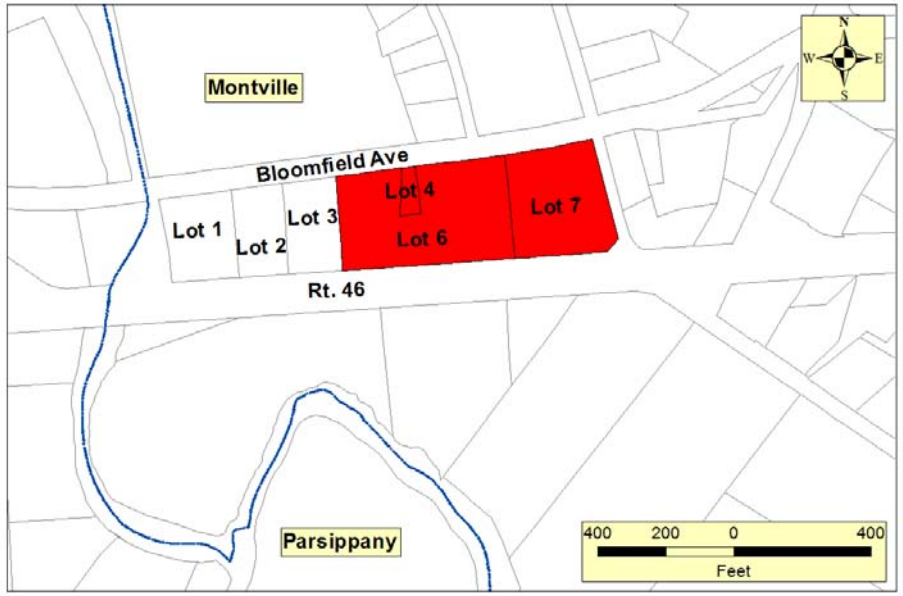
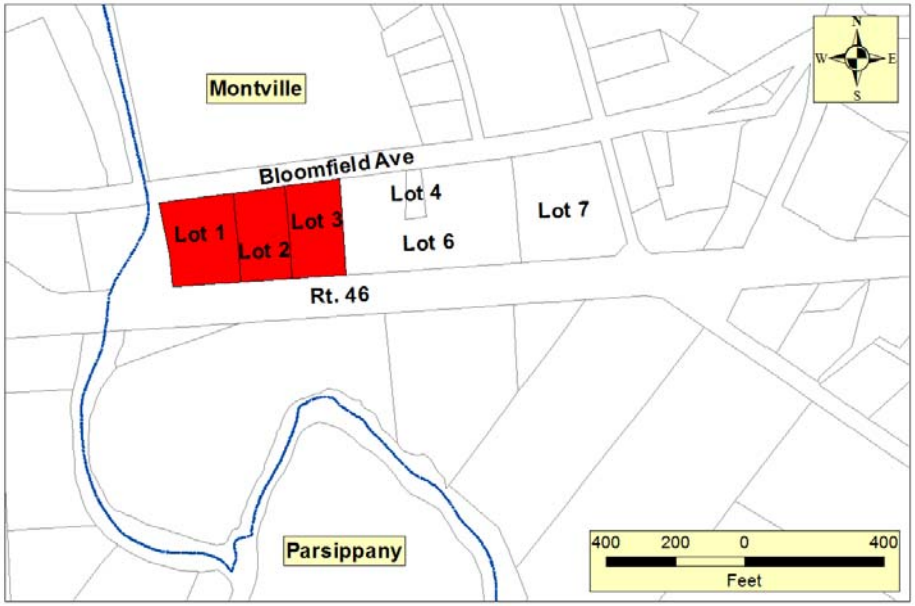
Zoning Ordinances Introduced: September 2016

Municipality	Ordinance #	Public Hearing Date	Summary	Staff Comments
Borough of Chatham	16-11	10/24/16	Amend the Land Development Regulations to require an affordable housing set-aside in the AFD-1, AFD 1.1, AFD-2, AFD-3, AFD-4, B-2, B-4, M-1, M-3 and Gateway Overlay Districts as set forth in Section 69-4 of the Borough Code. Section 69-4 was newly amended to establish set-aside requirements by Ordinance 16-12 (see below). This ordinance implements requirements of the Final Judgment of Compliance and Repose in which the trial court found that the Borough's Housing Element and Fair Share Plan met its affordable housing obligations.	
Borough of Chatham	16-12	10/24/16	Repeal existing Chapter 69 of the Borough Code, entitled Affordable Housing, and replace it with an entirely new Affordable Housing Chapter. The Borough has been directed by the trial court to adopt these regulations as a condition of the Final Judgment of Compliance and Repose. The new regulations require that residential developments with five or more units set aside 20% of the total number of units as affordable housing for owner-occupied development and 15% for rental development. Developments with fewer than five units shall make a payment in lieu to the Borough's Affordable Housing Trust Fund. The regulations also establish the position of the Municipal Housing Liaison, affirmative marketing requirements, and mechanisms for the enforcement of the affordable housing regulations.	

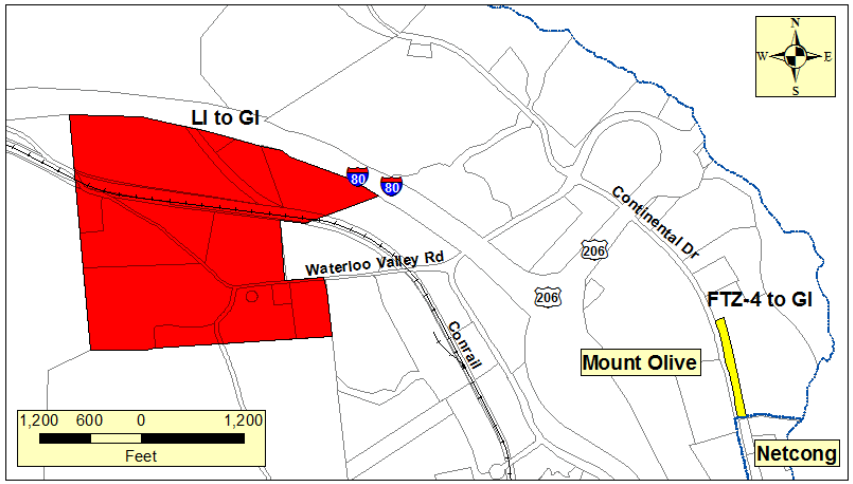
Municipality	Ordinance #	Public Hearing Date	Summary	Staff Comments
Borough of Florham Park	16-17	10/20/16	Amend the Zoning Regulations to require Supportive and Special Needs Housing as part of planned unit developments in the POD-S - Planned Office District South and POD-N - Planned Office District North Zones. The ordinance would also adjust the maximum impervious coverage and affordable housing requirements in those zones. The POD-S Zone is the site of the Green at Florham Park development on the southwest side of Route 24, which includes the Jets training facility. The POD-N Zone is located on the northeast side of Route 24. About half is owned by the Borough (and partly used for recreation); the remainder is vacant. The amendments include the following: • Any planned unit development (PUD) in the POD-N and POD-S Zones shall contain a Supportive and Special Needs Housing component consisting of a mix of one-bedroom and two-bedroom supportive units not to exceed 98 bedrooms and one group home with a maximum of four bedrooms for special needs adults. This component, however, may not be located in the POD-N Zone. • The Supportive and Special Needs Housing component shall have a minimum lot size of eight acres, a maximum building coverage of 25%, a maximum impervious coverage of 45%, and a maximum building height of 2 ½ stories / 35 feet. • An ancillary surface parking lot adjacent to and servicing Block 401, Lot 2 in Madison (the Realogy offices) is removed from the list of permitted uses in the POD-S Zone. • The age-restricted housing component of a PUD in the POD-N and POD-S Zones shall contain a minimum of 18 low and moderate income housing units. • The maximum aggregate improved tract coverage within the age-restricted housing component is increased from 45% to 50%. • For the Supportive and Special Needs Housing component the minimum building setback from the Park Avenue right-of-way shall be 50 feet. The existing 150 foot setback from the Park Avenue right-of-way for the age-restricted housing component remains unchanged. Park Avenue is a county road.	According to a September 4, 2016 article in the Florham Park Eagle, a 102 bedroom Supportive and Special Needs Housing development is proposed on the site of the ancillary surface parking lot on the Madison border and will be run by the Bergen County United Way.

Municipality	Ordinance #	Public Hearing Date	Summary	Staff Comments
Township of Hanover	28-2016	10/13/16	Amend the Land Use and Development Regulations as they pertain to gasoline stations and motor vehicle repair establishments. Examples of the changes include the following: • In the D-S. OB-DS and I-B3 Districts, gasoline stations and motor vehicle repair establishments permitted as a conditional use must be located within a designed shopping center development or other development designed and used for retail sales, retail banks, personal services, rental and leasing establishments, eating and drinking establishments or a combination of the foregoing, which developments contain a minimum floor area of 75,000 square feet. • When a gasoline station or motor vehicle repair establishment is located within a designed shopping center or other development (as described in the first bullet point above), they shall be considered a part of such development and subject to the minimum lot area for such developments. • The requirement that a gasoline station or motor vehicle repair establishment be located at least 200 feet from any private property located in a residential district shall not apply when it is located within a designed shopping center or other development (as described in the first bullet point above). • When a gasoline station or motor vehicle repair establishment is located within a designed shopping center or other development (as described in the first bullet point above), there shall be provided shared access between the gasoline station or motor vehicle repair establishment and other development in the shopping center such that a patron shall be able to drive between such uses without traveling on a public street.	The stated purpose of the ordinance is to accommodate the recent trend to develop gasoline stations, automotive tire services and similar establishments in combination with and as part of larger scale retail developments. An application for such a use is currently under consideration by Hanover, i.e. a proposal for a BJ's warehouse retail store on East Hanover Avenue across from the Mennen Arena. Gasoline pumps and vehicle repair (tire center) are included as part of the BJ's proposal.
Borough of Kinnelon	15-16	10/20/16	Amend the Land Use Ordinance to incorporate the "Highlands Checklist," which shall apply to any development within the Borough Highlands Area that is subject to the Highlands Act. All municipal waivers or findings of application completeness shall be subject to Highlands Council call-up review. This ordinance provides immediate protection as part of the Borough's petition for plan conformance in the Highlands Planning and Preservation Areas.	
Township of Mendham	12-14	2016-17	Amend the Zoning Regulations to eliminate the age restriction on the residential units that are permitted as a conditional use within existing buildings in the Reuse of Existing Buildings Overlay District.	The Overlay District is home to the historic Mosle Mansion, built in 1906 and purchased by the Sisters of St. John the Baptist in 1926.

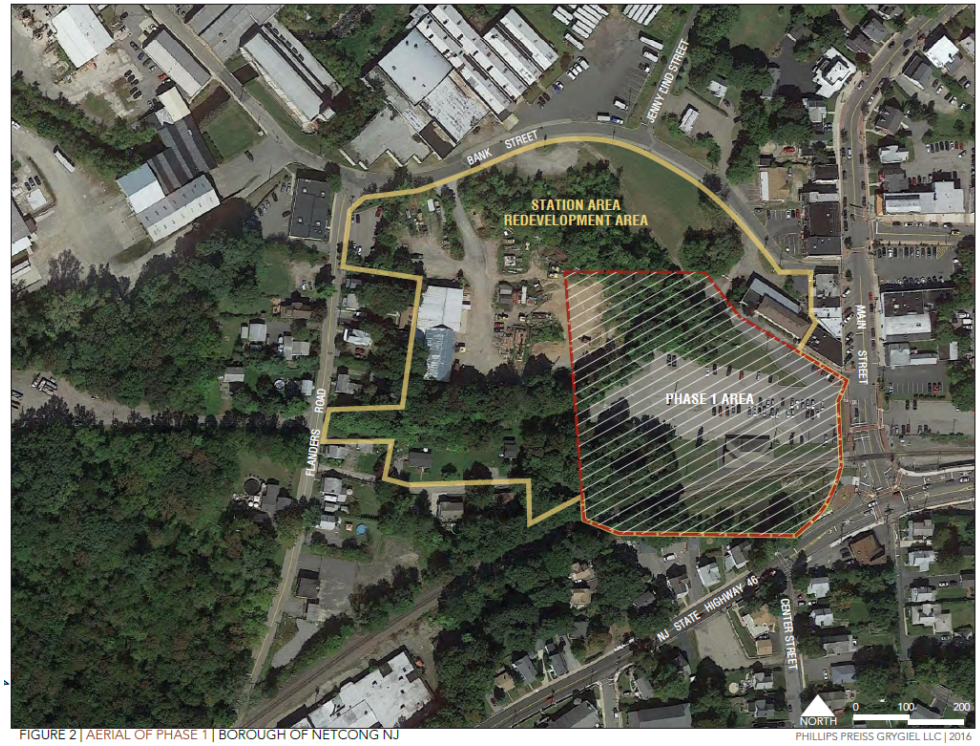
Municipality	Ordinance #	Public Hearing Date	Summary	Staff Comments
Township of Montville	2016-23	9/27/16	Ordinance 2016-23, along with Ordinance 2016-24 (see below) replace Ordinance 2016-17, which was defeated this month. The previous approach to implementing the Route 46 West Condemnation Redevelopment Plan has been modified so that the new PBR - Pine Brook Redevelopment Zone now only applies to the Area in Need of Redevelopment. The three lots to the west of the Area in Need of Development will now be part of an overlay zone to be established by Ordinance 2016-24. The use, bulk and design standards pertaining to the new PBR Zone are largely the same as those proposed under defeated Ordinance 2016-17 except that they no longer refer to a minimum lot size of 43,750 square feet for the three western lots (which are no longer part of the zone). While the B-3 Business District (the existing zoning for these lots) lists 34 permitted uses, the PBR Zone is restricted to the following eight: retail stores, personal service establishments, eating and drinking establishments, banks, instructional studio spaces, hotels, banquet halls and new motor vehicle sales. Of the note is the removal of such B-3 District uses as motels, wholesale distribution centers, and service stations. The PBR bulk standards differ from the B-3 bulk standards by an increase in the minimum lot size from 43,750 square feet to five acres, a decrease in maximum building coverage from 30% to 25%, and an increase in maximum impervious coverage from 75% to 80%. The PBR Zone also restricts hotels to a maximum of 120 rooms and restaurants (when accessory to a hotel use) to a maximum of 80 seats. Standards for signage, landscaping, lighting and building design are also included. 	The Route 46 West Condemnation Redevelopment Plan includes an Area in Need of Development consisting of Block 162, Lots 4, 6 and 7. This area includes the dilapidated Pine Brook Motel.

Municipality	Ordinance #	Public Hearing Date	Summary	Staff Comments
Township of Montville	2016-24	9/27/16	Amend the Land Use and Development Regulations to establish a new overlay district, the PBO - Pine Brook Overlay District, and amend the Zoning Map to place Block 162, Lots 1, 2, and 3 in the newly created PBO Overlay District while retaining the underlying B-3 Business District designation for these lots. The PBO Overlay District allows developers of the three lots to the west of the new PBR - Pine Brook Redevelopment Zone the option of redeveloping these lots in a manner similar to that required in the adjacent PBR Zone. The underlying B-3 District standards shall apply unless a developer chooses to follow the PBO Overlay Standards, in which case they are largely identical to the standards applicable in the PBR Zone (see Ordinance 2016-23, above) except for a minimum lot size of 43,750 square feet instead of five acres. 	These three lots include a diner, a strip mall and a car wash and were added as a result of a July 28, 2016 Planning Board resolution.

Municipality	Ordinance #	Public Hearing Date	Summary	Staff Comments
Borough of Mountain Lakes	10-16	11/14/16	Amend the Revised General Ordinances to establish regulations applicable to pipelines: Examples of the new regulations include the following: • Pipelines not distributing services to end users within the Borough which are not otherwise regulated by the NJ Board of Public Utilities are prohibited in all residential districts and shall constitute conditional uses in all other districts. • A resolution of approval by the Borough Planning Board shall be required prior to the commencement of any work to install a transmission pipeline. • Unless adequate mitigation measures have been demonstrated by the applicant to the satisfaction of the Borough Engineer, hazardous substance transmission pipeline corridors shall not be located within the vicinity of a Wellhead Protection Area (WPA), and shall not be located closer than 2,500 feet in a Tier 1 WPA, 1,000 feet in a Tier 2 WPA, and 500 feet in a Tier 3 WPA. • Hazardous substance transmission pipelines shall not be closer than 100 feet from any river, well or pond (unless adequate mitigation measures have been demonstrated), any wetland or any property in a business district where a business is located. • Hazardous substance transmission pipelines shall not be closer than 150 feet from any residential property or district on level grade or 250 feet where the residential property or district is downhill from the pipeline at a grade equal to or greater than 5%. • Hazardous substance transmission pipelines shall not be closer than 1,000 feet from any high-consequence land use lot or essential public facility. • High-consequence land uses include child care, churches, hospitals, high-rise buildings, inducing hotels, dormitories, apartments, and offices which may not lend themselves to a timely evacuation, open space uses, National Natural Landmarks, NJDEP Natural Area and Natural Heritage Priority Sites, residential care facilities, institutional uses and essential public facilities. • Essential public facilities include, water sanitation plants, water treatment plants, sewer treatment plants, water storage facilities, telecommunications towers, police stations, fire stations, jails, courthouses, public health facilities and emergency operations centers.	According to an article published on September 13, 2016 in The Citizen of Morris County, this ordinance is in part a response to the proposed Pilgrim pipeline that would carry oil from Albany to Linden. Although the pipeline would not run through Mountain Lakes, it would run through the drinking water source that serves the Borough, which is located in Parsippany. The ordinance also allows the Borough control over the construction of pipelines within its borders.

Municipality	Ordinance #	Public Hearing Date	Summary	Staff Comments
Township of Mount Olive	23-2016	10/4/16	Amend the Zoning Map to rezone Block 400, Lots 1, 2 and 3, Block 402, Lots 1 and 2, Block 403, Lots 2, 3, 4, 5, and 6, Block 500, Lots 1.01, 1.02, 2 and 3 and portions of Block 1, Lots 4, 5, 6 and 8 from the LI - Light Industrial Zone to the GI - General Industrial Zone and rezone Block 7, Lot 1 from the FTZ-4 - Foreign Trade Zone to the GI Zone. These changes are as called for by the December 17, 2015 Amendment to the Land Use Plan Element. The 161 acre area to be rezoned from LI to GI (highlighted in red below) is largely vacant and wooded, although the southeast corner has a satellite parking lot for the adjacent Givaudan Fragrances facility. The Conrail main line traverses the area. To the southeast of this area are various industrial facilities that are part of the Foreign Trade Zone. The December 17, 2015 Amendment states that the GI Zone "offers a broader range of uses which are compatible with the adjacent Foreign Trade Zone and which would be ideally positioned given the proximity of I-80 and Route 206." In addition to the offices, research laboratories, assembly of products, motels and hotels permitted in the LI Zone, the GI Zone adds warehousing and manufacturing. The 2.8 acre lot to be rezoned from FTZ-4 to GI (highlighted in yellow below) acts as frontage for the adjacent GI zoned N.Y. Folding Box Company facility on Block 106, Lot 1 to the immediate east. The recommendation from the December 17, 2015 Amendment is that this lot be rezoned "with the probability it will be merged into the N.Y. Folding Box Company property." 	
Borough of Netcong	2016-14	10/13/16	Amend the Land Development Regulations to establish a schedule listing the methods for calculating the number of parking spaces for each use. For example: Bowling Alleys require four spaces per alley while Assembly Operations require one space per 800 square feet of gross floor area.	

Municipality	Ordinance #	Public Hearing Date	Summary	Staff Comments
Borough of Netcong	2016-15	10/13/16	Amend the Netcong Station Area Redevelopment Plan to establish a Phase 1 in the immediate vicinity of Netcong Station. The original Redevelopment Plan was adopted in 2005. This ordinance implements the published recommendations of the Borough's consultant, who notes that there has been no progress assembling the properties within the Station Area to implement the street layout and land use plan originally envisioned by the Redevelopment Plan. The consultant notes that since 2005 there has been a weakening of the condo market and a boom in multifamily rental, driven by demand from the Millennial Generation. Downtowns and shopping centers struggle due to online shopping. As a result, downtowns are focusing on destination oriented food and entertainment strategies. Reforms since the Supreme Court's "Kelo" decision have resulted in a focus on land assembly for redevelopment without the use of eminent domain. Most importantly, an opportunity has emerged to jumpstart the Station Area redevelopment effort due to NJ Transit expressing an interest in selling its 4.5 acre property adjacent to Netcong Station. This ordinance establishes Phase 1, consisting of Block 19, Lots, 35, 36, 38, 39 and a portion of Lot 37. Phase 1 is a subset of the larger Redevelopment Area from 2005. The entirety of Phase 1 is owned by NJ Transit. The vision for Phase 1 is a mixed use development with significant multifamily to create a critical mass of new residents adjacent to the train station. The train station should be emphasized as a focal point of the new development with pedestrian oriented retail uses. The standards applicable to Phase 1 include the following: • Permitted Uses: Multifamily (for-sale or for-rent), Retail, Office, Surface and structured parking. • Maximum Density: 32 units per acre (may be increased to 40 units per acre if structured parking is included). • Maximum building height: 4 stories / 50 feet. • A ground floor retail component shall be included. • Affordable Housing: Subject to redevelopment agreement with Mayor and Council. • Parking: On-street parking may count toward commercial parking requirements. The replacement of existing commuter spaces shall be subject to agreement between the developer and NJ Transit. Shared parking subject to approval by the Planning Board. • Pedestrian friendly building design requirements. • The requirements for Phase 1 shall supersede the requirements imposed by the Station Area Redevelopment Plan as well as the Zoning Ordinance, however, the Redevelopment Plan shall remain in force for the balance of the larger Redevelopment Area. *(continued next page)*	In Kelo vs. City of New London (2005) the U.S. Supreme Court ruled that the use of eminent domain to transfer land from one private property owner to another did not violate the Constitution. The Court held that the economic growth resulting from a private redevelopment plan represented a general benefit to the community. Therefore, this use of eminent domain represented a permissible public use under the Takings Clause of the Fifth Amendment. (In the Kelo case, the plan included condemnation of modest homes to enable site redevelopment for higher-end housing, office space, a hotel and a pharmaceutical research center.)

Municipality	Ordinance #	Public Hearing Date	Summary	Staff Comments
			(continued from previous page)  FIGURE 2 | AERIAL OF PHASE 1 | BOROUGH OF NETCONG NJ	

Zoning Ordinances Adopted: September 2016

Municipality	Ordinance #	Date Adoption Filed	Summary	Staff Comments
Township of Denville	11-16	9/22/16	Amend the Zoning Regulations to modify or add definitions regarding Flood Hazard Areas as follows: • The definition of "Start of Construction" (for other than new construction or substantial improvements under the Coastal Barrier Resources Act) is amended to state that it applies to any work related to the improvement. • The definition of "Substantial Improvement" is amended to state that it means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "Start of Construction" of the improvement. This terms includes structures that have incurred "Substantial Damages," regardless of the actual repair work performed. • A new definition, "Substantial Damage," is added. The term shall mean damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. Work on structures that are determined to be substantially damaged is considered to be a "Substantial Improvement," regardless of the actual repair work performed.	
Township of Hanover	25-2016	9/27/16	Amend the Land Use and Development Regulations as they apply to the WC - Whippany Center District. Examples of the changes include the following: • Block 7402, Lot 7.01, currently used for a cellular telecommunications monopole, antennas and related equipment, shall be excluded from the required minimum acreage of a Planned Commercial Development tract. • Within a Planned Commercial Development tract, individual lots may have different owners. • Eliminate the requirement that one affordable unit be provided for every 16 jobs projected to be created by the development.	The requirement to provide one affordable unit for every 16 jobs relates to now defunct COAH Third Round Rules

Zoning Ordinances Defeated: September 2016

Municipality	Ordinance #	Date Filed	Summary	Staff Comments
Township of Montville	2016-17	9/15/16	This ordinance was introduced in August 2016 but was defeated. It would have implemented the Route 46 West Condemnation Redevelopment Plan by creating a PBR - Pine Brook Redevelopment Zone.	This proposal was replaced by Ordinances 2016-23 and 2016-24, introduced this month.

Proposed Ordinances Received: 12
Adopted Ordinances Received: 2
Ordinances Defeated: 1

Total Ordinances Processed: 15