Princeton Community Master Plan 2001 Reexamination Report (the “2001 Reexamination Report”).

14. On or around October 18, 2007, the Regional Planning Board of Princeton adopted the Princeton Community Master Plan 2007 Reexamination Report (the “2007 Reexamination Report”).

15. The Municipality was created by a merger between Princeton Township and Princeton Borough, effective January 1, 2013, which also necessitated the creation of the new Board to replace the Regional Planning Board of Princeton, which had served both Princeton Township and Princeton Borough.

16. Shortly after the creation of the Municipality in 2013, the Regional Planning Board of Princeton no longer existed, and the newly organized Board readopted the existing 1996 Master Plan.

17. Upon information and belief, the Board adopted the Princeton Community Master Plan 2017 Reexamination Report on or around November 2, 2017 (the “2017 Reexamination Report”).

18. The 2017 Reexamination Report identified the following elements of the 1996 Master Plan that had been amended and updated since the 2007 Reexamination Report: (i) 2008 Housing Element; (ii) 2009 Land Use Element; (iii) 2011 Open Space and Recreation element; (iv) 2013 Circulation Element; and (v) 2013 Historic Element.

19. Additionally, the 2017 Reexamination Report, in reference to the AINR Study Area, specifically noted that “the community will need to provide input into how and if this site should be redeveloped,” and recommended that the long-range plans of the Princeton Theological Seminary “regarding long-term development in and around their campuses” (inclusive of the AINR Study Area) be updated and that “any development at these institutions be compatible with surrounding neighborhoods and roadway capacity is critical to the well-being of the community.”

20. Each of the 2001 Reexamination Report, the 2007 Reexamination Report, and the 2017 Reexamination Report indicated that following its respective adoption, the Board “will undertake a detailed review of the changes recommended and propose amendments to the [1996 Master Plan].”

21. Upon information and belief, the MP Steering Committee was formed in April 2022 to oversee the preparation of a new master plan.

AINR STUDY AREA DESIGNATION

22. On or around June 25, 2018, the Council directed the Board to investigate whether certain properties in the AINR Study Area, specifically Block 35.01, Lots 25, 26, and 29; Block 36.01, Lots 15, 16, and 17; and Block 36.02, Lots 5, 6, 7, and 20 on the Official Tax Map of the Municipality, met the criteria for designation as a non-condemnation area in need of redevelopment pursuant to the Local Redevelopment and Housing Law (“LRHL”), N.J.S.A. 40A:12A-1 *et seq.*, as memorialized in Resolution 18-218 (the “Resolution 18-218”).

23. Resolution 18-218 included a June 20, 2018 memorandum from Jim Constantine, P.P. and Chris Cosenza, AICP, PP, LEED AP, Loony Ricks Kiss, Inc. (“LRK”), the municipal planners, to the Council explaining the general process for adopting a redevelopment plan in New Jersey, and two aerial maps of the AINR Study Area marked as Exhibit A and Exhibit B, which reference the properties in the AINR Study Area as follows:

Label	Block	Lot	Address	Acreage
#1	35.01	29	4 Hibben Road	2.18
#2	35.01	26	34-36 Hibben Road	0.37
#3	35.01	25	34-36 Hibben Road	0.50
#4	36.01	17	Tennant Hall/108 Stockton Street	2.93
#5	36.01	16	100 Stockton Street	0.58
#6	36.01	15	92 Stockton Street	0.46
#7	36.02	20	35 Edgehill Street	0.20
#8	36.02	5	26 Library Place	0.37
#9	36.02	6	20 Library Place	1.52
#10	36.02	7	12 Library Place	0.65

24. During the June 25, 2018 Council meeting in which Resolution 18-218 was adopted, Mr. Constantine opened the discussion by reference to the 2017 Reexamination Report, citing from the report that “[t]he Princeton Seminary has indicated it is evaluating options for its Tennent Campus on Stockton Street and the community will need to provide input into how and if this site should be redeveloped.”

25. Mr. Constantine stated during the June 25, 2018 Council meeting that the aforementioned recommendation from the 2017 Reexamination Report provided a basis to consider using the redevelopment process as a planning tool that “might help best address the situation.”

26. During the public hearing on Resolution 18-218, a number of residents expressed their concerns regarding the redevelopment process, noting that the inclusion of historical

properties in the AINR Study Area required public input and “should not be rushed through”, and that there should be transparency under the process so that residents can be informed.

27. Specifically, one resident indicated that “no one had told them about parcels 6, 7, 8, 9, and 10, as those parcels include the Adams House and 3 Steadman houses which are historical properties” and “the Historic Preservation Officer was not aware of it.”

28. In response, a member of Council advised that the adoption of Resolution 18-218 is simply the first step, and that there would be “many public opportunities during the process.”

29. Additionally, a representative from Princeton Theological Seminary advised that the parcels referenced by said member of the public are contiguous properties, and that the seminary “would never think of doing anything but preserving these homes...” and that the seminary guaranteed the Municipality that “those homes won’t be altered” and “the same is true for the Hibben Athletic fields which will be preserved as open space.”

30. On or around July 12, 2018, the Board considered the redevelopment referral from Council for the AINR Study Area. Mr. Constantine provided an overview of the LRHL during this meeting, and advised that the Board would send its findings and recommendations to the Council after considering a report prepared by the municipal planner.

31. During the July 12, 2018 Board meeting, a question was raised as to whether the proposal would include affordable housing units, and Mr. Constantine advised that since the “site could not sustain that many units”, a payment would be made to the Municipality in lieu of providing affordable housing, which could be used for a different project.

32. The Board, consisting of Julie Capozzoli, David Cohen, Wanda Gunning, Gregory Stankiewicz, Zenon Tech-Czarny, Gail Ullman, Dwaine Williamson, and two alternates, Louise Wilson and Mia Sacks, unanimously voted to authorize LRK to proceed with an investigation as

to whether the parcels in the AINR Study Area should be designated as an area in need of redevelopment.

33. Pursuant to the direction of the Board, LRK prepared a preliminary investigation report for the AINR Study Area entitled “Area in Need of Redevelopment Preliminary Investigation of Princeton Theological Seminary Properties”, dated September 6, 2018 (the “Preliminary Investigation Report”).

34. The introduction of the Preliminary Investigation Report cites the 2017 Reexamination Report, referencing the fact that the properties in the AINR Study Area require community input on any future redevelopment, and also notes that if properties in the AINR Study Area are designated as in need of redevelopment, the Council will need to evaluate commencing with the preparation of a redevelopment plan **with community input** as called for in the 2017 Reexamination Report.

35. Further, in Section 3.7 of the Preliminary Investigation Report, several goals of the 1996 Master Plan are identified, including: (i) preserving the scenic quality of Princeton’s principal gateways, and where possible taking steps to enhance and protect those gateways; (ii) encouraging historic preservation through land use policies which support the preservation of historic buildings and sites; and (iii) preserving and protecting the character of established neighborhoods.

36. Importantly, Section 3.7 of the Preliminary Investigation Report identifies the directive in the 1996 Master Plan that “the Princeton Theological Seminary and the community share a unique relationship, and that it is critical that there be an open and on-going dialogue, with the goal ‘to address major impacts in the community, such as traffic, transportation, housing, development, and environmental concerns.’ What is particularly important is the transition between the institutional use and the surrounding historic residential neighborhood.”

37. On or around September 27, 2018, the Board conducted a public hearing on the Preliminary Investigation Report.

38. Notably, despite voting on July 12, 2018 to authorize LRK to proceed with the preliminary investigation for the AINR Study Area, Wanda Gunning recused herself from participating in the September 27, 2018 public hearing due to the fact that she resided within 200 feet of a subject property in the AINR Study Area.

39. Ultimately, the Board, consisting of David Cohen, Gregory Stakiewicz, Gail Ullman, and two alternates, Louise Wilson and Mia Sacks, voted unanimously to endorse the Preliminary Investigation Report.

40. Subsequently, on or around October 8, 2018, the Council adopted Resolution 18-336 determining that the properties in the AINR Study Area should be designated as a non-condemnation area in need of redevelopment (“Resolution 18-336”), and directing the Board to prepare a redevelopment plan for the AINR Study Area.

41. Resolution 18-336 included a copy of the Preliminary Investigation Report as well as a copy of the September 28, 2018 memorandum from Ilene Cutroneo, LUA, assistant to the municipal planners, to Kathleen Brzezynski, RMC, the Municipal Clerk, indicating that the Board recommends to Council “that it determined that the listed properties are a non-condemnation area in need of redevelopment.”

42. Resolution 18-336 also included a memorandum from the Council’s attorney dated October 5, 2018 which advised that the Council must draw its own conclusion using the Preliminary Investigation Report and the results of the Board’s investigation as to whether the LRHL criteria has been met, and whether all or a portion of the AINR Study Area should be designated as a non-condemnation area in need of redevelopment.

43. On or around November 1, 2018, the Board confirmed approval of the designation of the AINR Study Area as a non-condemnation area in need of redevelopment from the New Jersey Department of Community Affairs (“DCA”), which allowed the Board to “begin phase 2”, specifically, the preparation of a redevelopment plan for the AINR Study Area (the “Draft Redevelopment Plan”).

44. At the same meeting, the Board appointed an Ad Hoc Committee to work on the Draft Redevelopment Plan (the “Ad Hoc Committee”), with LRK providing consulting planning services.

45. On or around December 6, 2018, the Board Chairperson announced that there would be neighborhood meetings in Erdman Hall about the redevelopment project on December 8, 2018 and December 10, 2018 (the “2018 Neighborhood Meetings”), and the Board then adopted a Resolution for Professional Service Agreement with LRK for planning services in connection with the preparation of the Draft Redevelopment Plan.

46. Upon information and belief, though the 2018 Neighborhood Meetings appear to have been conducted by the Ad Hoc Committee, no agendas or minutes are publicly available.

47. Upon information and belief, on or around December 17, 2018 the Council adopted three resolutions in connection with the AINR Study Area, specifically: (1) Resolution 18-400, authorizing a supplemental Professional Services Agreement with LRK in connection with the AINR Study Area investigation (“Resolution 18-400”); (2) Resolution 18-401, authorizing a professional services agreement with LRK to prepare a concept plan for the AINR Study Area (“Resolution 18-401”); and (3) Resolution 18-402, authorizing a professional services agreement with Miller, Porter & Muller, P.C. in connection with the aforementioned concept plan (“Resolution 18-402”).

48. Upon information and belief, the Princeton Historic Preservation Committee (“HPC”) formed a subcommittee for the proposed redevelopment of the AINR Study Area on or around January 14, 2019 (“HPC Subcommittee”).

49. From January 2019 to May 2019 the Ad Hoc Committee and/or the HPC Subcommittee conducted meetings regarding the proposed redevelopment of the AINR Study Area, which involved substantial public input and participation.

50. These efforts on the preparation of a Draft Redevelopment Plan ultimately stalled, and, upon information and belief, Herring Properties (“Herring”), a private developer, entered into a contract in or about 2021 with the Princeton Theological Seminary to purchase a portion of the AINR Study Area, specifically: (1) Parcel A, approximately 3.96 acres comprising Tenant Hall/108 Stockton Street, Block 36.01, Lot 17 also identified as Label #4 in the AINR Study Area, 100 Stockton Street, Block 36.01, Lot 16 also identified as Label #5 in the AINR Study Area, and 92 Stockton Street, Block 36.01, Lot 15 also identified as Label #6 in the AINR Study Area (collectively, “Parcel A”); and (2) Parcel B, approximately 0.88 acres comprising 34-36 Hibben Road, Block 35.01, Lot 26 also identified as Label #2 in the AINR Study Area and Block 35.01, Lot 25 also identified as Label #3 in the AINR Study Area (collectively, “Parcel B”, together with Parcel A, the “TRW Property”).

2022 MASTER PLAN UPDATE PROCESS

51. Upon information and belief, public discussions regarding the proposed redevelopment of the AINR Study Area (inclusive of the TRW Property) did not take place between the summer of 2019 and 2021.

52. In 2021, the Municipality commenced the process to update the 1996 Master Plan (the “Master Plan Update”).

53. On or around June 23, 2021, the Municipality advertised a Request for Proposals on its website for licensed planning services “necessary for the creation of a master plan and master plan reexamination report on behalf of Princeton.”

54. On or around September 23, 2021, after interviewing three prospective firms, the Board’s Master Plan Subcommittee formally recommended that the Municipality award the contract to CCH.

55. During the January 20, 2022 Board meeting, Michael La Place, Planning Director, announced that a consultant had been chosen, CCH, who had been “made aware that community engagement is needed in Princeton...” and that CCH anticipated that the work on the Master Plan Update would continue into 2023.

56. In furtherance of the Master Plan Update, on or around February 28, 2022, the Council adopted Resolution 22-105, awarding professional planning services agreement to CCH for the creation of master plan and master plan reexamination report (“Resolution 22-105”).

57. During the March 3, 2022 Board meeting, Mr. La Place publicly announced that the contract for CCH was approved by Council, and Chairperson Louise Wilson (“Chairperson Wilson”) asked that CCH begin work on the Master Plan Update as soon as possible.

58. On or around April 21, 2022, Chairperson Wilson publicly announced that “invitations [had] been extended to twelve (12) residents and business owners for the Master Plan Steering Committee” and that it “is crucial that those individuals represent the shared ‘values’ for Princeton.” It was further noted that the Master Plan Steering Committee meetings would likely convene in May 2022.

59. Upon information and belief, a meeting was purportedly held by a Master Plan Committee of the Board on or around April 29, 2022 to discuss the Master Plan Update, the Master Plan Subcommittee's role, and the Master Plan Advisory Committee.

60. Upon information and belief, the first MP Steering Committee meeting occurred on May 19, 2022, with an intent to conduct monthly meetings regarding the Master Plan Update; however, no minutes related to these monthly meetings of the MP Steering Committee are publicly available.

61. During the June 16, 2022 Board meeting, Justin Lesko, Senior Planner/Acting Planning Director, indicated that the MP Steering Committee "will be discussing the outreach plan and how to proceed over the next 11.5 months."

**2023 MASTER PLAN UPDATE PROCESS AND
RENEWED REDEVELOPMENT DISCUSSIONS
RELATED TO THE TRW PROPERTY**

62. On or around March 2, 2023, Mr. Lesko announced that the "Master Plan Steering Committee is halfway through the Master Plan process" and that meetings were being scheduled with staff. In response to a question about further online public engagement, it was noted that several ideas were under consideration, including a virtual open house, an online "ideas wall" and an interactive map.

63. At the March 16, 2023 Board meeting, Mr. Lesko announced that October 5, 2023 was the projected date of "early review of the Master Plan" by the Board, and that November 9, 2023 was the projected date of formal adoption by the Board.

64. Notably, one Board member, Mr. Tech-Czarny, advised that he was told not to attend the meetings, and Chairperson Wilson indicated that "Board members were cautioned not to attend meetings where desirable land uses for specific properties were being discussed," and

that based on the agenda, it can be determined if it is appropriate for Board members to attend meetings.”

65. Another comment by Mr. Quinn indicated that “all entities in the town have been given a chance to provide recommendations or advise of their concerns during the Steering Committee sessions,” and that he is not in favor “of scheduling presentations by any of the outside groups as their voices are being heard by the Steering Committee and consultants.”

66. At this same Board meeting, Mr. Lesko announced that there was a roundtable discussion on the “Princeton Theological Seminary property” on Saturday, March 18, 2023, in the main meeting room of the Princeton Municipal Building at 400 Witherspoon Street, Princeton, and that all members of the Board could attend the meeting if they wished.

67. Upon information and belief, no notice, agenda, or minutes are publicly available for this roundtable discussion. However, a copy of a PowerPoint presentation prepared by the Municipality, Kyle and McManus Associates, the Municipality’s special redevelopment planner, and Greenbaum, Rowe, Smith and Davis, LLP, the Municipality’s special redevelopment counsel, is available on the Municipality’s website (the “March 2023 TRW Presentation”).

68. The March 2023 TRW Presentation specifically identifies site access and traffic, preservation of historic homes, and scale and density as site-specific and neighborhood concerns related to the proposed redevelopment of the TRW Property.

69. At the April 13, 2023 Board meeting, Mr. Lesko announced that there would be five (5) meetings of the MP Steering Committee “starting tomorrow”.

70. At the April 20, 2023 Board meeting, Mr. Lesko announced that “several Master Plan Steering Committee meetings were held” and that consultants were working on the visioning survey and a date for the second open house meeting.

71. Upon information and belief, no notices, agendas, or minutes of these MP Steering Committee meetings were provided to the public.

72. Similarly, at the May 4, 2023 Board meeting, Mr. Lesko announced that “a round of steering subcommittee meetings concluded today” and that the information obtained will be part of a draft of each element for review by each Master Plan subcommittee.

73. However, upon information and belief, no notices of these “steering subcommittee meetings” were provided to the public.

74. During this same Board meeting, it was also announced by Mr. Lesko that an open house session would be scheduled in September, and that the second visioning survey would take place soon.

75. On or around May 6, 2023, a second community roundtable event on the proposed redevelopment of the TRW Property was held in the same location as the first roundtable event, the Princeton Municipal Building, although there was no announcement made during the May 4, 2023 Board meeting.

76. Upon information and belief, no notice, agenda, or minutes are publicly available for this second roundtable discussion. However, a copy of a PowerPoint presentation prepared by the Municipality, the Municipality’s special redevelopment planner, and the Municipality’s special redevelopment counsel, is available on the Municipality’s website (the “May 2023 TRW Presentation”).

77. The May 2023 TRW Presentation specifically identifies considerations from the first community roundtable, such as the proportion and scale of the proposed redevelopment to the rest of the area, addressing density and scale early in the process, and the need for the collaborative process.

78. Further, pursuant to the Municipal Perspective section, the Municipality opined that it was concerned about increasing its supply of affordable housing and enhancing high quality design through the use of density as an incentive.

79. Some of the next steps identified in the May 2023 TRW Presentation included engagement with the contract purchaser of the TRW Property (Herring), a tentative September 2023 third community meeting, and a redevelopment plan to be adopted in 2023.

80. On or around June 1, 2023, the second community vision survey was released, and Mr. Lesko announced during the Board meeting that the survey would be available until mid-June, a mere fourteen (14) days from release.

81. At the Board's meeting on June 15, 2023, Mr. Lesko advised that the short survey would remain open until Sunday, June 18, 2023 and that over 1100 responses had been received.

82. At the July 6, 2023 Board meeting, Mr. Lesko announced that draft elements had been received, and are to be reviewed by the Master Plan subcommittees, and reiterated that the open house would be scheduled for September.

83. On or around July 20, 2023, Mr. Lesko advised the Board that the "Master Plan subcommittees have reviewed the draft elements" and that staff is offering feedback on the document. Mr. Lesko further indicated that the hearing date on the draft master plan document should be scheduled in November.

84. During the September 7, 2023 Board meeting, Mr. Lesko noted that before the adoption of the master plan, one meeting is scheduled for November 16, and that a second meeting date in November may be needed, with a special meeting on November 30 being considered.

85. Mr. Lesko further advised that Planning staff would attend listening sessions around the town and that the open house was scheduled for September 27.

86. Chairperson Wilson then noted that the first discussion of the draft Master plan before the Board is scheduled for October 19, with the regular meeting date of November 9 being set aside for the master plan review, and a special meeting on November 30, if needed.

87. At this same time, the third community “forum” on the proposed redevelopment of the TRW Property took place on October 17, 2023 in the Princeton Municipal Complex, during which an update on the redevelopment process and a concept plan prepared by the contract purchaser of the TRW Property (Herring) was presented.

88. Although, upon information and belief, no notice, agenda or minutes of this “community forum” are publicly available, the presentation prepared by Paul Phillips, principal at Phillips Preiss and planning consultant for Herring, is available on the Municipality’s website (the “October 2023 TRW Presentation”).

89. Despite the October 2023 TRW Presentation’s indication that it would build upon the community-wide priorities and responsibilities as expressed at the May 6, 2023 community roundtable, the October 2023 TRW Presentation set forth the priorities expressed by the Municipality, such as increasing the supply of affordable housing, recognizing that the property accommodated institutional type buildings of a “distinct mass, scale and height that were part of the historic neighborhood fabric,” and acknowledging that density can effectively be used as an incentive.

90. The concept plan for the TRW Property included in the October 2023 TRW Presentation proposes a total of 238 residential units (190 market rate and 48 affordable housing units), a density of nearly 49 units per acre, a total of 262 parking spaces (221 spaces in a basement garage and 41 surface spots), and a maximum building height of 3-4 stories not to exceed 50 feet above the building eave.

91. The proposed concept plan for the TRW Property would tower over the surrounding residential uses, as a development of this scale would have a profound effect on the character of the neighborhood.

92. On or around October 19, 2023, the first public presentation by CCH and discussion of the Board on the draft Master Plan occurred. The agenda for this meeting indicated that formal action would not be taken, and that the public hearing was expected to occur at the November 9 Board meeting.

93. Upon information and belief, on October 29, 2023, a public notice of the November 9, 2023 public hearing on the adoption of the 2023 Master Plan and Reexamination Report was published.

94. Upon information and belief, copies of the proposed 2023 Master Plan and Reexamination Report were first available to the public on October 30, 2023.

95. As set forth by the Board back in March 2023, it was clear that the Board intended to pass the 2023 Master Plan and Reexamination Report regardless of any public comments or objections received at the November 9 public hearing. The “public input” prior to the release of the draft 2023 Master Plan and Reexamination Report is laughable given the general nature of the surveys released, the “listening sessions” that took place after the draft was mostly complete but not yet released to the public, and the short time period for public digestion of the 270+ page draft.

96. On or around November 9, 2023, the first public hearing on the proposed 2023 Master Plan and Reexamination Report was conducted as a Zoom webinar. The meeting went on for nearly four (4) hours, and approximately 165 members of the public were in attendance.

97. Upon information and belief, nearly three dozen members of the public commented on the draft 2023 Master Plan and Reexamination Report; however, Board members appeared to

be disengaged, tired, or otherwise distracted throughout the course of the meeting, including one Board member who appeared to be texting for most of the meeting.

98. One Board member went so far as to respond to the concerns expressed by members of the public by telling them to calm down and stop being hysterical, as it was his view that the land use plan was meant to be simplified, essentially telling the public that their concerns weren't valid.

99. One resident rightfully took issue with this characterization of the reasonable concerns articulated by the public, noting that even though Board members had told the public multiple times that the 2023 Master Plan and Reexamination Report doesn't actually dictate zoning, it does have a direct effect on zoning and serves as a future guide for the Council to utilize when considering amendments to the land use ordinances for the Municipality.

100. Contrary to the Board's assertions, the 2023 Master Plan and Reexamination Report is not only aspirational, its encouragement of wide zoning latitude will pave the way to greatly increased density throughout the Municipality, such as the proposed redevelopment of the TRW Property.

101. At the end of the meeting, at least 86 members of the public were still in attendance, with at least ten (10) individuals with their hands raised on the Zoom platform still waiting to speak. Thus, the public hearing was carried to the next meeting of the Board, November 30, 2023.

102. On the record, Chairperson Wilson indicated that the Board intended to vote on the adoption of the 2023 Master Plan and Reexamination Report on November 30, 2023 with only factual errors corrected, with no substantive modifications to the underlying assumptions and policies being considered.

103. Despite a petition signed by almost 1,000 Princeton residents being submitted to the Board in advance of November 30 reasonably requesting a delay in the vote on the adoption of the 2023 Master Plan and Reexamination Report to allow members of the public to digest the nearly 300 pages released only a month earlier, the Board proceeded with the continuation of the public hearing as anticipated on November 30, 2023.

104. Nearly 230 members of the public were in attendance, with the concerns raised by the public dismissed by the Board as either misunderstanding the draft 2023 Master Plan and Reexamination Report, or not wanting to face the reality of change.

105. Shortly before the conclusion of the nearly five (5) hour public meeting, one Board member suggested postponing the vote so that discussion could continue, and said that some residents had ideas that were worth following up on.

106. However, despite this reasonable request, Chairperson Wilson indicated that she did not want to carry the vote to another meeting, and the Board unanimously voted to approve the 2023 Master Plan and Reexamination Report after midnight on November 30, 2023.

COUNT I

107. Plaintiff repeats and realleges the allegations contained in the preceding paragraphs as if set forth at length herein.

108. The Board's adoption of the 2023 Master Plan and Reexamination Report, without considering sufficient competent evidence to establish a technical basis for the stated assumptions and resulting principles and policies, such as the idea of a "missing middle" as it relates to housing, was arbitrary, capricious, unreasonable, *ultra vires*, and contrary to law.

109. The 2023 Master Plan and Reexamination Report and its appendices do not adequately set forth a technical foundation for the master plan and its constituent elements, in violation of N.J.S.A. 40:55D-28(b)(11).

110. For example, the 2023 Master Plan and Reexamination Report relies on the assumption that a walkable Princeton from the TRW Property and the rest of the Central Neighborhood, as identified on the proposed land use plan, will lead to fewer cars in the Municipality; however, there is a dearth of available grocery stores, doctor's offices, schools in walking distance, and other basic services like hardware stores or dry cleaners, to otherwise justify the elimination of the use of vehicles for this targeted area.

111. The areas identified in the 2023 Master Plan and Reexamination Report that are classified as 'Neighborhoods' with 2-8 units / acre includes not only the TRW site and its immediate area but also the Institute and Riverside areas that are in some cases a 25+ minute walk into the center of Princeton.

112. Therefore, as the TRW Property is identified in the proposed land use plan of the 2023 Master Plan and Reexamination Report as recommended for Multi-Family Neighborhood, a planned development that proposes upwards of 238 residential units with 262 parking spaces would likely see its tenants rely on vehicle transportation to access basic services, especially given the inconvenience of using mass public transportation to access these resources, which would have a deleterious effect on traffic and air/noise/light pollution in the area, contrary to the principles espoused in the 2023 Master Plan and Reexamination Report.

113. The 2023 Master Plan and Reexamination Report fails to guide the use of lands in a manner which protects the public health and safety and promotes the general welfare, contrary to the requirements of the MLUL, specifically N.J.S.A. 40:55D-28(a).

114. The 2023 Master Plan and Reexamination Report improperly fails to acknowledge or consider existing zoning patterns in Princeton that were at the time based on comprehensive planning studies, policies, and public input.

115. The recommendations in the 2023 Master Plan and Reexamination Report are inappropriately not based on existing zoning in Princeton's residential neighborhoods, contrary to the intention of the recommendations as expressed by Board members.

116. The 2023 Master Plan and Reexamination Report fails to identify and create historic buffer/transition zones in accordance with the directive set forth in the 2017 Reexamination Report.

117. The 2023 Master Plan and Reexamination Report fails to provide appropriate protections for historic homes, properties and neighborhoods in Princeton, including historic homes and properties on Edgehill Street and Hibben Road.

118. The 2023 Master Plan and Reexamination Report improperly disregards and/or contradicts, without a legally sufficient basis to do so, several goals and policies contained in the 1996 Master Plan, including but not limited to: a) the preservation and protection of the scenic quality of Princeton's principal gateways; b) the unique relationship between the community and the Princeton Theological Seminary, where it was noted that "it is critical that there be an open and on-going dialogue, with the goal 'to address major impacts in the community, such as traffic, transportation, housing, development, and environmental concerns.' What is particularly important is the transition between the institutional use and the surrounding historic residential neighborhood."; and c) improperly removes any reference to the properties in close proximity to the TRW Property as a significant gateway to Princeton.

119. The density and corresponding bulk standards contemplated by the 2023 Master Plan and Reexamination Report will irreparably harm the neighborhood of historic Edgehill Street, which was laid out in the 1830s, with distinctive houses built in the mid-19th century, and is the location of 'The Barracks', initially built in the early 18th century and the oldest surviving residence in Princeton.

120. As a result of the above, the Board's adoption of the 2023 Master Plan and Reexamination Report, is arbitrary, capricious, unreasonable, *ultra vires*, and contrary to law.

121. As a result of the above, the Board's adoption of the 2023 Master Plan and Reexamination Report is null and void, and of no effect.

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

- a. Declaring that the actions of the Board were *ultra vires* and were arbitrary, capricious, unreasonable, and contrary to law;
- b. Declaring the Board's adoption of the 2023 Master Plan and Reexamination Report as null and void, *ultra vires* and without effect;
- c. Preliminarily and permanently enjoining any actions in furtherance of the recommendations set forth in the 2023 Master Plan and Reexamination Report, including but not limited to the introduction and adoption of land use ordinances and redevelopment plans; and
- d. Awarding Plaintiff attorneys' fees, costs of suit and such other and further equitable relief as may be just and proper.

COUNT II

122. Plaintiff repeats and realleges the allegations contained in the preceding paragraphs as if set forth at length herein.

123. The TRW Property is currently zoned as part of the E-4B Educational Zone ("E-4B Zone"), which permits educational activities, single-family structures, two-family structures,

townhouse structures, and multifamily structures/dormitories provided that they are used for the students of the school located in the zoning district.

124. Although the 2023 Master Plan and Reexamination Report identifies the current zoning of the TRW Property (E-4B Zone) and current land use as “other school”, the proposed land use plan inexplicably and improperly identifies the TRW Property as a Multi-Family Neighborhood.

125. A Multi-Family Neighborhood is identified in the 2023 Master Plan and Reexamination Report as “planned developments consisting of single-family dwellings on small lots, townhouses, and multi-family apartment buildings. Examples of Multi-Family Neighborhood areas include Griggs Farm, Copperwood, Princeton Community Village, Governors Lane, Merwick Stanworth, Washington Oaks, and Thanet Circle.”

126. Upon information and belief, these referenced planned developments consist of approved projects consisting of upwards of 200 units, such as the recently approved Thanet Circle Development which proposed 221 units consisting of 193 rental apartments and 28 townhouses.

127. Despite the fact that the TRW Property has not been the subject of an approved Redevelopment Plan, and the fact that the remainder of the AINR Study Area is appropriately proposed for education and conservation and recreation uses, the 2023 Master Plan and Reexamination Report inappropriately departs from the recommendations set forth in the 2017 Reexamination Report and could improperly lead to the adoption of ordinances and/or a redevelopment plan that will be materially out of character with the neighborhood surrounding the TRW Property, and all without a sufficient legal basis to justify the proposed land use recommendation.

128. The specific recommendations set forth in the 2023 Master Plan and Reexamination Report related to the AINR Study Area (including the TRW Property) and surrounding areas, violated the MLUL and were arbitrary, capricious, unreasonable, *ultra vires*, and contrary to law.

129. Additionally, the 2023 Master Plan and Reexamination Report proposed land use plan improperly designates properties in close proximity to the TRW Property as Central Neighborhood.

130. Central Neighborhood is identified as including “single-family dwellings on small lots, two-family dwellings, townhouses, and multi-family housing, at densities between four and 20 units per acre. The areas are characterized by relative absence of environmental constraints, the availability of utilities and services, including transit, and close proximity to downtown business district and Princeton Shopping Center. Central Neighborhood areas are most appropriate for infill and transit-oriented redevelopment.”

131. Yet the properties near the AINR Study Area that have been designated as Central Neighborhood in the 2023 Master Plan and Reexamination Report proposed land use plan do not meet this criteria, due, in part, to the lack of available services within walking distance.

132. Further, those properties are currently zoned as R-1B, which permits single-family homes. Without sufficient technical basis, the 2023 Master Plan and Reexamination Report improperly recommends that these properties be considered for amended zoning permitting multi-family units between four and 20 density units per acre.

133. As a result of the above, the Board’s adoption of the 2023 Master Plan and Reexamination Report, is null and void, and of no effect.

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

- a. Declaring that the actions of the Board were *ultra vires* and were arbitrary, capricious, unreasonable, and contrary to law;
- b. Declaring the Board's adoption of the 2023 Master Plan and Reexamination Report as null and void, *ultra vires* and without effect;
- c. Preliminarily and permanently enjoining any actions in furtherance of the recommendations set forth in the 2023 Master Plan and Reexamination Report, including but not limited to the introduction and adoption of land use ordinances and redevelopment plans; and
- d. Awarding Plaintiff attorneys' fees, costs of suit and such other and further equitable relief as may be just and proper.

COUNT III

134. Plaintiff repeats and realleges the allegations contained in the preceding paragraphs as if set forth at length herein.

135. The Board's improper use of a MP Steering Committee, comprised of the Mayor, a Council representative appointed to the Board, the Board Chairwoman, and ten (10) alleged stakeholders in the Princeton community, to prepare the 2023 Master Plan and Reexamination Report as set forth above, was arbitrary, capricious, unreasonable, *ultra vires*, and contrary to law, including the MLUL.

136. No one from the Johnson Park Elementary School District, a large portion of Princeton, was on the MP Steering Committee.

137. The MP Steering Committee improperly usurped the authority of the Board and constitutes an illegal delegation of duty contrary to the requirements of the MLUL.

138. As a result of the above, the Board's adoption of the 2023 Master Plan and Reexamination Report, is null and void, and of no effect.

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

- a. Declaring that the actions of the Board were *ultra vires* and were arbitrary, capricious, unreasonable, and contrary to law;
- b. Declaring the Board's adoption of the 2023 Master Plan and Reexamination Report as null and void, *ultra vires* and without effect;
- c. Preliminarily and permanently enjoining any actions in furtherance of the recommendations set forth in the 2023 Master Plan and Reexamination Report, including but not limited to the introduction and adoption of land use ordinances and redevelopment plans; and
- d. Awarding Plaintiff attorneys' fees, costs of suit and such other and further equitable relief as may be just and proper.

COUNT IV

139. Plaintiff repeats and realleges the allegations contained in the preceding paragraphs as if set forth at length herein.

140. The MP Steering Committee purportedly conducted meetings in furtherance of the preparation of the 2023 Master Plan and Reexamination Report, which meetings were subject to the requirements of the OPMA.

141. Upon information and belief, the Defendants failed to provide adequate notice in accordance with the requirements of the OPMA in advance of each MP Steering Committee meeting conducted.

142. Further, upon information and belief, meeting minutes of these MP Steering Committee meetings were not provided to the public, in violation of the OPMA.

143. Additionally, the notice published by the Board on October 29, 2023 regarding the public hearing on the adoption of the 2023 Master Plan and Reexamination Report failed to comport to the requirements of the MLUL.

144. Upon information and belief, the Board improperly failed to adopt a memorializing resolution regarding the adoption of the 2023 Master Plan and Reexamination Report, which is required for the adoption of a reexamination report pursuant to the MLUL.

145. Additionally, upon information and belief, the Board failed to publish the required notice of adoption of the 2023 Master Plan and Reexamination Report, contrary to the requirements of the MLUL.

146. As a result of the above, the Board's adoption of the 2023 Master Plan and Reexamination Report, is arbitrary, capricious, unreasonable, contrary to law, null and void, and of no effect.

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

- a. Declaring that the actions of the Board were *ultra vires* and were arbitrary, capricious, unreasonable, and contrary to law;
- b. Declaring the Board's adoption of the 2023 Master Plan and Reexamination Report as null and void, *ultra vires* and without effect;
- c. Preliminarily and permanently enjoining any actions in furtherance of the recommendations set forth in the 2023 Master Plan and Reexamination Report, including but not limited to the introduction and adoption of land use ordinances and redevelopment plans; and
- d. Awarding Plaintiff attorneys' fees, costs of suit and such other and further equitable relief as may be just and proper.

COUNT V

147. Plaintiff repeats and realleges the allegations contained in the preceding paragraphs as if set forth at length herein.

148. The Board's improper predetermination of a date certain to adopt the 2023 Master Plan and Reexamination Report, without meaningful public input on the draft master plan

documents released to the public on October 30, 2023, was arbitrary, capricious, unreasonable, *ultra vires*, and contrary to law.

149. The failure of the Planning Board to meaningfully engage with the public during the public hearings on November 9, 2023 and November 30, 2023 violates the OPMA and the Municipality's own BCC handbook, which, amongst other guidelines, indicates that Board members should "remain open-minded, objective, and make no judgment until all of the available evidence pertaining to an issue has been submitted."

150. For example, the Board members' conduct during the November 9 and November 30, 2023 public hearings, essentially gas-lighting members of the public and reducing any reasonable concern to mass hysteria or misunderstanding, and otherwise dismissing or disengaging from the public comments, objections and/or concerns evidences the Board's disconnection from meaningful engagement with the public on the draft 2023 Master Plan and Reexamination Report.

151. As a result of the above, the Board's adoption of the 2023 Master Plan and Reexamination Report, is arbitrary, capricious, unreasonable, contrary to law, null and void, and of no effect.

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

- a. Declaring that the actions of the Board were *ultra vires* and were arbitrary, capricious, unreasonable, and contrary to law;
- b. Declaring the Board's adoption of the 2023 Master Plan and Reexamination Report as null and void, *ultra vires* and without effect;

- c. Preliminarily and permanently enjoining any actions in furtherance of the recommendations set forth in the 2023 Master Plan and Reexamination Report, including but not limited to the introduction and adoption of land use ordinances and redevelopment plans; and
- d. Awarding Plaintiff attorneys' fees, costs of suit and such other and further equitable relief as may be just and proper.

HEROLD LAW, P.A.
Attorneys for Plaintiff

By: /s/Robert F. Simon
Robert F. Simon

Dated: January 16, 2024

DESIGNATION OF TRIAL COUNSEL

Robert F. Simon, Esq. is hereby designated as trial counsel for the within matter.

HEROLD LAW, P.A.
Attorneys for Plaintiff

By: /s/Robert F. Simon
Robert F. Simon

Dated: January 16, 2024

CERTIFICATION OF TRANSCRIPTS

Pursuant to R. 4:69-4, I hereby certify that I have ordered the transcripts of all relevant hearings, and that same shall be supplied to the court within the time period required under said Rule.

HEROLD LAW, P.A.
Attorneys for Plaintiff

By: /s/Robert F. Simon
Robert F. Simon

Dated: January 16, 2024

CERTIFICATION PURSUANT TO R. 4:5-1

Pursuant to R. 4:5-1, it is hereby stated that the matter in controversy is not the subject of any other action pending in any other Court or of a pending arbitration proceeding to the best of our knowledge and belief. Also, to the best of our knowledge, no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this pleading, we know of no other parties that should be joined in the above action at this time.

HEROLD LAW, P.A.
Attorneys for Plaintiff.

By: /s/Robert F. Simon
Robert F. Simon

Dated: January 16, 2024